

**MEMORANDUM OF AGREEMENT
FOR MITIGATION OF VIRGINIA FOREST FRAGMENTATION IMPACTS
OF ATLANTIC COAST PIPELINE**

THIS MEMORANDUM OF AGREEMENT FOR COMPREHENSIVE MITIGATION OF VIRGINIA RESOURCE IMPACTS OF ATLANTIC COAST PIPELINE (this “Agreement”) is entered into this 28th day of December, 2017, by and between the Commonwealth of Virginia (the “Commonwealth”) and Atlantic Coast Pipeline, LLC (“Atlantic”) (each a “Party” and jointly the “Parties”).

RECITALS

A. Description of the Project. Atlantic is a joint venture between Dominion Energy, Duke Energy, Piedmont Natural Gas, and Southern Company Gas. The Federal Energy Regulatory Commission (“FERC”) has issued a Certificate of Public Convenience and Necessity (“CPCN”) pursuant to Section 7(c) of the Natural Gas Act for the Atlantic Coast Pipeline project, an approximately 600 mile, 42 inch diameter natural gas pipeline to be constructed in 27 counties in West Virginia, Virginia, and North Carolina (“Project”).

B. Commonwealth’s Commitment to Environmental Protection. At all times relevant to the Project, the Commonwealth, through the Office of the Governor and the Office of the Secretary of Natural Resources and its agencies, has expressed a strong and consistent commitment to proper environmental protections, including thorough evaluation and regulation under the most comprehensive environmental review process ever conducted by the Commonwealth for the construction of an underground utility pipeline, whether for natural gas or other products that are also routinely transported by pipeline in Virginia such as petroleum products, chemicals, industrial and municipal wastewater, and drinking water. In furtherance of the Commonwealth’s commitment to environmental protection and enhancement of natural resources, the expenditure of mitigation funds under this Agreement shall include consultation with the state agencies that have expertise in the appropriate areas associated with such mitigation.

C. Process for Federal & State Authorizations. The Project has been or continues to be reviewed and regulated pursuant to numerous authorities, including without limitation pursuant to the Natural Gas Act, the National Environmental Policy Act, the Endangered Species Act, and the Clean Water Act, under which the Commonwealth has applied an intensive review process for imposing additional water quality certification conditions designed to avoid, minimize, and mitigate impacts from interstate natural gas pipeline construction.

D. Implementation of Mitigation Hierarchy. Project planning efforts followed the mitigation hierarchy by taking all practicable steps first to avoid and minimize impacts of the Project. Where avoidance was not possible, Atlantic developed onsite mitigation measures and worked with relevant Virginia and federal agencies to establish compensatory mitigation measures, including the significant measures established by this Agreement.

E. Technical Basis of Agreement. This Agreement is the direct result of cooperation by Atlantic with the Commonwealth in response to the Environmental Impact Statement prepared as part of the National Environmental Policy Act review process, Endangered Species Act Section 7 consultation, and Atlantic's compliance with the Migratory Bird Treaty Act concerning migratory birds and their habitat. Specific consideration was given both to the results the Habitat Equivalency Analysis methodology used by the U.S. Fish and Wildlife Service, the U.S. Forest Service, and the Bureau of Land Management and employed by Atlantic and to additional Virginia-specific methodologies employed by the Virginia Department of Conservation and Recreation, the Virginia Department of Forestry, and the Virginia Department of Game and Inland Fisheries to further analyze and design compensatory mitigation for forest fragmentation in the Commonwealth. This Agreement addresses commitments related to forest conservation and water quality to offset impacts associated with forest fragmentation caused by the Project.

F. Mutual Interests in Comprehensive Mitigation. This Agreement serves the mutual interests of the Parties in establishing a comprehensive, exceptional approach for compensatory mitigation that is at least commensurate with the Project's impacts and which fully meets the Commonwealth's natural resources objectives in the context of the Project.

G. Purpose. If the Project proceeds, it is the purpose of this Agreement to commit the Parties to and thereby assure implementation of the comprehensive compensatory mitigation framework memorialized in this Agreement.

H. Authority. The Secretary of Natural Resources, on behalf of the Departments of Conservation and Recreation, Game and Inland Fisheries, and Forestry, pursuant to Va. Code §§ 10.1-104(3), 10.1-1107(A), and 29.1-103, has the authority and responsibility to enter into this Agreement to receive funds and other commitments for compensatory mitigation required for the Project.

NOW, THEREFORE, in satisfaction of Parties' responsibilities to ensure mitigation of the impacts of the Project, the Parties agree as follows:

AGREEMENT

1. Comprehensive Mitigation Amount. The Commonwealth requests, and Atlantic agrees to pay, a compensatory mitigation payment in the total amount of **Fifty Seven Million Eight Hundred Fifty Thousand Dollars (\$57,850,000)** for the purpose of providing comprehensive mitigation of forest fragmentation impacts to, and to otherwise benefit, natural resources in Virginia, subject to the terms and conditions established herein (the "Mitigation Amount").

2. Forest Conservation. Out of the total Mitigation Amount established in Paragraph 1, Atlantic shall pay the amount of **Thirty Eight Million Six Hundred Fifty Thousand Dollars (\$38,650,000)** to the entities and in the allocated amounts and by the deadlines set forth in Paragraph 2.a. Such payment shall occur immediately following the issuance by the Federal Energy Regulatory Commission of a Final Notice to Proceed for the ACP. The Parties further agree that such amount fully satisfies any and all mitigation responsibilities related to and

otherwise fully offsets the direct or indirect forest-related impacts of the Project in Virginia. The following specific conditions and restrictions shall apply to the use and expenditure of such funds:

a. Immediately following the issuance by the Federal Energy Regulatory Commission of a Final Notice to Proceed and prior to substantial tree clearing and grubbing activities for the pipeline route in Virginia, Atlantic shall provide documentation demonstrating a transfer of funds in the amount of \$24,650,000 to the Virginia Outdoors Foundation to be held as a special fund pursuant to Va. Code § 10.1-1801(4), \$9,000,000 to the U.S. Endowment for Forestry and Communities, and \$5,000,000 to the Charlottesville Area Community Foundation (each a "Forest Mitigation Partner").

b. The Commonwealth shall work with the Virginia Outdoors Foundation and the U.S. Endowment for Forestry and Communities to develop project selection criteria and a process for evaluating appropriate sites that are consistent with state agency mitigation standards and practices and national standards for mitigation articulated by a wide range of federal agencies. The Virginia Outdoors Foundation and the U.S. Endowment for Forestry and Communities will identify sites that meet the criteria and carry out projects designed to address the impacts of the Project on forestlands in the Commonwealth. All such projects will be within a reasonable proximity to, and within the same terrestrial ecoregion as, the location of forest impacts; will achieve the durable restoration and/or enhancement of forest habitats similar to those adversely impacted by the Project; and will be in addition to any current or planned government action or requirement or preservation project for which there is already designated public or private funding.

c. From the funds provided to each Forest Mitigation Partner under Paragraph 2.a., an amount not to exceed five percent (5%) thereof may be expended by each to defray its costs and expenses for the administration of this Agreement and oversight of its mitigation activities.

3. Water Quality. Out of the total Mitigation Amount established in Paragraph 1, Atlantic shall pay the amount of **Nineteen Million Two Hundred Thousand Dollars (\$19,200,000)** to entities and in the allocated amounts and by the deadlines set forth in Paragraph 3.a. and 3.b. The following specific conditions and restrictions shall apply to the use and expenditure of such funds:

a. Immediately following the issuance by the Federal Energy Regulatory Commission of a Final Notice to Proceed for the ACP and prior to substantial tree clearing and grubbing activities Atlantic shall provide documentation demonstrating a transfer of funds in the amount of \$11,500,000 to the Virginia Association of Soil and Water Conservation Districts and \$7,000,000 to the Virginia Environmental Endowment (each a "Water Quality Mitigation Partner"). These parties shall use such funds exclusively for the following purposes and subject to the following conditions and restrictions:

i. The Commonwealth shall work with the Water Quality Mitigation Partners to develop project selection criteria and a process for evaluating appropriate projects that is consistent with state water quality protection, restoration, and improvement priorities. The Parties agree that such amount fully satisfies any and all mitigation responsibilities related to and otherwise fully offsets all water quality impacts caused by forest fragmentation that are not otherwise avoided by Atlantic's construction methods and environmental protection measures.

ii. Funds provided to the Virginia Association of Soil and Water Conservation Districts under this Subparagraph 3.a. shall be restricted to water quality improvement practices in localities or watersheds with substantial Project construction activities, it being the intent to provide water quality improvements in proximity to the Project activities. Further, such funds shall be restricted to making implementation grants or transfers to individual Soil and Water Conservation Districts to carry out the purposes of this Agreement.

iii. From the funds provided to the Virginia Environmental Endowment under Paragraph 3.a., an amount not to exceed five percent (5%) thereof may be expended by Virginia Environmental Endowment to defray costs and expenses for the administration of this Agreement and oversight of its related mitigation activities. From the funds provided to the Virginia Association of Soil and Water Conservation Districts under Paragraph 3.a., an amount not to exceed three percent (3%) thereof may be expended by the Virginia Association of Soil and Water Conservation Districts to defray costs and expenses for the administration of this Agreement, and an amount not to exceed eight percent (8%) of any funds received pursuant to this Agreement may be expended by each Soil and Water Conservation District that receives funding from the Virginia Association of Soil and Water Conservation Districts to defray costs and expenses for the administration of this Agreement and oversight of its related mitigation activities.

b. Enhanced Water Quality Monitoring. Atlantic agrees to transfer funds in the amount of \$700,000 to the United States Geological Survey ("USGS") to pay for water quality monitoring requirements of the Commonwealth.

4. Investment Schedule & Contingencies. The Parties agree to the following investment schedule to implement the mitigation objectives of this Agreement.

a. The Commonwealth's goal is for the Forest Mitigation Partners and the Water Quality Mitigation Partners to obligate and expend the mitigation funds paid by Atlantic under this Agreement on a timeline that generally coincides with the progress of the Project to the extent it is practical and prudent to do so. However, use of the funds to establish an endowment that may be used for grant-making purposes throughout the lifetime of the Project shall serve as an acceptable purpose.

b. Mitigation Investment Modifications. The priorities identified for and the allocations of the Mitigation Amount set forth in this Agreement reflect the full extent of natural resources-related mitigation measures and investments contemplated for the Project by the Parties. To the extent that either Party identifies revised or additional mitigation measures relevant to the Project and of potential benefit to the natural resources in Virginia, either Party

may propose a reallocation of the Mitigation Amount in furtherance thereof through re-prioritization or re-allocation of the Mitigation Amount. The Parties agree to give reasonable and timely consideration to any such proposed modifications and, in the event of agreement, memorialize any modification to the mitigation measures and investments only in accordance Paragraph 5.c.

c. In the event that Atlantic terminates the Project, whether in the unanticipated event that the Project fails to obtain and maintain the State Approvals or any other necessary permits, certifications, consents, authorizations and other approvals or for any other reason in Atlantic's sole discretion, the Forest Mitigation Partners and the Water Quality Mitigation Partners shall deliver the proportionate share of the Mitigation Amount as preserved in accordance with this Paragraph 4 to Atlantic within thirty (30) days of receipt of written notice of termination from Atlantic. Such proportionate share to be returned to Atlantic shall be calculated based upon the number of miles of the pipeline route in Virginia for which tree clearing and grubbing activity remains to be performed compared to the total number of miles of the pipeline route requiring such activities in Virginia as part of the Project.

5. Miscellaneous Provisions.

a. Governing Law. This Agreement shall be governed in all aspects by the laws of the Commonwealth of Virginia.

b. Interpretation. This Agreement shall be construed in accordance with and governed for all purposes by the laws of the Commonwealth of Virginia. This Agreement shall be interpreted as if it were mutually drafted by the Parties. The captions and headings to the various paragraphs and subparagraphs of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

c. Integration; Modification. This Agreement contains all commitments and agreements of the Parties as of the date hereof with respect to the subject matter of this Agreement, and no verbal or written commitments other than this Agreement shall have any force or effect regarding the subject matter hereof. This Agreement may be amended only by the signed written consent of both Parties.

d. No Enforcement by Third Parties. Notwithstanding the identification of certain non-governmental entities to receive and administer mitigation funding provided under this Agreement, this Agreement shall not be construed as granting to those entities or other third parties any legal or equitable right, remedy, or claim against the Commonwealth or Atlantic arising out of this Agreement.

e. No Waiver. By entering into this Agreement, Atlantic does not waive any procedural or substantive rights, claims or defenses of any kind related to any State Approvals or any other required permit, certification, consent, authorization or other approval of any kind that may be required for the Project.

f. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties further agree that a facsimile, scanned or other electronic signature may substitute for and have the same legal effect as an original signature, and that any copy of this executed Agreement made by photocopy, facsimile, or scanner shall be considered an original.

g. Power and Authority of the Parties. Each of the Parties represents and warrants that the undersigned has full power and authority to enter into and perform this Agreement on its behalf.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed in their names and on their behalf by the undersigned.

COMMONWEALTH OF VIRGINIA

By: Molly Joseph Ward 12-28-17
Molly Joseph Ward
Secretary of Natural Resources

ATLANTIC COAST PIPELINE, LLC

By: Leslie N. Hartz 1/4/18
Leslie N. Hartz
Vice President, Engineering & Construction
Dominion Energy