

AGENDA ITEM SUMMARY

Department: Department of Economic Sustainability

Motion and Title: Staff recommends motion to approve: A) an Economic Development Incentive Agreement with Granite Telecommunications, LLC (Company), for a cash incentive of \$25,000 as the local match to be paid according to the State's schedule for the Qualified Target Industry Program; **B)** a Budget Transfer of \$25,000 from the General Fund Contingency Reserves to the Department of Economic Sustainability Fund Economic Incentive Growth Program; and **C)** a Budget Amendment of \$25,000 in the Department of Economic Sustainability Fund to recognize the funds from the General Fund.

The State of Florida is providing a \$250,000 incentive in the form of a Qualified Target Industry (QTI) Tax Refund. Of this amount, \$200,000 is from the State of Florida and \$50,000 is the required 20% match from local governmental entities. The local share will be split equally between Palm Beach County and the City of West Palm Beach. The local match from Palm Beach County will be provided in the form of an Economic Development Grant (cash) in an amount not to exceed \$25,000 over a period of five (5) years provided the project meets the requirements under the State of Florida and the County. The Grant will be paid according to the State's QTI Refund Schedule, and will be secured by a Letter of Credit, Bond, Corporate Guarantee or equivalent.

Attachment(s):

- Approved By:  12/19/16
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2017	2018	2019	2020	2021
Grant Expenditures	\$3,125	\$6,250	\$6,250	\$6,250	\$3,125
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	\$3,125	\$6,250	\$6,250	\$6,250	\$3,125

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes _____ No X
Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____

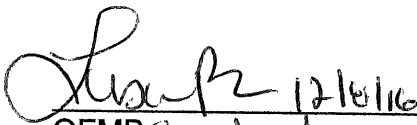
B. Recommended Sources of Funds/Summary of Fiscal Impact:

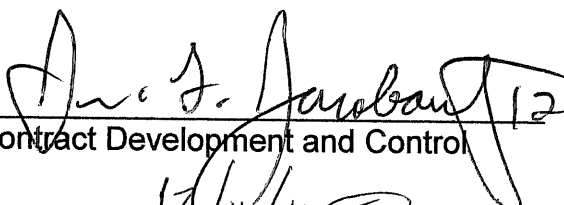
The source of funds for the local match will be from general fund contingency reserves.

C. Departmental Fiscal Review: 
Shairette Major, Fiscal Manager II

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


OFMB 12/16/16
12/17/17


Contract Development and Control 12/16/16
12/16/16 TR

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

Economic Development Incentive Agreement

THIS AGREEMENT, dated as of this ____ day of _____, 2016, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and **GRANITE TELECOMMUNICATIONS, LLC.**, a for profit Massachusetts Corporation authorized to do business in the State of Florida, whose Federal I.D. Number is 04-3643290 (hereinafter referred to as the "COMPANY").

PART I RECITALS

WHEREAS, it is the policy of the COUNTY to encourage and stimulate economic growth in Palm Beach County by either attracting new businesses to Palm Beach County or by assisting local expanding businesses within Palm Beach County that would otherwise expand elsewhere; and

WHEREAS, the creation of new full time employment opportunities for residents of Palm Beach County and the tax revenues resulting from business relocation or expansion within Palm Beach County is beneficial to the local economy; and

WHEREAS, the State of Florida has determined that counties may expend funds to attract and retain business enterprises, and that the use of public funds toward the achievement of such economic development goals constitutes a public purpose; and

WHEREAS, the COUNTY has determined that offering an Economic Development Incentive encourages either existing businesses to remain and/or expand, or new businesses to establish a facility in Palm Beach County and thereby create employment opportunities for the residents of Palm Beach County; and

WHEREAS, the COMPANY is expanding their current operations in Palm Beach County with a total capital expenditure of approximately SIX HUNDRED THOUSAND DOLLARS (\$600,000), will create fifty (50) new jobs over two (2) years and retain sixty-six (66) existing full-time jobs at an annualized average wage of FIFTY THOUSAND SIX HUNDRED SEVENTY-FIVE DOLLARS (\$50,675), and median salary of SIXTY THOUSAND DOLLARS (\$60,000), will maintain the new jobs for five (5) years from date of creation, and will maintain the existing retained jobs for five (5) years from the date this agreement becomes effective; and

WHEREAS, the State of Florida has approved a Qualified Target Industry (QTI) Tax Refund for the COMPANY in the amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) and has entered into agreement (the "State Agreements"), of which require local financial support; and

WHEREAS, the local match requirement is FIFTY THOUSAND DOLLARS, of which the City of West Palm Beach will provide TWENTY-FIVE THOUSAND DOLLARS (\$25,000) and Palm Beach County will provide the other half of the required match of TWENTY-FIVE THOUSAND DOLLARS (\$25,000); and

WHEREAS, the Board of County Commissioners, on July 12, 2016, conceptually approved an Economic Development Incentive in the form of a cash grant to COMPANY in the amount of TWENTY-FIVE THOUSAND DOLLARS (the "County Grant") ; and

WHEREAS, the COUNTY finds and declares that it is in the public interest to award an Economic Development Incentive to the COMPANY pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties agree as follows:

PART II DEFINITIONS

1. **Definitions:** The below terms as used in this Agreement shall mean:

- A. **New Job:** Shall include an employee in a full time job working a minimum of 2,080 hours annualized (inclusive of vacation, holidays, sick leave, and other paid activities), a Full Time Equivalent Job, or a Relocated Employee. Each New Job shall also:
- (1) Result in a net increase in the number of the COMPANY'S Palm Beach County employees; and
 - (2) Involve only an employee working on-site at the COMPANY'S Palm Beach County facilities at the addresses shown in Exhibit "A" attached hereto and made a part hereof.
- B. **Full-Time Equivalent Job:** Shall mean any two or more part-time employees whose sum total work hours, inclusive of vacation and holidays, equals 2,080 hours annualized. Notwithstanding the foregoing, the 2,080 hours annualized shall be determined pursuant to the job requirement of the employee, and not the actual number of hours clocked at work, allowing for vacation, holiday and sick leave.
- C. **Relocated Employee:** Shall mean either an employee in a full time job working a minimum of 2,080 hours annualized (inclusive of vacation and holidays), or a Full-Time Equivalent Job that is identified on the COMPANY'S payrolls, in each case, who transferred to the COMPANY'S facilities in Palm Beach County from COMPANY'S facilities in a location other than one located in a county adjacent to the borders of Palm Beach County. Notwithstanding any provision in this Agreement to the contrary, for all purposes under this Agreement it shall be deemed that any employee in a full time job working a minimum of 2,080 hours annualized (inclusive of vacation and holidays), or a Full-Time Equivalent Job that is identified on the COMPANY'S payrolls, in each case, who transferred to the COMPANY'S facilities in a location other than one located in a county adjacent to the borders of Palm Beach County prior to the Effective Date for the purpose of effectuating COMPANY'S facilities in Palm Beach County is a Relocated Employee deemed to have transferred to Palm Beach County after the Effective Date and shall constitute a New Job.
- D. **Annualized Average Wage:** The average of the actual annual wage, salaries, and other payments for Full-Time Equivalent Jobs to be created under this Agreement as follows:
- wages; salaries; commissions; bonuses; drawing accounts (advances to employees against future earnings); prizes and awards (if given by employer for employment); vacation pay; payment to employees of difference between regular pay and jury pay; payments to employees temporarily absent while in military service; wages earned before death but paid after death; dismissal pay; sick pay (not made under a plan or system); and supplemental payments (difference between workers' compensation and employee's salary).
- E. **Median Wage:** Shall mean the annual wage that is the exact middle of all annual wages. It shall be determined by taking the middle annual wage on the list if an odd number of annual wages and if an even number, taking the higher of the middle numbers and considering it the median.

PART III WHOLLY OWNED SUBSIDIARIES

1. **Establishment of Wholly Owned Subsidiaries:** The COMPANY may create or purchase wholly owned subsidiaries in connection with activities undertaken by the COMPANY pursuant to this Agreement. All wholly owned subsidiaries, thus created or

purchased, shall be under the full control of the COMPANY, and the COMPANY shall oblige all such wholly owned subsidiaries to comply with the requirements of this Agreement as provided for herein.

2. **Notification of Wholly Owned Subsidiaries:** The COMPANY shall, within thirty (30) days of creation or purchase of wholly owned subsidiaries in connection with this Agreement, notify the COUNTY in writing of such wholly owned subsidiaries by divulging to the COUNTY the name of such entities and the location of the entities' facilities, and the COMPANY shall provide the COUNTY, to the COUNTY'S satisfaction, documentation evidencing the COMPANY'S full control of such wholly owned subsidiaries.
3. **Acceptance of Jobs Created by Subsidiaries:** The parties agree that all jobs created and maintained by the COMPANY'S wholly owned subsidiaries that satisfy the requirements of paragraphs 1 and 2 of this Part III will be treated pursuant to this Agreement as jobs created and maintained by the COMPANY. COMPANY agrees that this Agreement is solely between COMPANY and COUNTY and COUNTY has the right, in its sole and absolute discretion to reject or accept any or all jobs created by COMPANY'S wholly owned subsidiaries.

PART IV COMPANY'S OBLIGATIONS

1. **Job Creation:** The COMPANY shall create fifty (50) New Jobs within two (2) years of the Effective Date, which is in accordance with Section 6. (b) of the State QTI Tax Refund Agreement.
2. **Existing Job Retention:** The COMPANY shall retain sixty-six (66) existing full-time jobs ("Retained Jobs") for five (5) years from the effective date of this agreement.
3. **New Job Maintenance:** The COMPANY shall maintain the required New Jobs for a period of five (5) years from the date each New Job was created.
4. **Salaries:** The COMPANY shall pay an annualized average wage per annum equal to or greater than FIFTY THOUSAND SIX HUNDRED SEVENTY-FIVE DOLLARS (\$50,675), excluding benefits, for each New Job created under this Agreement. The COMPANY shall pay a median wage per annum for the New Jobs equal to or greater than SIXTY THOUSAND DOLLARS (\$60,000), excluding benefits.
5. **Capital Investment:** The COMPANY shall provide proof that they have made a minimum total Capital Investment of SIX HUNDRED THOUSAND DOLLARS (\$600,000) at the addresses shown on Exhibit "A" attached hereto and made a part hereof.

PART V Performance Period

1. **Effective Date:** This Agreement is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and the execution by all parties, and shall become effective on the date it is approved by the Palm Beach County Board of County Commissioners.
2. **Termination Date:** Unless earlier terminated according to the terms of this Agreement, this Agreement shall terminate sixty-three (63) months after the creation of the fifty (50) New Jobs.

PART VI INCENTIVE AMOUNTS

1. **Job Growth Incentive Grant Distributions as Match to State Qualified Target Industry (QTI) Tax Refund:** The COUNTY shall, upon receipt of an annual written request from the State, disburse Grant funds to the State according to the schedule established by the State. The maximum amount that COUNTY is obligated to

disburse is TWENTY-FIVE THOUSAND DOLLARS (\$25,000). Payment of tax refunds for the State and local match are conditioned on and subject to pay amounts authorized in Section 288.106 Florida Statutes. As a prerequisite to making the initial disbursement of Grant funds, the COUNTY shall have received the required herein.

2. **Conditions Prior to Distribution of Economic Development Incentive Grant Funds:** The COMPANY shall provide the COUNTY with performance security in the form of either a clean, irrevocable Letter of Credit or a Performance Bond. The COUNTY may, in its sole discretion, allow the COMPANY to provide a Corporate Guaranty as an alternative form of performance security. All forms of performance security shall be in compliance with County policies and acceptable to the COUNTY in its sole discretion, acting reasonably. The security, in the amount of the requested disbursement pursuant to this Part VI. 2, shall be provided to the COUNTY as a precondition to the COUNTY making any disbursements contemplated herein.

The security shall remain in effect until the COUNTY has received the Final Job Creation and Maintenance Performance Audit and verified that the COMPANY has complied with the requirements outlined in this Agreement, or as indicated below.

Upon determination by the COUNTY'S Department of Economic Sustainability (DES) that the COMPANY has satisfactorily complied with the terms of this Agreement, DES may authorize the release of the performance security and shall notify the COMPANY that the security can be released.

PART VII ADVERTISING, RECRUITING AND JOB INFORMATION

1. **Job Advertising:** In the event the COMPANY shall undertake advertising of job openings in Palm Beach County, COMPANY will provide sufficient notice to Palm Beach County's residents concerning the availability of COMPANY'S new positions. The advertising regarding the new jobs at COMPANY'S facilities in Palm Beach County must be countywide, include Hispanic and Minority news venues, and not limited to a single advertisement. Advertising jobs on the COMPANY'S website or other internet sites shall fulfill this requirement.
2. **Job Availability:** The COMPANY shall cooperate with the following agencies regarding new job opportunities:
 - A. CareerSource Palm Beach County
3400 Belvedere Road
West Palm Beach, FL 33406
Attention: Executive Director
 - B. West Career Center
1083 South Main Street
Belle Glade, FL 33430
Attention: Chairperson
3. **Low-income Residents:** The COMPANY shall make reasonable efforts to provide qualified low-income residents opportunities for training and employment at the COMPANY.
4. **Resident Preference:** The COMPANY shall, without risk of violating any laws, make best efforts to develop and implement hiring policies that provide qualified Palm Beach County residents preference in the hiring process.
5. **Veterans Preference:** The COMPANY shall, without violating any laws, make reasonable efforts to develop and implement hiring policies that provide qualified Veterans preference in the hiring process.
6. **Local Businesses:** The COMPANY shall, without risk of violating any laws, make reasonable efforts to award contracts in connection with this Agreement to qualified

eligible business concerns located in or owned in substantial part by persons residing in Palm Beach County.

7. **Transportation To And From Job Location:** The COMPANY shall make the following information available to employees it hires by posting such information on its web site or by providing in written form:
- A. The bus stop location closest to COMPANY'S offices;
 - B. The name and location of Tri-Rail train station closest to COMPANY'S offices;
 - C. Information about COMPANY'S car pool programs (if they exist); and
 - D. Directions to COMPANY'S offices from Interstate 95.

PART VIII SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The COMPANY is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If the COMPANY uses any subcontractors on this project the following provisions of this Article shall apply:

If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the COMPANY shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

The Palm Beach County Board of County Commissioners has established a minimum goal for SBE participation of 15% on all County solicitations.

The COMPANY agrees to abide by all provisions of the Palm Beach County Code establishing the SBE Program, as amended, and understands that failure to comply with any of the requirements will be considered a breach of contract.

The COMPANY understands that each SBE firm utilized on this Contract must be certified by Palm Beach County in order to be counted toward the SBE participation goal.

The COMPANY shall provide the COUNTY with a copy of the COMPANY'S contract with any SBE subcontractor or any other related documentation upon request.

The COMPANY understands the requirements to comply with the tasks and proportionate dollar amounts throughout the term of this Contract as it relates to the use of SBE firms.

The COMPANY will only be permitted to replace a certified SBE subcontractor who is unwilling or unable to perform. Such substitutions must be done with another certified SBE in order to maintain the SBE percentages established in this Contract. Requests for substitutions of SBE's must be submitted to the COUNTY's representative and to the Office of Small Business Assistance.

The COMPANY shall be required to submit to the COUNTY Schedule 1 (Participation of SBE- M/WBE Contractors) and Schedule 2 (Letter of Intent) to further indicate the specific participation anticipated, where applicable.

The COMPANY agrees to maintain all relevant records and information necessary to document compliance with the Palm Beach County Code and will allow the COUNTY to inspect such records.

**PART IX
AUDITS AND REPORTS**

1. **Annual Job Creation and Maintenance Reports:** The COMPANY shall provide the COUNTY'S DES with an Annual Job Creation and Maintenance Report, satisfactory to the COUNTY in its sole discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Annual Job Creation and Maintenance Report shall comply with the following:
 - A. Identify each job created and the date it was created
 - B. Identify each job created and the duration of its maintenance period to date
 - C. Identify each retained job, the duration of its maintenance period to date
 - D. Report on the annualized average wage for New Jobs that were created
 - E. Report on the median wage for New Jobs that were created
 - F. Report on the number of Palm Beach County residents hired to date
 - G. Annual Job Creation and Maintenance Report shall be submitted to the COUNTY'S Department of Economic Sustainability by the anniversary of the effective date of this Agreement.
2. **Final Job Creation and Maintenance Performance Audit:** The COMPANY shall provide DES a written Final Job Creation and Maintenance Performance Audit (hereinafter "Audit") satisfactory to the COUNTY in its sole discretion, acting reasonably, verifying the COMPANY'S compliance with the requirements of PART IV of this Agreement. Such Audit, which shall be prepared at the COMPANY'S sole cost and expense, shall comply with the following:
 - A. The Audit shall be conducted and prepared by a Certified Public Accountant (CPA) according to standards established by the American Institute of Certified Public Accountants and shall be submitted on the CPA's letterhead.
 - B. The CPA shall "examine" the COMPANY'S records, statements, and schedules and those of all wholly owned subsidiaries created or purchased by the COMPANY in connection with this Agreement, to verify the accuracy of the number of New Jobs created and maintained as required in Part IV of this Agreement, and to verify the annualized average wage and medium wage for the New Jobs. The CPA shall express a written "opinion" in the Audit regarding the number of New Jobs created in compliance with this Agreement and the annualized average wage and medium wage for these New Jobs.
 - C. The CPA's report shall include examining evidence supporting the COMPANY'S schedules of New Jobs and the annualized average wage and medium wage of the New Jobs and those of the wholly owned subsidiaries stated immediately above.
 - D. The CPA's report must provide the annualized average wage **and** the median wage for the below categories:
 - (1) **All New Jobs:** Identify the annualized average wage **and** the median wage of all New Jobs including all exempt and non-exempt employees and all officers and senior corporate executives that are included in the number of New Jobs to be created as required by this Agreement.
 - (2) **New Jobs Only:** Identify the annualized average wage **and** the median wage of all New Jobs as stated above, excluding from these calculations the average annual salary of all officers and senior corporate executives.

- E. The accuracy of the number, hire dates and annualized average wages **and** the median wage of all New Jobs as represented by the COMPANY shall be verified in the Audit by the CPA to the COUNTY'S satisfaction.
- F. The Audit may be performed in conjunction with other auditing services.
- G. A report by a CPA that is a "review or agreed-upon procedures report" on the COMPANY'S representations shall not be deemed to meet the Audit requirements of this Agreement.
- H. The Audit shall be submitted to the DES within sixty-three (63) months from the date the last New Job was created.

PART X GENERAL CONDITIONS

1. **Obligation and Annual Appropriation:** The COUNTY'S obligation to pay under this Agreement is contingent upon annual appropriation for its purpose by the COUNTY. To the extent the annual appropriation amount is reduced, the corresponding obligation of the COMPANY shall be similarly and proportionately reduced. The COUNTY'S obligation to pay under this Agreement is also contingent upon the COMPANY having an active agreement, in good standing, with both the State and the City of Palm Beach Gardens, and termination of or default under either of those agreements may result in termination of this Agreement by the COUNTY.
2. **Non-Discrimination:** The COMPANY acknowledge that it is the express policy of the Board of County Commissioners of Palm Beach County, Florida that the County shall not conduct business with nor appropriate any funds to any organization that practices discrimination on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information. In compliance with the COUNTY'S requirements, the COMPANY have either submitted a copy of their written non-discrimination policies which are consistent with Resolution R-2014-1421 and the policy detailed above, or have submitted executed statements affirming that their non-discrimination policy is in conformance with Resolution R-2014-1421 and the policy detailed above.

In furtherance of such policy, the COMPANY shall not, on the basis of race, color, ancestry, disability, national origin, religion, age, familial status, marital status, sex, gender, sexual orientation, gender identity and expression, or genetic information, exclude any person from the benefits of, or subject any person to discrimination under, any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the COUNTY shall have the right to terminate this Agreement.
3. **Workers' Compensation and Employers' Liability:** The COMPANY shall maintain Workers' Compensation Insurance & Employers' Liability in accord with Florida Statutes Chapter 440 for all jobs set forth in this Agreement. Coverage shall be provided on a primary and noncontributory basis.
4. **Convicted Vendor List:** As provided in F.S. 283.132-133, by entering into this Agreement or performing any work in furtherance hereof, the COMPANY certify that they, and their subsidiaries who will perform hereunder, have not been placed on the Convicted Vendor List maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date of execution of this Agreement by the COUNTY. This notice is required by F.S. 283.133(3) (a).
5. **Successors and Assigns:** The COUNTY and the COMPANY each binds itself and its partners, wholly owned subsidiaries, successors, executors, administrators and assigns to the other party and to the partners, wholly owned subsidiaries, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the COUNTY nor the COMPANY shall assign, sublet, convey or transfer its interest in this Agreement without the prior written

consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the COMPANY. In the event that the COUNTY determines that the COMPANY are in violation of this paragraph, the COUNTY shall have the right to terminate this Agreement.

6. **Name Change:** Within fifteen (15) calendar days of the COMPANY changing the name of the COMPANY, the COMPANY shall provide the COUNTY written notice regarding this change to COMPANY'S names.
7. **Material Change of Circumstances:** The COMPANY shall immediately notify the COUNTY of any material change of circumstances for the COMPANY'S business operations in Palm Beach County. For the purposes hereof, material change of circumstance shall include, but not be limited to, the failure of the COMPANY to diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of COMPANY'S assets for the benefit of creditors, COMPANY'S relocation outside of Palm Beach County, the suspension, closing or cessation of operation of the COMPANY, voluntary or involuntary bankruptcy or an assignment for the benefit of the COMPANY'S creditors. In the event of a material change of circumstances, the COUNTY shall have the right to terminate this Agreement, whereupon the COUNTY shall have no further obligation to the COMPANY under this Agreement.
8. **Entire Agreement Between Parties:** The COUNTY and the COMPANY agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. No provision of this Agreement is intended to, or shall be construed to create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or COMPANY.
9. **Waiver:** If the COUNTY shall waive any provisions of the Agreement, or shall fail to enforce any of the conditions or provisions of this Agreement, such waiver shall not be deemed to be a continuing waiver and shall never be construed as such; and the COUNTY shall thereafter have the right to insist upon the enforcement of such conditions or provisions.
10. **Invalid or Unenforceable Terms:** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.
11. **Performance Time and Liability:** The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.
12. **Defaults:** The occurrence of any one or more of the following events shall constitute a Default hereunder:
 - A. Vacating, abandoning, or closing the COMPANY'S business operations in Palm Beach County.
 - B. Relocating the COMPANY'S business operations in Palm Beach County outside Palm Beach County.

- C. Failure of the COMPANY to submit an acceptable form of performance security to the COUNTY and to maintain the security in effect for the period set forth in this Agreement.
 - D. Failure of the COMPANY to create the number of New Jobs as required in this Agreement.
 - E. Failure of the COMPANY to maintain the required number of New Jobs for the entire Maintenance Period.
 - F. Failure of the COMPANY to maintain the Retained Jobs for the required time period.
 - G. Failure of the COMPANY to make the capital investments required.
 - H. Failure of the COMPANY to submit to the COUNTY the Annual Job Creation and Maintenance Report and/or the Audit as required in this Agreement.
 - I. Failure of the COMPANY to observe or perform any of the terms, covenants, conditions, obligations, or provisions of this Agreement to be observed or performed by the COMPANY where such failure continues for a period of thirty (30) days after written notice thereof from the COUNTY to the COMPANY; provided, however, that if the nature of COMPANY'S default is such that more than thirty (30) days are reasonably required for its cure, then COMPANY shall not be deemed to be in default if the COMPANY commenced such cure within said thirty (30) day period and thereafter diligently pursue such cure to completion.
 - J. The making by the COMPANY of any general assignment, or general arrangement for the benefit of creditors.
 - K. The filing by or against COMPANY of a petition to have the COMPANY adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against COMPANY, the same is dismissed within sixty (60) days).
 - L. The appointment of a trustee or receiver to take possession of substantially all of COMPANY'S assets where possession is not restored to COMPANY within forty-five (45) days.
 - M. The attachment, execution or other judicial seizure of substantially all of COMPANY'S assets located within Palm Beach County where such seizure is not discharged within forty-five (45) days.
 - N. The discovery by the COUNTY that any information relating to this Agreement given to the COUNTY was materially false.
13. **Remedies**: In the event of a Default by the COMPANY, the COUNTY may at any time thereafter, terminate this Agreement. In such event, the COUNTY shall be entitled to recover immediately upon demand from the COMPANY or any party joining in or consenting to this Agreement, all sums paid by the COUNTY to the COMPANY, as applicable, pursuant to this Agreement. Except as set forth in Part X Subpart 12, Subsections I, J, and K, COMPANY shall be granted thirty (30) days from notification of default to cure any deficiency that triggered said default.
14. **Law and Remedy**: This Agreement shall be governed by the laws of the State of Florida. Unless otherwise agreed to in writing by the parties, any and all legal action necessary to enforce the Agreement shall be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial

exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

15. **Regulations:** The COMPANY shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include conflict of interest and collusion. The COMPANY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may affect the services offered.
16. **Headings:** The headings of the sections, paragraphs, divisions, subdivisions, part and subparts of this Agreement are for the convenience of reference only, and shall not limit or otherwise affect any of the terms hereof.
17. **Number and Gender:** Whenever the singular or plural number, masculine or feminine or neutral gender is used herein, it shall equally include the others and shall apply jointly and severally.
18. **Access To Records:** Upon thirty (30) business days' written notice and at any time during normal business hours and as the COUNTY deems reasonably necessary, there shall be made available by the COMPANY to the COUNTY for examination, their records with respect to all requested matters covered by this Agreement. The COUNTY reserves the right to conduct an inspection of the COMPANY'S records regarding performance measures with respect to matters covered by this Agreement at any time for any period covered by this Agreement. In making any request for records, the COUNTY shall construct the request as narrowly as possible so as to avoid any undue burden on the COMPANY.
19. **Office Of The Inspector General:** COUNTY has established the Office of Inspector General in COUNTY Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the COMPANY, and their wholly owned subsidiaries, their officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with Inspector General or interfering with or impeding any investigation shall be in violation of COUNTY Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.
20. **Indemnification and Hold Harmless:** The COMPANY agree to protect, defend, reimburse, indemnify and hold the COUNTY, its agents, its employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees, and causes of action of every kind and character against and from the COUNTY which arise out of COMPANY'S or its officers, agents, and employees failure to comply with any provision of this Agreement. The COMPANY recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily make this covenant and expressly acknowledge the receipt of good and valuable consideration provided by the COUNTY in support of this clause in accordance with the laws of the State of Florida. This Paragraph shall survive the termination of the Agreement.
21. **Notices:** All notices from the COMPANY to the COUNTY and the COUNTY to COMPANY required or permitted by any provision of this Agreement shall be in writing and sent by registered or certified mail and addressed as follows:

TO COUNTY: DEPARTMENT OF ECONOMIC SUSTAINABILITY
100 Australian Avenue, 5th Floor
West Palm Beach, FL 33406
Attn: Sherry Howard, Deputy Director

With a copy to: Board of County Commissioners
c/o Palm Beach County Attorney's Office
301 N. Olive Avenue, Suite 601

West Palm Beach, FL 33401
Attn: James Brako, Assistant County Attorney

TO COMPANY:

If by US Mail:

GRANITE TELECOMMUNICATIONS, LLC
100 Newport Avenue Extension
Quincy, MA 02171
Attn: Rand L. Currier, Chief Operating Officer

Such addresses may be changed by written notice to the other party.

22. **Third Party Beneficiaries:** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or COMPANY.

23. **Scrutinized Companies (when contract value is greater than \$1 million):** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the COMPANY certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473, or on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725, or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by COMPANY, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S.287.135.

24. **Public Records:** Notwithstanding anything contained herein, as provided under Section 119.070 I, F.S., if the COMPANY: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the COMPANY shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time the COMPANY is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this Contract.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The COMPANY further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the COMPANY does not transfer the records to the public agency.
- D. Upon completion of the Contract the COMPANY shall transfer, at no cost to the County, all public records in possession of the Consultant unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the COMPANY transfers all public records to the County upon completion of the Contract, the COMPANY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the COMPANY keeps and maintains public records upon

completion of the Contract, the COMPANY shall meet all applicable requirements for retaining public records. All records stored electronically by the COMPANY must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the COMPANY to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. COMPANY acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

25. **Counterparts:** This Agreement, consisting of thirteen (13) enumerated pages which include the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same instrument.

PART XI REQUIREMENTS APPLICABLE TO WHOLLY OWNED SUBSIDIARIES

In addition to instances where the requirements of this Agreement are expressly set forth to be applicable to wholly owned subsidiaries of the COMPANY, the requirements of the below listed Parts and Subparts shall also apply to all such wholly owned subsidiaries:

- A. PART IV: Subparts 1, 2, 3 and 4.
- B. PART VI: Subparts 1 and 2.
- C. PART VII: Subparts 1, 2, 3, 4, 5, 6 and 7.
- D. PART X: Subparts 2, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23 and 24



IN WITNESS WHEREOF, the COMPANY and the COUNTY have caused this Agreement to be executed on the date first above written.
Signed, sealed and delivered
in the presence of:

Witnesses:
Samuel GUE
Witness Signature

David Klotz
Print Witness Name

Calvin Neztosie
Witness Signature

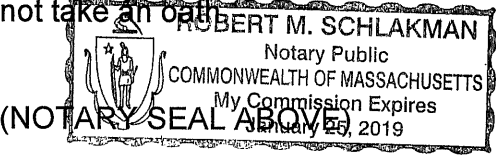
Calvin Neztosie
Print Witness Name

GRANITE TELECOMMUNICATIONS, LLC
By: Richard Norman
(Officer/Member)

By: _____
(Officer/Member)

STATE OF ~~FLORIDA~~ MASSACHUSETTS
COUNTY OF ~~PALM BEACH~~ NORFOLK

The foregoing instrument was acknowledged before me this 15th day of NOVEMBER, 2014, by RICHARD NORMAN, who is personally known to me, or who produced _____ as identification and who did/did not take an oath.



Signature: [Signature]
Notary Name: ROBERT SCHLAKMAN
Notary Public - State of Florida

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me, or who produced _____ as identification and who did/did not take an oath.

(NOTARY SEAL ABOVE)

Signature: _____
Notary Name: _____
Notary Public - State of Florida

(COUNTY SEAL BELOW)

**PALM BEACH COUNTY, FLORIDA, a
Political Subdivision of the State of Florida**

BOARD OF COUNTY COMMISSIONERS

ATTEST: Sharon R. Bock,
Clerk & Comptroller

By: _____
Mary Lou Berger, Mayor

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form and
Legal Sufficiency

Approved as to Terms and Conditions
Department of Economic Sustainability

By: _____
James Brako
Assistant County Attorney

By: Sherry Howard
Sherry Howard
Deputy Director
13

EXHIBIT "A"

**ECONOMIC DEVELOPMENT INCENTIVE GRANT AGREEMENT
BETWEEN PALM BEACH COUNTY AND BELCAN ENGINEERING GROUP, LLC.**

COMPANY IDENTIFICATION AND INFORMATION

QTI application date: 06-03-2016

Company Names: GRANITE TELECOMMUNICATIONS, LLC.
Existing Headquarters: Quincy, MA

Address of the company's facility in Palm Beach County:

400 S. Australian Ave
Suite 200
West Palm Beach, FL 33401

Products/services to be provided from the company's facility in Palm Beach County: Telecommunications

Business Type: Telecommunications

State of Florida Status: Active

State of Florida Filing Date: 04/30/2002

Federal ID Number: 04-3643290

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RESOLUTION NUMBER R2016- 0939

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, RECOMMENDING APPROVAL OF PROJECT CHOP, A COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF FLORIDA, AS A QUALIFIED TARGET INDUSTRY (QTI) BUSINESS PURSUANT TO s.288.106, FLORIDA STATUTES; PROVIDING FOR LOCAL FINANCIAL SUPPORT FOR THE QUALIFIED TARGET INDUSTRY TAX REFUND PROGRAM WITH HIGH-IMPACT SECTOR BONUS IN THE FORM OF A GRANT NOT TO EXCEED \$25,000; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, PROJECT CHOP is considering expanding its current operations in Palm Beach Gardens, Florida to relocate its Regional Headquarters; and

WHEREAS, the PROJECT will involve expansion and renovation of an existing building and purchasing of equipment; and

WHEREAS, PROJECT CHOP will create fifty (50) new permanent full-time jobs in Palm Beach County within two (2) years at an average wage of \$50,675 excluding benefits, which is at least 115% greater than the average wage in the State of Florida and retain sixty-six (66) jobs they currently employ in Palm Beach County; and

WHEREAS, Palm Beach County's Department of Economic Sustainability estimates that the proposed project would result in an economic impact of \$257.2 Million over five (5) years; and

WHEREAS, the Board of County Commissioners of Palm Beach County hereby acknowledges that local financial support of 20% of the total QTI tax refund is required under the provisions of s.288.106, Florida Statutes, governing the State's QTI Program; and

WHEREAS, the City of West Palm Beach has determined that it will provide one half of the local financial support to PROJECT CHOP in the amount of \$25,000; and

WHEREAS, Palm Beach County has determined that it will provide one half of the local financial support in the form of a Economic Development Grant to PROJECT CHOP in the amount of \$25,000; and

WHEREAS, PROJECT CHOP, a for-profit company, has filed a QTI Tax Refund Program application with Enterprise Florida, Inc. to seek State tax refunds; and

WHEREAS, PROJECT CHOP has been identified as a target Industry business and falls within one of the high-impact sectors designated under s.288.108, Florida Statutes; and

WHEREAS, Palm Beach County's Job Growth Incentive Program is utilized as local participation for the QTI and is designed to motivate businesses by providing funding assistance to either relocate to or establish a facility in Palm Beach County or to help an existing local business with an expansion project which will result in the creation of full-time jobs in Palm Beach County, increase the County's tax base, and strengthen and diversify the County's local economy; and

WHEREAS, the State of Florida has committed to provide a total of \$250,000 to PROJECT CHOP under the QTI Program; and

WHEREAS, PROJECT CHOP is aware that the award is contingent upon the company entering into a formal agreement with the County to create 50 permanent jobs at an average annual wage of \$50,675 within two (2) years, and maintain those new jobs for a period of five (5) years. Also the company will retain sixty-six (66) jobs they currently employee in Palm Beach County.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Board hereby recommends PROJECT CHOP, a company authorized to do business in the State of Florida, be approved as a Qualified Target Industry Business pursuant to s.288.106, Florida Statutes.

BE IT FURTHER RESOLVED, that the necessary local financial support for the Qualified Target Industry Tax Refund with High-Impact Sector Bonus exists for PROJECT CHOP in the amount of \$250,000, which includes \$150,000 for the Qualified Target Industry Tax Refund and \$100,000 for the High-Impact Sector Refund, and will be provided in the form of an Ad Valorem Tax Exemption granted to PROJECT CHOP pursuant to s.196.1995, Florida Statutes.

BE IT FURTHER RESOLVED, that the necessary local financial support for the Qualified Target Industry Tax Refund exists for PROJECT CHOP and may be provided in the form of an Economic Development Incentive (CASH) granted to PROJECT CHOP pursuant to s.196.1995, Florida Statutes.

BE IT FURTHER RESOLVED, that the Palm Beach County Board of County Commissioners has determined the basis of this project's average private wage sector commitment shall be at least 115% greater than the State's average annual wage.

This resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner Abrams, who moved its adoption. The motion was seconded by Commissioner Taylor, and being put to vote, the vote was as follows:

Commissioner Mary Lou Berger, Mayor	- <u>Aye</u>
Commissioner Hal R. Valeche, Vice Mayor	- <u>Aye</u>
Commissioner Paulette Burdick	- <u>Absent</u>
Commissioner Shelley Vana,	- <u>Aye</u>
Commissioner Steven L. Abrams	- <u>Aye</u>
Commissioner Melissa McKinlay	- <u>Aye</u>
Commissioner Priscilla A. Taylor	- <u>Aye</u>

The Mayor thereupon declared the Resolution duly passed and adopted this 12th day of July, 2016.

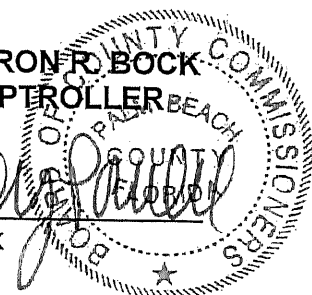
**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: James Brako
James Brako
Assistant County Attorney

**ATTEST: SHARON R. BOCK
CLERK & COMPTROLLER**

By: Sharon R. Bock
Deputy Clerk



2017 -

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

BGEX 143-110716*00327
BGRV 143-110716*00084

FUND 1539 Economic Development Office

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 11/10/16	REMAINING BALANCE
REVENUES								
800-8000-8000	Tr Fr General Fund 0001	4,110,100	4,467,600	25,000	0	4,492,600		
Total Receipts and Balances		6,525,839	6,424,331	25,000	0	6,449,331		
EXPENDITURES								
143-1150-8201	Contributions-Non Gov't Agency	0	0	25,000	0	25,000	0	25,000
Total Appropriations & Expenditures		6,525,839	6,424,331	25,000	0	6,449,331		

DEPARTMENT OF ECONOMIC SUSTAINABILITY
INITIATING DEPARTMENT/DIVISION
Administration/Budget Department Approval
OFMB Department - Posted

Signatures & Dates

By Board of County Commissioners
At Meeting of:

December 20, 2016

Deputy Clerk to the
Board of County Commissioners

2017-

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET TRANSFER

Page 1 of 1 pages

BGEX 143-110716*00326

FUND 0001 General Fund

Use this form to provide budget for items not anticipated in the budget.

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED AS OF 11/10/16	REMAINING BALANCE
<u>EXPENDITURES</u>								
820-9100-9099	Tr To Economic Development Fd 1539	4,110,100	4,467,600	25,000		4,492,600	513,763	3,978,837
820-9900-9901	Contingency Reserves	20,000,000	20,445,020		25,000	20,420,020	0	
				25,000	25,000			
TOTALS								

Administration	Signatures	Date	By Board of County Commissioners
INITIATING DEPARTMENT/DIVISION			At Meeting of
Administration/Budget Department Approval			December 20, 2016
OFMB Department - Posted			Deputy Clerk to the
			Board of County Commissioners