

**Appendix 8-56**  
**Access Easement Agreement (Alberta)**

Energy East File No.

**ACCESS EASEMENT AGREEMENT  
(Alberta)**

This access easement agreement is dated as of \_day of \_\_\_\_\_, 20\_\_\_\_\_.

**BETWEEN:**

(“Grantor”)

**AND:**

**ENERGY EAST PIPELINE LTD.,  
in its capacity as general partner on behalf of  
ENERGY EAST PIPELINE LIMITED PARTNERSHIP**

(“Grantee”)

**Recitals:**

A. The Grantor is the registered and beneficial owner of an estate in fee simple subject, however, to such encumbrances, liens and interests as are at the date hereof set forth in the existing certificate of title, of that parcel of land situated in the province of Alberta, and described as follows:

as contained and described in certificate of title  
(the “**Servient Lands**”);

B. The Grantee is the registered owner of or is otherwise the holder of those lands or interests therein in the province of Alberta, described as follows:

(the “**Dominant Lands**”);

C. The Grantee intends to construct certain facilities to be used in connection with its pipeline, including facilities on the Dominant Lands; and

D. The Grantor, as owner of the Servient Lands, has agreed, on and subject to all of the terms and conditions set forth herein, to grant to the Grantee, as owner or holder of the Dominant Lands, an easement in, through and across that portion of the Servient Lands comprising the Access Right-of-Way (as defined herein) for vehicular and pedestrian access to and egress from the Dominant Lands;

Now, therefore, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by both the Grantor and the Grantee, and in consideration of the payment or payments made or to be made to the Grantor by the Grantee, the parties agree as follows:

**GRANT OF RIGHTS**

1. The Grantor, as owner of the Servient Lands, hereby grants, conveys and transfers to the Grantee, as owner of the Dominant Lands, for so long hereafter as the Grantee may desire to exercise them:

(a) the right, licence, privilege, easement and right-of-way to clear and to use that portion of the Servient Lands as shown on the sketch or plan attached hereto as Schedule B (the “**Access Right-of-Way**”) for the purpose of pedestrian and vehicular access to and egress from the Grantee’s facilities located or to be located on the Dominant Lands, including, without limiting the foregoing, to construct, maintain, repair and operate a roadway on the Access Right-of-Way, to install and maintain fencing along the Access Right-of-Way, to install and maintain signage on the Access Right-of-Way and to connect any such roadway to the Dominant Lands and to any abutting public roadway;

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- (b) the full and free right, licence, liberty, privilege and easement of ingress and egress at any time over, along, across and upon the Access Right-of-Way; and
- (c) in cases of emergency, the full and free right, licence, liberty, privilege and easement of access to and egress from the Access Right-of-Way at any and all times over, along, across and upon the Servient Lands.

Such rights, licences, liberties, privileges and easements may be referred to herein, collectively, as the “**Easement Rights**”).

2. **THE EASEMENT RIGHTS**

The Easement Rights:

- (a) extend to the Grantee and its directors, officers, managers, agents, employees, contractors, subcontractors, advisors, consultants, representatives and invitees; and
- (b) may be exercised on foot or with vehicles (including, without limitation, heavy trucks), together with materials, machinery, and equipment for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the Easement Rights, upon the terms and conditions set forth herein.

3. **PAYMENT**

The Grantee shall pay to the Grantor the following sum or sums for the rights granted herein:

- (a) the lump sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) plus any applicable goods and services tax

or

- (b) annual or periodic payments of equal or different amounts over a period of time as set forth in Schedule A attached

(Delete (a) or (b) and initial)

4. The Grantor acknowledges receipt, prior to entering into this agreement, of a notice pursuant to section 87 of the *National Energy Board Act (Canada)* (the *National Energy Board Act (Canada)* R.S.C. 1985, c. N-7, as amended or any statute enacted in place thereof being referred to herein as the “**Act**”) setting out or accompanied by:

- (a) a description of the portion of the lands required by the Grantee for a section or part of the Grantee’s pipeline;
- (b) details of the compensation offered by the Grantee for such lands required;
- (c) a detailed statement made by the Grantee of the value of such lands required in respect of which compensation was offered;
- (d) a description of the procedure for approval of the detailed route of the Grantee’s pipeline; and
- (e) a description of the procedure available for negotiation and arbitration under Part V of the Act in the event that the Grantor and the Grantee are unable to agree on any matter respecting the compensation payable.

5. Pursuant to the Act, the Grantor has the option of requiring the compensation for the Easement Rights to be made by one lump-sum payment or by annual or periodic payments of equal or different amounts over a period of time. The Grantor has selected the method of compensation referred to above.

6. Where the Grantor has selected annual or other periodic payments as referenced herein, the amount of such compensation payable by the Grantee shall be reviewed every five (5) years. Where the Grantor has selected annual or other periodic payments the Grantor hereby waives and releases to the Grantee any lien it may have on the Access Right-of-Way in connection with such payments.

7. (a) Except as provided in subclauses (b) or (c) of this clause 7, annual or periodic payments of compensation pursuant to Schedule “A”, if any, shall be made to the registered owner of the Access Right-of-Way at the time the payment is due. The Grantor shall not retain the right to annual or periodic payments upon the sale or other disposition of that part of the Servient Lands of which the Access Right-of-Way forms a part.

(b) In the event of a change in the ownership of all or part of the Access Right-of-Way, the Grantee may nevertheless at its option, until thirty (30) days after proper notice of such change has been given to the Grantee, continue to make such annual or periodic payments to the person or persons to whom it was making such payments at the time of such change.

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- (c) In the event of a severance in ownership of the Access Right-of-Way, the notice referred to in subclause (b) of this clause 7 may include a provision as to the manner in which such future annual or periodic payments of the compensation are to be divided between or among registered owners of the Access Right-of-Way. If no such notice is given or if such a notice is given but no such provision is included, then the provisions of subclauses (a) and (b) of this clause 7 shall apply except that, in addition, the Grantee may, at its option, make any such payment jointly as to all the persons to whom it is entitled to make payment in accordance with this clause 7.
- (d) For the purposes of this clause 7, "proper notice" shall consist of (i) written notice of such change in ownership executed by both the prior registered owner and the new registered owner, accompanied by (ii) a notarial or certified copy of the registered instrument effecting such change in ownership.

#### REPRESENTATIONS AND WARRANTIES

8. The Grantor represents and warrants that it has the right to convey all of the rights granted hereunder free from all encumbrances, that it has done no act to encumber the Access Right-of-Way and the Easement Rights and that it has not granted any other rights to any third party, and the Grantor is not otherwise aware of any other rights, that would conflict with the rights granted hereunder except for:
- (a) any interests or encumbrances registered on the certificate of title to the Servient Lands as of \_\_\_\_\_; and
- (b) any interests or encumbrances disclosed in writing to the Grantee by the Grantor prior to the date the Grantor executes this agreement.
9. The Grantor represents that the Grantor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada) and that if the Grantor's status for income tax changes, the Grantor will promptly notify the Grantee in writing.

#### ADDITIONAL TERMS AND CONDITIONS

10. The Grantee, or any person, firm or corporation acting on its behalf, may enter upon and occupy the Access Right-of-Way with its employees, agents, contractors, subcontractors and invitees, and with any vehicles, machinery and equipment required for its purposes. The Grantee shall have the right at any time and from time to time to remove any boulder or rock, and to sever, fell, remove or control the growth of any roots, trees, stumps, brush or other vegetation on or under the Access Right-of-Way that materially interfere with the Easement Rights granted herein.
11. The Grantee's use of the Servient Lands pursuant to this agreement shall be restricted to use of the Access Right-of-Way for access to and egress from the Dominant Lands related to the line of pipe or other facility located thereon or thereunder, unless the Grantor provides written consent to any proposed additional use at the time of the proposed additional use.
12. The Grantee shall compensate the Grantor for all damages suffered as a result of the operations of the Grantee, including all damage done to any drainage system, crops, pasture, timber, trees, hedges, produce, water wells, artesian springs, livestock, buildings, fences, culverts, bridges, lanes, improvements or equipment on the lands.
13. The Grantee may terminate this agreement at any time by written notice to the Grantor and provided that the Grantee has complied with its obligations herein relating to the restoration of the Access Right-of-Way, the Grantee shall stand relieved of all obligations, other than those accrued prior to the date of termination. If the Grantee registers this agreement, it shall cancel such registration at its sole expense.
14. Upon the abandonment of the Access Right-of-Way and the termination of all the rights hereby granted, the Grantee shall conserve, reclaim and remediate the Access Right-of-Way in accordance with the then applicable legislation, regulations and governmental directions.
15. Subject to this agreement, the Grantor shall have the right to fully use and enjoy the Access Right-of-Way provided that such use does not interfere with the rights herein granted to the Grantee. Without the prior written consent of the Grantee, acting reasonably, the Grantor shall not, and the Grantor shall not grant any right to any other party to:
- (a) excavate, construct, drill, install, erect or permit to be excavated, constructed, drilled, installed or erected on, over or under any part of the Access Right-of-Way any pipe, pit, well, foundation, building or other structure, installation or improvement, or do or permit to be done any mining, quarrying, land levelling, landscaping or other work or activity of any like or similar nature on, in or under the Right-of-Way;
- (b) alter the grade of the Access Right-of-Way;

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- (c) store vehicles or equipment or other materials on the Access Right-of-Way; or
- (d) take any action which blocks, impedes, restricts or limits the exercise by the Grantee of any of the Easement Rights or damages the roadway located on the Access Right-of-Way in any way or manner (in which case the Grantor shall repair the damages to the satisfaction of the Grantee, acting reasonably, at the Grantor's sole cost and expenses),

in each case to the extent that the same would materially adversely affect or restrict the Grantee's use and enjoyment of the Access Right-of-Way or the Dominant Lands.

16. The Grantee, upon performing and observing the terms and conditions of this agreement in all material respects, shall peaceably hold and enjoy the rights, licences, liberties, privileges and easements hereby granted without hindrance, molestation or interruption on the part of the Grantor or of any person, firm or corporation claiming by, through or under the Grantor.
17. Notwithstanding any provision in this agreement and notwithstanding any rights that any person having an interest may have in law or in equity, should the Grantee fail to pay any payment payable hereunder, the sole remedy of any such person shall be to recover from the Grantee such amount and any interest payable thereon, and in no event shall such person, for whatever reason, interfere with, hinder, molest or interrupt the Grantee in its enjoyment of any of the rights, licences, liberties, privileges or easements granted hereunder.
18. This agreement may be assigned by the Grantee in whole or in part as to all or any portion of the rights, licences, liberties, privileges and easements hereby granted, transferred and conveyed.
19. The Grantee shall indemnify and save harmless the Grantor from any and all liabilities, damages, costs, claims, suits or actions arising by reason of the exercise of the rights herein granted to the Grantee save and except liabilities, damages, costs, claims, suits or actions arising through the gross negligence or wilful misconduct of the Grantor.
20. The rights, licences, liberties, privileges and easements hereby granted are and shall be of the same force and effect for all intents and purposes as covenants running with the land and this agreement shall extend to, be binding upon and enure to the benefit of the heirs, executors, administrators, successors-in-title and assigns of the parties.
21. If any provision of this agreement is invalid under any applicable statute or is declared invalid by a court of competent jurisdiction, then it shall be deemed to be severed, provided, however that the remainder of this agreement shall continue in full force and effect.
22. This agreement sets forth the entire agreement and understanding between the parties, and the Grantor agrees that there are no other prior representations affecting the agreement, other than as are herein set forth.
23. The Access Right-of-Way and the Easement Rights herein granted are declared to be binding upon the Servient Lands, as servient tenement herein, for the benefit of and appurtenant to the Dominant Lands.
24. All notices or correspondence required or permitted to be given under or in connection with this agreement shall be in writing and shall be personally delivered, mailed by registered mail or faxed to the other party to its address as follows:

to the Grantor:

Attention:  
Fax No.:

to the Grantee:

Energy East Pipeline Ltd.  
450-1st Street SW  
P.O. Box 1000, Station M  
Calgary, Alberta  
T2P 4K5  
Attention: Energy East Land Department  
Fax No.: (403) 920-2334

or such other address as the Grantor or the Grantee may from time to time advise, and any such notice or payment shall be deemed to be given to and received by the addressee on the date of personal service or, if served by prepaid first class mail, seven (7) days after the mailing thereof.

25. The Grantor consents to the collection, use and disclosure of the Grantor's personal information as described within this agreement as long as the agreement is in force or as required by law. The Grantee collects, uses and discloses the personal information for land rights acquisition and regulatory disclosure as described in this agreement, in accordance

Initial	Grantor		
	Agent		

with industry practice and as required by law. The Grantee collects, uses, discloses and maintains personal information in accordance with the Personal Information Protection and Electronic Documents Act and the Grantee's personal information policy.

26. The Grantor will, from time to time, execute such further assurances of the rights granted herein as may be required by the Grantee. Without limiting the foregoing, the Grantor hereby agrees from time to time to execute and deliver all such additional documents, instruments and agreements and to take all such additional steps and actions as may be reasonably required to fully implement the terms of this agreement and as may be required to register and perfect the Grantee's interest in the Servient Lands.

**[Remainder of page intentionally left blank]**

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	Agent		

IN WITNESS WHEREOF the parties are executing this agreement with effect on the date stated in the introductory clause.

**SIGNED AND DELIVERED**  
by the Grantor in the presence of

**GRANTOR: (if individuals)**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name:

**OR**

**GRANTOR: (if a corporation)**

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_

Per: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Position Title: \_\_\_\_\_

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_

Per: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Position Title: \_\_\_\_\_

I/We have authority to bind the corporation

**Grantee:**

**ENERGY EAST PIPELINE LTD.,  
in its capacity as general partner on behalf of  
ENERGY EAST PIPELINE LIMITED PARTNERSHIP**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I/We have authority to bind the corporation

**CONSENT OF SPOUSE**

I, \_\_\_\_\_, being married to \_\_\_\_\_ (the above named Grantor) do hereby give my consent to the disposition of our homestead, made in this instrument, and I have executed this document for the purpose of giving up my life estate and other dower rights in the property given to me by the Dower Act, to the extent necessary to give effect to the disposition.

\_\_\_\_\_  
**Signature of Spouse of Grantor**

For internal use only:

SF			
NS	Law	Business	Risk

**CERTIFICATE OF ACKNOWLEDGEMENT BY SPOUSE**

1. This document was acknowledged before me by \_\_\_\_\_  
apart from her husband (or his wife).
  
2. \_\_\_\_\_ acknowledged to me that she (or he)
  - (a) is aware of the nature of the disposition (or agreement),
  - (b) is aware that the *Dower Act* gives her (or him) a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent,
  - (c) consents to the disposition (or agreement) for the purpose of giving up the life estate and other dower rights in the homestead given to her (or him) by the *Dower Act*, to the extent necessary to give effect to the said disposition (or agreement),
  - (d) is executing the document freely and voluntarily without any compulsion on the part of her husband (his wife).

Dated at \_\_\_\_\_ in the Province of Alberta on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**A COMMISSIONER FOR OATHS IN AND  
 FOR THE PROVINCE OF ALBERTA**

Initial	Grantor		
	Agent		



**DOWER AFFIDAVIT**

I, \_\_\_\_\_, of \_\_\_\_\_, Alberta, make oath and say:

1. I am the Grantor (or the agent acting under power of attorney in my favour registered in the Land Titles Office on \_\_\_\_\_ as instrument number \_\_\_\_\_ granted by the Grantor) named in the within instrument.

2.  I am (or my principal is) not married.

-OR-

3.  Neither myself nor my spouse (or my principal nor my principal's spouse) have resided on the within mentioned land at any time since our (or their) marriage.

-OR-

4.  I am (or my principal is) married to \_\_\_\_\_ being the person who executed the release of dower rights registered in the Land Titles Office on \_\_\_\_\_ as instrument number \_\_\_\_\_.

-OR-

5.  A judgment for damages was obtained against me by my spouse (or my principal by my principal's spouse) and registered in the Land Titles Office on \_\_\_\_\_ as instrument number \_\_\_\_\_.

SWORN before me at \_\_\_\_\_ )  
 in the Province of Alberta )  
 on \_\_\_\_\_, 20\_\_\_\_ )

\_\_\_\_\_  
**A COMMISSIONER FOR OATHS IN AND**  
**FOR THE PROVINCE OF ALBERTA**

\_\_\_\_\_

Initial	Grantor		
	Agent		

**SCHEDULE "A"**

**PAYMENT**

(a) **Annual Payment**

The consideration for this Agreement, inclusive of the value of the land, is the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_ and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_ in each and every year thereafter for a period of \_\_\_\_\_ years.

(Delete (a) or (b) and initial)

(b) **Periodic Payment**

The consideration for this Agreement, inclusive of the value of the land, is the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_;

(i) and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_;

(ii) and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_;

(iii) and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_.

(iv) and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_.

(v) and a further sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to be paid on \_\_\_\_\_, 20\_\_\_\_.

Initial	Grantor		
	Agent		

**SCHEDULE "B"**

**[INDIVIDUAL OWNERSHIP SKETCH OF ACCESS RIGHT-OF-WAY]**

Initial	Grantor		
	Agent		

**AFFIDAVIT OF EXECUTION  
(GRANTOR)**

CANADA ) I, \_\_\_\_\_, of  
 )  
 PROVINCE OF ALBERTA ) \_\_\_\_\_, in the Province of Alberta,  
 )  
 TO WIT: ) make oath and say:

1. That I was personally present and did see \_\_\_\_\_ who is/are known to me to be the person(s) named in the within instrument, duly sign the instrument.

**OR**

That I was personally present and did see \_\_\_\_\_ who, on the basis of the identification provided to me, I believe to be the person(s) named in the within instrument, duly sign the instrument.

2. The instrument was signed at \_\_\_\_\_, in the Province of Alberta and I am the subscribing witness thereto.

3. That I believe the person(s) whose signature(s) I witnessed is/are at least eighteen (18) years of age.

SWORN before me at \_\_\_\_\_, )  
 in the Province of Alberta, this \_\_\_\_\_ )  
 day of \_\_\_\_\_, 20\_\_\_\_\_. )

\_\_\_\_\_  
**A COMMISSIONER FOR OATHS IN AND FOR THE  
 PROVINCE OF ALBERTA** )

\_\_\_\_\_

**AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY  
(GRANTOR)**

CANADA ) I, \_\_\_\_\_, of  
 )  
 PROVINCE OF ALBERTA ) \_\_\_\_\_, in the Province of Alberta,  
 )  
 TO WIT: ) make oath and say:

- I am an officer or a director of \_\_\_\_\_ named in the within or annexed instrument.
- I am authorized by the corporation to execute the instrument without affixing a corporate seal.

SWORN before me at \_\_\_\_\_, )  
 in the Province of Alberta, this \_\_\_\_\_ )  
 day of \_\_\_\_\_, 20\_\_\_\_\_. )

\_\_\_\_\_  
**A COMMISSIONER FOR OATHS IN AND FOR  
 THE PROVINCE OF ALBERTA** )

\_\_\_\_\_

Initial	Grantor		
	Agent		

**AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY  
(GRANTOR)**

CANADA ) I, \_\_\_\_\_, of  
 )  
 PROVINCE OF ALBERTA ) \_\_\_\_\_, in the Province of Alberta,  
 )  
 TO WIT: ) make oath and say:

1. I am an officer or a director of \_\_\_\_\_ named in the within or annexed instrument.
2. I am authorized by the corporation to execute the instrument without affixing a corporate seal.

SWORN before me at \_\_\_\_\_ )  
 in the Province of Alberta, on )  
 \_\_\_\_\_, 20\_\_\_\_ )  
 )  
 )  
 )  
 )  
 )  
**A COMMISSIONER FOR OATHS IN AND FOR** )  
**THE PROVINCE OF ALBERTA** )

\_\_\_\_\_

Initial	Grantor		
	Agent		