

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 4, 2019 Consent Regular
 Ordinance Public Hearing

Department: Department of Housing and Economic Sustainability

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** an Economic Development Incentive Agreement (Agreement) with ORBCOMM, LLC (Company), to provide a cash grant in an amount not to exceed \$19,200 over a five (5) year period; **B)** a Budget Transfer of \$19,200 from the General Fund Contingency Reserves to the Economic Development Fund; and, **C)** a Budget Amendment of \$19,200 in the Economic Development Fund to recognize the funds from the General Fund.


Summary: Staff is recommending approval of an Economic Development Incentive Agreement with ORBCOMM, LLC. On October 16, 2018 the Board of County Commissioners (BCC) conceptually approved (R2018-1679) an Economic Development Incentive (Incentive) for the Company totaling \$19,200. This Agreement discloses the name of the Company, ORBCOMM, LLC, previously referred to as Project Saturn. The Company is a single source provider of multi-network connectivity, devices, and applications for a variety of industries including transportation and distribution, oil and gas, and heavy equipment. The Agreement requires the Company to make a minimum capital investment of \$580,000 to lease, renovate, and equip an 11,500 square foot facility. The Company shall create 32 new jobs over a two (2) year period. These new jobs must have an annualized average wage of \$76,647 excluding benefits and a median wage of \$65,000 excluding benefits. The Company is required to maintain the new jobs for three (3) years from the date this Agreement becomes effective. The five (5) year economic impact is estimated to be \$51.7 Million. The Agreement incorporates Economic Development Incentive program policy changes approved by the BCC on April 16, 2019. These changes include reducing the maintenance period for new and retained jobs from five (5) to three (3) years and eliminating the County’s audit requirement; and accepting the State’s audit requirement. The Agreement requires a performance security in the form of either a clean, irrevocable Letter of Credit or Cash Bond equal to the full amount of the maximum Incentive to be awarded to the Company. In addition, the Agreement states that in the event the Company fails to satisfy job creation requirements but fulfills all other applicable requirements, the Company shall forfeit a pro-rata share of the Incentive amount due for the number of jobs created. If the Company’s fulfillment of the job creation requirement falls below 80%, the County has the right, in its sole discretion to terminate the Agreement.

The State of Florida approved a Qualified Target Industry (QTI) tax refund for the Company in the amount of \$192,000. Of this amount, \$153,600 is from the State of Florida and \$38,400 is a required match from local government entities. The Company and the State are entering into an agreement for the QTI tax refund. The required \$38,400 match to the QTI tax refund will be split equally between Palm Beach County (\$19,200) and the City of Boca Raton (\$19,200). The Palm Beach County match will be provided in the form of a cash grant in an amount not to exceed \$19,200 over a five (5) year period provided the project meets the requirements under Florida Statute 196.012. District 4 (DB)

Background and Policy Issues: The Economic Development Incentive program continues to provide for long term economic growth in Palm Beach County and further diversification of the local economy. The program implements the BCC’s policy to attract new business to Palm Beach County; to support expanding existing businesses in the county that would otherwise expand elsewhere; and to create employment opportunities for residents of Palm Beach County. The County’s Economic Development Incentive program may be used as local participation for the State’s QTI tax refund program. Approval of this Agreement will facilitate the establishment of a regional headquarters company and the creation of new jobs in Palm Beach County.

- Attachments:**
1. Economic Development Incentive Agreement with ORBCOMM, LLC
 2. Resolution R2018-1679
 3. Budget Transfer and Budget Amendment

Recommended By:  _____ **5/20/19**
 Department Director Date

Approved By:  _____ **5/31/19**
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2019	2020	2021	2022	2023
Grant Expenditures	\$0	\$2,850	\$4,800	\$4,800	\$4,800
Operating Costs					
External Revenues					
Program Income					
In-Kind Match					
NET FISCAL IMPACT	\$0	\$2,850	\$4,800	\$4,800	\$4,800
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes _____ No X
 Does this Item include the use of Federal funds? Yes _____ No X

Budget Account No.:

Fund ___ Dept ___ Unit ___ Sub Unit ___ Object ___ Program Code/Period ___

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

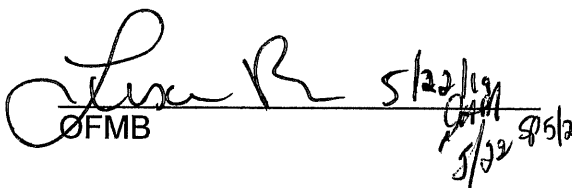
The source of funds is from the general fund contingency reserve for the Economic Development Incentive program. The annual fiscal impact is not to exceed \$19,200 over a five (5) year period. Therefore, in addition to the allocations above, FY 2024 = \$1,950.

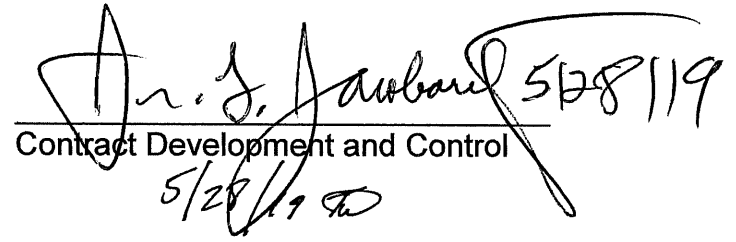
C. Departmental Fiscal Review:


 Beverley Reid, Division Manager

III. REVIEW COMMENTS

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

 5/22/19
 OFMB

 5/28/19
 Contract Development and Control

B. Legal Sufficiency:

 5/27/19
 Assistant County Attorney

C. Other Department Review:

 Department Director

Economic Development Incentive Agreement

THIS AGREEMENT, dated as of this _____ day of _____, 20____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, (hereinafter the "COUNTY") and ORBCOMM LLC, a foreign limited liability company authorized to do business in the State of Florida, whose Federal I.D. Number is 52-2310071. (hereinafter 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 committing to expanding its office in Palm Beach County; will invest, through tenant improvements funded by the landlord and repaid by rent payments over the term of the lease, FIVE HUNDRED EIGHTY THOUSAND DOLLARS (\$580,000) to lease, renovate, and equip a 11,500 square foot facility; will create THIRTY-TWO (32) New Jobs as defined herein below over TWO (2) years at an Average Annual Wage of SEVENTY-SIX THOUSAND SIX HUNDRED FORTY-SEVEN DOLLARS (\$76,647), and Median Wage of SIXTY FIVE THOUSAND DOLLARS (\$65,000); and will maintain the New Jobs for THREE (3) years from date of creation; and

WHEREAS, the State of the Florida has approved a Qualified Target Industry (QTI) Tax Refund in the amount of ONE HUNDRED NINETY-TWO THOUSAND DOLLARS (\$192,000); of which the State of Florida will provide ONE HUNDRED FIFTY-THREE THOUSAND DOLLARS (\$153,000); and

WHEREAS, the local match requirement is THIRTY-EIGHT THOUSAND FOUR HUNDRED (\$38,400), of which the City of Boca Raton will provide NINETEEN THOUSAND TWO HUNDRED DOLLARS (\$19,200) and Palm Beach County will provide NINETEEN THOUSAND TWO HUNDRED DOLLARS (\$19,200); and

WHEREAS, the Board of County Commissioners on October 16, 2018, conceptually approved an Economic Development Incentive ("Incentive") in the form of a Cash Grant and/or Ad Valorem Tax Exemption to COMPANY in an amount not to exceed NINETEEN THOUSAND TWO HUNDRED DOLLARS (\$19,200) over a period of FIVE (5) years as a portion of the local match for a State QTI Tax Refund and in consideration of the capital investment, New Jobs created and maintained, Average Annual Wage, and Median Wage memorialized under this Agreement; 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:** A "New Job" for the purposes of the Economic Development Incentive Agreement means a full-time salaried employee, or a full-time equivalent (an "FTE") employee who works at least 35 paid hours per week, performing tasks directly related to the products or services of COMPANY.
 - (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 facility at the address 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, holidays, and sick leave, is at least 35 paid hours per week, performing tasks directly related to the products or services of the COMPANY. Notwithstanding the foregoing, the 35 paid hours per week shall be determined pursuant to the job requirement of the employee, and not the actual number of hours clocked at work, allowing for vacation, holidays, and sick leave.
 - C. **Average Annual Wage:** In calculating the Average Annual Wage for New Jobs during the applicable Performance Period, described in PART V herein, the following forms of compensation may be included for all New Jobs as defined above:
 - Wages
 - Salaries
 - Commissions
 - Bonuses
 - Advances given to an employee against future earnings
 - Vacation pay
 - Sick leave pay
 - Dismissal pay
 - Cash prizes and awards
 - Supplemental payments to make up the difference between regular pay and jury-duty pay or workers' compensation benefits; and
 - Payments to employees on leave while serving in the military
 - D. **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.
 - E. **Existing Job:** Not Applicable.

**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 and Approval of Wholly Owned Subsidiaries:** The COMPANY shall notify the COUNTY in writing of its creation or purchase of a wholly owned subsidiary in connection with this Agreement. Notice of such wholly owned subsidiaries shall include divulging to the COUNTY the name of such entity and the location of the

entity's 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. The inclusion of any wholly owned subsidiary after the Effective Date shall be subject to the COUNTY'S approval of the same, which may be withheld or delayed at the COUNTY'S sole discretion.

3. **Acceptance of Jobs Created by Subsidiaries:** Notwithstanding that COUNTY is allowing COMPANY and the wholly owned subsidiaries of COMPANY to create, maintain, and retain said jobs, COMPANY agrees that this Agreement is solely between COMPANY and COUNTY and COUNTY has the right, in its reasonable discretion to reject or accept any or all jobs created by COMPANY'S wholly owned subsidiaries.

PART IV COMPANY OBLIGATIONS

1. **New Job Creation:** The COMPANY shall create THIRTY-TWO (32) New Jobs within TWO (2) years of the Effective Date.
2. **Existing Job Retention:** Not Applicable.
3. **New Job Maintenance:** The COMPANY shall maintain the required New Jobs for a period of THREE (3) years from the date each New Job was created ("Maintenance Period").
4. **Salaries:** The COMPANY shall pay an Average Annual Wage per annum equal to or greater than SEVENTY-SIX THOUSAND SIX HUNDRED FORTY-SEVEN DOLLARS (\$76,647), excluding benefits and also shall pay a Median Wage per annum for the New Jobs equal to or greater than SIXTY-FIVE THOUSAND DOLLARS (\$65,000), excluding benefits for each New Job created under this Agreement.
5. **Capital Investment:** The COMPANY shall make a minimum capital investment of FIVE HUNDRED EIGHTY THOUSAND DOLLARS (\$580,000) at the address shown on Exhibit A attached hereto and made a part hereof including through tenant improvements funded by the landlord and repaid by rent payments over the term of the lease.
6. **Performance Security:** The COMPANY shall provide the COUNTY with a performance security ("Security") in the form of either a clean, irrevocable Letter of Credit or a Cash Bond as described in PART VII herein.
7. **Submission of Reports:** The COMPANY shall submit Job Creation and Maintenance Reports as described in PART IX herein.
8. **Worker's Compensation and Employer's Liability:** The COMPANY shall demonstrate compliance with the Worker's Compensation and Employer's Liability requirement as described in PART X herein.

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 (the "Effective Date").
2. **Expiration Date:** Unless earlier terminated according to the terms of this Agreement, this Agreement shall expire THIRTY-SIX (36) months after the creation of the one last New Job (the "Expiration Date").
3. **Extension:** COMPANY may elect to exercise a one-time right under this Agreement to adjust certain performance periods thereunder by TWELVE (12) months by providing SIXTY (60) days written notice of such election to the

COUNTY. Upon receipt of written notice, the County will agree that the equivalent performance periods in this Agreement shall also be adjusted by such TWELVE (12) month period. In the event the COMPANY exercises this one-time right, all Incentive amounts to be disbursed after the effective date of the exercise shall be reduced by FIVE percent (5%).

For example, the COMPANY may elect to adjust the requirement to create THIRTY-TWO (32) New Jobs within TWO (2) years of the Effective Date by TWELVE (12) months. With the election, the new timeframe is THREE (3) years of the Effective Date and all Incentive amounts to be disbursed are reduced by FIVE percent (5%).

PART VI INCENTIVES

1. **For Incentives Provided in the Form of a Cash Grant:** The maximum Incentive amount the COUNTY is obligated to provide in the form of a Cash Grant is NINETEEN THOUSAND TWO HUNDRED DOLLARS (\$19,200) over an FIVE (5) year period.
2. **For Incentives Provided in the Form of an Ad Valorem Tax Exemption:** Not Applicable.

PART VII DISBURSEMENTS

1. **For Incentives Provided in the Form of a Cash Grant:**

- A. **Disbursements as Match to State Programs:** The COUNTY shall, upon receipt of a written request from the State, disburse cash grant funds to the State according to the schedule established by the State. Payment of tax refunds for the State and local match are conditioned on and subject to pay amounts authorized in Section 288.106 Florida Statute.

As a prerequisite to disbursement of cash grant funds, the COUNTY shall have received the following:

- i. **Documentation of Capital Investment:** As described in PART IV, herein
- ii. **Performance Security:** The COMPANY shall provide the COUNTY with performance security ("Security") in the form of either a clean, irrevocable Letter of Credit or Cash Bond. All forms of Security shall be in compliance with COUNTY policies and acceptable to the COUNTY in its sole discretion, acting reasonably. The Security, equal to the full amount of the maximum Incentive to be awarded to the COMPANY under PART VI herein 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 Last Job Creation and Maintenance Performance Report and verified that the COMPANY has complied with the requirements outlined in this Agreement, or as indicated below.

Upon the COUNTY'S determination that the COMPANY has satisfactorily complied with the terms of this Agreement, the COUNTY shall notify the COMPANY that the Security can be released.

- iii. **Written Request from the State**
- iv. **Job Creation and Maintenance Report:** As described in PART IX, herein
- v. **Proof of Worker's Compensation and Employer's Liability:** As described in PART X herein

2. For Incentives Provided in the form of an Ad Valorem Tax Exemption: Not Applicable.

**PART VIII
ADVERTISING, RECRUITING AND JOB INFORMATION**

1. Job Availability: The COMPANY shall coordinate with the following agencies regarding new job opportunities:
 - A. CareerSource Palm Beach County
3400 Belvedere Road
West Palm Beach, FL 33406
561-340-1060
 - B. West Career Center
1085 S Main Street
Belle Glade, FL 33430
561-829-2040
2. 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.

**PART IX
REPORTS**

For Incentives Provided in the Form of a Cash Grant and/or Ad Valorem Tax Exemption: The following reports are required:

1. Job Creation and Maintenance Reports: The COMPANY shall provide the COUNTY'S Department of Housing and Economic Sustainability verification of the State's audit in the form of the Department of Economic Opportunity, Division of Strategic Business Development Incentive Claim Review Results Memorandum (the "State Memo") and an Internal Compliance Report (collectively the "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 Job Creation and Maintenance Report shall comply with the following:
 - A. The State Memo shall be requested by the Company from the State and provided to COUNTY.
 - B. Internal Compliance Report shall be an internally prepared report that includes verification of compliance with the Median Wage portion of Salary requirements and Capital Investment requirements as provided in PART IV herein.
 - C. The Job Creation and Maintenance Report will be required upon receipt of a written request for Incentives received by the COUNTY as provided in PART VII herein.

**PART X
GENERAL CONDITIONS**

1. Obligation and Annual Appropriation: The COUNTY'S obligation to provide an Economic Development Incentive 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 provide an Economic Development Incentive under this Agreement is also contingent upon the COMPANY having an active agreement, in good standing, with both the State and the City of Boca Raton, and termination of or default under either of those agreements may result in termination of this Agreement by the

COUNTY.

2. **Non-Discrimination:** The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the COMPANY warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered a default of the Agreement.
3. **Worker's Compensation and Employer's Liability:** For positions located in Florida as part of this Agreement, COMPANY agrees to maintain Worker's Compensation Insurance & Employer's Liability in accordance with Florida Statute Chapter 440. Coverage shall be provided on a primary basis. The COMPANY shall maintain Workers' Compensation Insurance & Employers' Liability in accord with Florida Statute 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 Effective Date 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 promptly 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 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 retain the Existing 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 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.
 - O. For Incentives provided in the Form of an Ad Valorem Tax Exemption: the failure to file the Renewal Application.
13. **Revocation and Remedies:** In the event of a Default by the COMPANY, the COUNTY shall at any time thereafter adopt an ordinance revoking the Incentive and terminating this Agreement. The effective date for revocation of the Incentive will be identified in the ordinance.
- A. 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 Economic Development Incentives provided by the COUNTY to the COMPANY, as applicable, pursuant to this Agreement. Except as set forth in PART X Subpart 12, Subsections I, J, K and O, COMPANY shall be granted THIRTY (30) days from notification of default to cure any deficiency that triggered said default.
 - B. If the COMPANY fails to satisfy the New Job creation requirement but fulfills all other applicable requirements under this Agreement, the COMPANY shall forfeit a portion of the Economic Development Incentive amount due for the number of New Jobs created. The pro rata share shall be determined by dividing the total incentive award amount by the total number of New Jobs required to be created to establish the value of each New Job. The COMPANY will forfeit the value of each New Job not created. If the New Job creation requirement falls below EIGHTY PERCENT (80%), the COUNTY has the right, its sole discretion, to terminate this Agreement.
 - C. For Incentives in the form of Cash Grant: In the event of a Default, and the COUNTY has not made any disbursements as provided in PART VII herein, the COUNTY, at its sole discretion may terminate this Agreement. The form of this termination shall be by a written notice, signed by the Director of the Department of Housing and Economic Sustainability, and sent by certified mail as provided in Section X Paragraph 21 herein.
 - D. For Incentives in the Form of an Ad Valorem Tax Exemption: Upon revocation, the COUNTY shall immediately notify the Property Appraiser. For any year that taxes may have been exempted and the COUNTY finds that the COMPANY was not entitled to the exemption, such taxes may be recovered and the Property Appraiser will assist the COUNTY to recover any taxes exempted. The COUNTY may recover taxes exempted throughout the term of the Agreement.
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 during regular business hours and in such a fashion as not to interrupt the regular 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. Any such audit shall be at the COUNTY's sole cost and expense.
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 Housing and 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:

Registered Agent: CT Corporation System
1200 South Pine Island Road
Plantation, FL 33324

With a Copy To: ORBCOMM, LLC
2700 North Military Trail, Suite 410
Boca Raton, FL 33431

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. **Public Records:** Notwithstanding anything contained herein, as provided under Section 119.0701, 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 Agreement.
 - 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 Agreement, if the COMPANY does not transfer the records to the public agency.
 - D. Upon completion of the Agreement the COMPANY shall transfer, at no cost to the COUNTY, all public records in possession of the COMPANY 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 Agreement, 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 Agreement, the COMPANY shall meet all applicable requirements for retaining public records. All such records stored electronically by the COMPANY must be provided to the 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 the COUNTY.

- E. The parties agree to ensure that any confidential and exempt, or otherwise legally protected information shall not be disclosed except as authorized by law. This provision shall survive the expiration or earlier termination of this Agreement.

Failure of the COMPANY to comply with the requirements of this article shall be a material breach of this Agreement. 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 COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 NORTH OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT (561) 355-6680.

24. **Counterparts:** This Agreement, including 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 AFFILIATES**

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

- A. PART IV: Subparts 1, 2, 3 and 4.
- B. PART VII: Subparts 1 and 2
- C. PART X: Subparts 2, 3, 4, 6, 7, 15, 18, 19, 20, 22 and 23.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

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:

Robin Zimmer
Witness Signature

Robin Zimmer
Print Witness Name

Lisa Moschella
Witness Signature

Lisa Moschella
Print Witness Name

ORBCOMM LLO
[Signature]
By:
Christian Le Brun
Executive Vice President & General Counsel

STATE OF NEW JERSEY
COUNTY OF BERGEN

The foregoing instrument was acknowledged before me this 13 day of May, 2014, by Christian Le Brun, who is personally known to me, or who produced _____ as identification and who did/did not take an oath.

Signature: [Signature]
Notary Name: Lisa Moschella
Notary Public - State of New Jersey

(NOTARY SEAL ABOVE)

LISA MOSCHELLA
NOTARY PUBLIC OF NEW JERSEY
50041422
My Commission Expires July 6, 2021

(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: _____
Mack Bernard, Mayor

By: _____
Deputy Clerk

Document No.: _____

Approved as to Form
And Legal Sufficiency

Approved as to Terms and Conditions
Department of Housing and Economic
Sustainability

By: _____
Assistant County Attorney

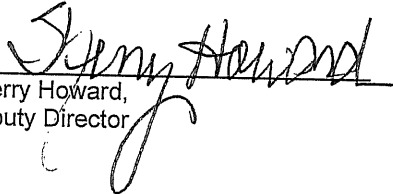
By: 
Sherry Howard,
Deputy Director

EXHIBIT A
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN
PALM BEACH COUNTY AND ORBCOMM INC.

COMPANY IDENTIFICATION AND INFORMATION

QTI application date:	June 29, 2018
Company Name:	ORBCOMM LLC
Existing Headquarters:	395 W. Passaic Street, Suite 325 Rochelle Park, NJ 70662
Address of the company's facility in Palm Beach County:	2700 N. Military Trail Boca Raton, FL 33431
Products/services to be provided from the company's facility in Palm Beach County:	Hardware and Software solutions for wirelessly monitoring and controlling remote assets
Business Type:	Information Services
State of Florida Status:	Active
State of Florida Filing Date:	11/06/2018
Federal ID Number:	52-2310071

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, RECOMMENDING APPROVAL OF PROJECT SATURN, 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 NOT TO EXCEED \$19,200 OVER A FIVE (5) YEAR PERIOD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE; AND

WHEREAS, PROJECT SATURN is considering relocating its corporate headquarters to Palm Beach County; and

WHEREAS, PROJECT SATURN will involve the renovation of an existing facility and purchase of equipment; and

WHEREAS, PROJECT SATURN will create 32 new permanent full-time jobs in Palm Beach County at an average wage of \$76,647 excluding benefits, which is at least 150% or greater than the average wage in the State of Florida; and

WHEREAS, Palm Beach County's Department of Housing and Economic Sustainability estimates the proposed project would result in an economic impact of \$51,746,576 over five (5) years; and

WHEREAS, PROJECT SATURN has been identified as a Target Industry Business, and is eligible to apply for the Qualified Target Industry Tax Refund (QTI) pursuant to s.288.106, Florida Statutes; and

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

WHEREAS, the City of Boca Raton has determined it will provide one half of the required local financial support to PROJECT SATURN in the amount of \$19,200; and

WHEREAS, Palm Beach County has determined it will provide one half of the required local financial support as Economic Development Incentive to PROJECT SATURN in the form of a cash grant in amount not to exceed \$19,200 over a five (5) year period; and

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

WHEREAS, PROJECT SATURN has been identified as a target industry business designated under s.288.108, Florida Statutes; and

WHEREAS, the Palm Beach County Economic Development 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, PROJECT SATURN is aware that the award is contingent upon the company entering into a formal agreement with the County to create 32 permanent jobs at an average annual wage of \$76,647 within two (2) years and maintain those new jobs for a period of five (5) years; and

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the Board hereby recommends PROJECT SATURN, 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 cash commitment of local financial support for the Qualified Target Industry Tax Refund Program exists for PROJECT SATURN in the amount of \$38,400; that one half of the local financial support in the amount of \$19,200 will be provided from Palm Beach County, and one half of the required local financial support in the amount of \$19,200 will be provided from the City of Boca Raton, which amounts will be made available in accordance with the guidelines set forth by the Florida Department of Economic Opportunity with the stipulation that these funds are intended to represent local financial support pursuant to s.288.106, 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 150% or greater than the State's average annual wage.

SEVERABILITY

If any section, paragraph, sentence, clause or word of this Resolution is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Resolution.

EFFECTIVE DATE

This resolution shall take effect immediately upon its passage and adoption.

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

- Commissioner Melissa McKinlay, Mayor - Aye
- Commissioner Mack Bernard, Vice Mayor - Aye
- Commissioner Hal R. Valeche - Aye
- Commissioner Paulette Burdick - Aye
- Commissioner Dave Kerner - Aye
- Commissioner Steven L. Abrams - Aye
- Commissioner Mary Lou Berger - Aye

The Mayor thereupon declared the Resolution duly passed and adopted this 16th day of October, 2018.

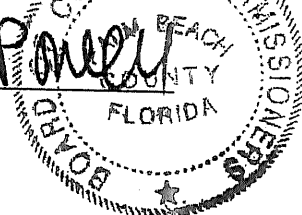
PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

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



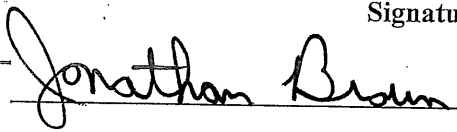
BOARD OF COUNTY COMMISSIONERS
 PALM BEACH COUNTY, FLORIDA
 BUDGET TRANSFER

BGEX041019*1253

FUND 0001 General Fund

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED As of 4/10/19	REMAINING BALANCE
<u>REVENUES/EXPENDITURES</u>								
0001-820-9100-9099	Tr To Economic Development Fd 1539	5,037,815	5,342,815	19,200	0	5,362,015		5,362,015
0001-820-9900-9901	Contingency Reserves	20,000,000	14,161,884	0	19,200	14,142,684		14,142,684
Total Receipts and Balances				19,200	19,200			

Office of Financial Management & Budget
 INITIATING DEPARTMENT/DIVISION
 Administration/Budget Department Approval
 OFMB Department - Posted

Signatures & Dates
 5/20/19

By Board of County Commissioners
 At Meeting of June 4, 2019
 Deputy Clerk to the
 Board of County Commissioners

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA
BUDGET AMENDMENT

BGRV041019*466
BGEX041019*1254

Fund 1539 Economic Development

ACCT.NUMBER	ACCOUNT NAME	ORIGINAL BUDGET	CURRENT BUDGET	INCREASE	DECREASE	ADJUSTED BUDGET	EXPENDED/ ENCUMBERED As of 4/10/19	REMAINING BALANCE
<u>REVENUES</u>								
1539-800-8000-8000	Transfer from General Fund Fd 0001	4,937,815	5,242,815	19,200	0	5,262,015		
Total Receipts and Balances		7,508,304	7,835,200	19,200	0	7,854,400		
<u>EXPENDITURES</u>								
1539-143-1157-8201	Contributions non Govts Agncs	0	0	19,200	0	19,200		19,200
Total Appropriations & Expenditures		7,508,304	7,835,200	19,200	0	7,854,400		

Office of Financial Management & Budget

INITIATING DEPARTMENT/DIVISION

Administration/Budget Department Approval

OFMB Department - Posted

Signatures & Dates

Jonathan Brown

5/20/19

By Board of County Commissioners

At Meeting of June 4, 2019

Deputy Clerk to the

Board of County Commissioners