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British Columbia Utilities Commission
Sixth Floor, 900 Howe Street
Vancouver, BC V6C 2N3

Attention: Mr. Patrick Wruck, BCUC Secretary

**Re: Creative Energy Vancouver Platforms Inc. ("Creative Energy")
Application to the British Columbia Utilities Commission ("BCUC") for a CPCN and
Approval of Corporate Reorganisation ("Application")
Project No. 1598962**

Dear Sir:

We are counsel to Creative Energy for the Application. We write on behalf of Creative Energy to respond to the BCUC's request for clarification of the nature of Attachment 4 to Creative Energy's September 13, 2018 letter to Grover, Elliot & Co. Ltd. ("Grover Elliot") and the reasons why this information is considered confidential.

Creative Energy's August 24, 2018 submission to the BCUC regarding the proposed terms of reference for an independent appraisal noted that there are physical and legal encumbrances on the lands that should be considered by the appraiser, including legal encumbrances that are not on the land titles. Grover Elliot requested specific material that Creative Energy considers relevant to the work they are doing for the BCUC. Creative Energy provided information to Grover Elliot that might be relevant to their work and that they might not discover in the course of their work (e.g., because the information is not on the land titles or in City bylaws).

These physical and legal encumbrances were also identified and discussed in Creative Energy's response to BCUC IR 1.48.1, which notes that

"there are important encumbrances to the properties at 720 Beatty and 701 Expo that would limit their value compared to nearby comparable properties, even if the plant were completely removed. These include the distribution headers through the site (the site is the distribution centre for the entire steam system which consists of several distinct radial and looped lines and these must remain in continuous operation), Pavco's rights for pedestrian access, and an option in the original purchase agreement for

701 Expo that may give Concord rights to the value of any development in excess of a Floor Space Ratio (FSR) greater than 1 on that parcel. The site is in a view cone (restricting height of development) and 720 Beatty Street is in the Central Business District (City policies restrict residential development in the CBD).”

Attachment 1 provided to Grover Elliot relates to, among other things, PavCo’s rights for pedestrian access across the southern end of 720 Beatty Street. Attachment 1 and the related Attachment 2 are available on the BCUC’s website; however, these were provided to Grover Elliot because they might not discover these documents in the normal course of their work.

Attachment 3 provided to Grover Elliot relates to the location of the distribution headers and other underground utility infrastructure on the site. Attachment 3 is publicly available, but again might not be discovered by Grover Elliot in the normal course of their work.

Attachment 4 relates to the rights Concord Pacific might have to the value of any development in excess of a Floor Space Ratio (“FSR”) greater than 1 on the 701 Expo Boulevard parcel as discussed in the response to BCUC IR 1.48.1 referred to above.

Content of Attachment 4

Attachment 4 provided to Grover Elliot contains the following non-public documents:

- a copy of an April 22, 1988 agreement (“1988 Agreement”) between Central Heat Distribution Ltd. (“CHDL”, now Creative Energy), British Columbia Enterprise Corporation and Concord Pacific Developments Ltd. regarding the purchase by CHDL of what is now 701 Expo Boulevard, and
- a copy of a January 31, 1993 agreement between the parties that amends the 1988 Agreement.

Our letter to Grover Elliot refers to section 2(d) of the 1993 amendment, which amends the provision related to the rights Concord Pacific might have to the value of any development in excess of a FSR greater than 1 on the 701 Expo Boulevard parcel.

Confidentiality of Attachment 4

The documents in Attachment 4 are considered confidential by the parties to the agreements, including in particular British Columbia Enterprise Corporation and Concord Pacific Developments Ltd. The documents contain unique terms for the purchase, sale and development rights respecting land proximate to BC Place Stadium, and public disclosure of these documents could reasonably be expected to result in harm to the competitive or negotiating position of these parties.

In addition and as stated in our letter to Grover Elliot, the parties to these agreements do not necessarily agree on the interpretation of provisions of the 1988 Agreement as amended, including the provisions related to the FSR matter. For that reason, Creative Energy has asked

Grover Elliot not to provide any specific opinions regarding the meaning of the 1988 Agreement, as amended. If Grover Elliot is of the view that the 1988 Agreement as amended limits or causes uncertainty about the value of the development rights of 701 Expo Boulevard, they can identify this in their report without making specific opinions about the meaning of specific provisions. We expect that Grover Elliot will not have any difficulty with observing this request.

Creative Energy also asked Grover Elliot not to disclose the Attachment 4 documents, including by disclosing specific references to the provisions of the documents. Please note that Creative Energy has not taken the position that the Attachment 4 documents will not be provided to the BCUC nor has Creative Energy asked the BCUC to make a determination regarding confidentiality. We asked Grover Elliot not to disclose these documents to anyone, including the BCUC, because Grover Elliot likely is not knowledgeable about the BCUC's confidential document filing rules or its confidentiality declaration and undertaking requirements for interveners to obtain access to confidential documents. Grover Elliot should not be put in the position of having to administer disclosure of the confidential documents of others and/or disclosure of such documents to interveners on their undertakings. If the BCUC wants a copy of the Attachment 4 documents it may direct such request to Creative Energy or its counsel.

The documents in Attachment 4 do not appear to have any relevance to an issue in this proceeding, except to the extent that the value of the development rights of 701 Expo Boulevard is relevant. The BCUC has retained Grover Elliot, an independent expert real estate appraisal firm, to advise the BCUC and the parties on the value of such development rights.

Grover Elliot should not have any difficulty doing their work and providing a report without opining on the meaning of or disclosing specific provisions of the 1988 Agreement, as amended. It should not be necessary for the BCUC or interveners to review the specific provisions of the 1988 Agreement, as amended, to understand and consider Grover Elliot's expert report; however, if the BCUC is of the view that it needs to review the 1988 Agreement, as amended, Creative Energy will file it with the BCUC on a confidential basis.

Yours very truly,

LAWSON LUNDELL LLP



Ian Webb