

RELEASE AND AGREEMENT TO TERMINATE BROADBAND AGREEMENTS IN LIGHT
OF TRANSFER OF 2022 VATI GRANT TO WESTERN PIEDMONT PLANNING DISTRICT
COMMISSION

WHEREAS, on July 29, 2021, the County of Dinwiddie, Virginia (“Dinwiddie County”) put out a Request for Proposals (the “Broadband RFP”) “to solicit proposals from companies to 1) prepare and submit a last mile broadband grant application to the home to the Virginia Department of Housing and Community Development (“DHCD”) as part of the Virginia DHCD 2022 Virginia Telecommunication Initiative (“VATI”) grant pool, 2) prepare and submit last mile broadband grant applications to other sources of grant money, [and] 3) if any of the grants [were] awarded, [to] deploy and operate the required network infrastructure, provide affordable/competitive broadband internet service to government facilities, citizens and businesses in Dinwiddie County”; and

WHEREAS, PGECE Enterprises, LLC (“PGECE”) submitted a proposal in response to the Broadband RFP and such proposal envisioned delivering universal fiber to the home access to the parts of Dinwiddie that lacked broadband coverage; and

WHEREAS, Dinwiddie County, the Dinwiddie County Broadband Authority (the “Broadband Authority”), and PGECE entered into an agreement labelled Dinwiddie County Broadband Grant Application and Project Implementation (VATI), dated September 9, 2021 (the “Initial Agreement”); and

WHEREAS, Dinwiddie County applied with PGECE for a grant from the 2022 VATI grant pool for \$10,500,424 to provide universal broadband in the form of fiber-to-the-home internet service in Dinwiddie County, including, but not limited to, 5,522 homes and business passings; and

WHEREAS, due to a challenge of the 2022 VATI grant by RiverStreet Networks, the 2022 VATI grant amount ultimately was reduced to \$7,532,055; and

WHEREAS, on April 25, 2022, Dinwiddie County, the Broadband Authority, and PGECE entered into an agreement labelled “CONTRACT AMENDMENT I – PHASE II, PROJECT IMPLEMENTATION PERFORMANCE AGREEMENT FOR UNIVERSAL BROADBAND COVERAGE IN DINWIDDIE COUNTY” (the “April 25, 2022 Agreement”); and

WHEREAS, the April 25, 2022 Agreement required PGECE to “be solely responsible for turn-key furnishing all labor, equipment, materials, acquisition of any required permits and licenses, and all required easements to accomplish the Project Requirement”, and the Project Requirement “mean[t] the completion of Universal Broadband Availability in Dinwiddie County by December 31, 2024, subject to any extension that may be granted pursuant to Section 10. Extensions” in the April 25, 2022 Agreement; and

WHEREAS, PGECE and Dinwiddie County entered into a Memorandum of Understanding with Southside Electric Cooperative (the “SEC MOU”) and a Memorandum of Understanding with Dominion Electric and Power Company (the “Dominion MOU”, together with the SEC MOU, the “Electric MOUs”, and together with the SEC MOU, Initial Agreement and the April 25, 2022

Agreement, the “Broadband Agreements”), in each case to facilitate the completion of the accomplishment of attaining universal broadband coverage in Dinwiddie County; and

WHEREAS, PGECE subsequently encountered difficulties that stalled its progress, including an inability to place PGECE’s fiber on the vast majority of the poles required for the project on terms that made the project feasible within the budget available to PGECE, making it clear that PGECE would not be able to complete the Project Requirement within its available budget; and

WHEREAS, PGECE has agreed to allow \$6,893,337 of the 2022 VATI grant to be transferred to RiverStreet Networks, and PGECE intends for \$638,718 of the 2022 VATI grant to remain designated for PGECE, although Dinwiddie County and the Broadband Authority are not in any way responsible for ensuring that PGECE receives such funds; and

WHEREAS, pursuant to a letter dated May 21, 2024 from the Director of the VATI Office of Broadband, grant administration of the 2022 VATI grant is being transferred to the Western Piedmont Planning District Commission.

NOW THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the Parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The recitals listed above are hereby incorporated by reference herein.
2. Termination of Agreements. Dinwiddie County, the Broadband Authority, and PGECE each agree to terminate each of the Broadband Agreements and each of the Broadband Agreements are hereby terminated. The Parties agree that Dinwiddie County may provide notice to Dominion and SEC of the termination of the Electric MOUs at Dinwiddie County’s convenience.
3. Release and Discharge. With the understanding that Dinwiddie County and the Broadband Authority have not paid and never will pay any money to PGECE for any work related to any PGECE fiber-to-the-home project in Dinwiddie County, Dinwiddie County, the Broadband Authority, and PGECE release and forever discharge each other of and from and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, loss of services, expenses, and/or compensation related to the Broadband Agreements and any related obligation(s) to which they may be entitled. Without limiting the foregoing, PGECE releases any claim it may have had for any payment or reimbursement for any expenses related to the Broadband Agreements and any related obligation(s), and Dinwiddie County and the Broadband Authority release any claim they may have had for breach of contract related to the Broadband Agreements or any related obligation(s).
4. Warranty and Capacity to Execute Agreement. Each party hereto represents and warrants that each person whose signature is affixed on its behalf is authorized to sign this Agreement. Each person who signs this Agreement represents and warrants that he is authorized to sign this Agreement.

5. Entire Agreement and Successors in Interest. This Agreement contains the entire agreement between the parties with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the successors and assigns of each party hereto.
6. No Interpretation Against Drafter. Each party had an opportunity to participate in the negotiation and drafting of this Agreement, assisted by such legal counsel as it desired, and had the opportunity to contribute to its revisions. Any ambiguities with respect to any provision of this Agreement will be construed fairly as to all parties and not in favor of or against any party. Any rules of construction relating to interpretation against the drafter of an agreement shall not apply to this Agreement and are expressly waived.
7. Governing Law and Venue. This Agreement shall be governed by Virginia law.
8. Effectiveness. This Agreement shall become effective on the date of its execution.

PGEC Enterprises, LLC
By: Sarat Yellepeddi, CEO
Date: _____

County of Dinwiddie, Virginia
By: W. Kevin Massengill, County Administrator
Date: _____

Dinwiddie County Broadband Authority
By: William D. "Bill" Chavis, Chair
Date: _____

Approved as to Legal Form
Tyler Southall, Dinwiddie County Attorney