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June 20, 2022

Transmittal Letter to the CreateTO Board of Directors – Decision of the Build Toronto Inc. (“BTI”) Board of Directors concerning the item “Proposed Enwave Geothermal District Energy System, Bloor Kipling”

To the Chair of the CreateTO Board of Directors,

At the request of the BTI Board of Directors made at its meeting on June 20, 2022, and in my capacity as Governance Liaison between BTI and CreateTO as defined under Section 5.2 in the *Revised Shareholder Direction – Build Toronto Inc. Company*, I am transmitting the decision of the BTI Board concerning the item “Proposed Enwave Geothermal District Energy System, Bloor Kipling” which is as follows:

1. The Board endorsed the proposed Project Term Sheet, Project Agreement and income participation model outlined in this Report, an alternative approach to the limited partnership approach under the joint development agreement originally approved by City Council;
2. The Board approved the Project Term Sheet substantially on the terms outlined in Confidential Attachments 1 and 2, subject to review of the Project Term Sheet and negotiation of the Customer Term Sheet and Customer Agreement by the City;
3. The Board requested the Chief Executive Officer, CreateTO to transmit the Board’s decision to the CreateTO Board of Directors with the request that the CreateTO Board:
 - a. Approve the recommendations in this report, including Confidential Attachments 1 and 2, subject to recommendation 2;
 - b. Maintain the confidentiality of Confidential Attachments 1 and 2 until the expiry of the Project Agreement, at the discretion of the Chief Executive Officer, CreateTO, as they relate to a proposed or pending acquisition or disposition of property belonging to the City, or one of its Agencies, or Corporations; and
 - c. Recommend that City Council:
 - i. Endorse the proposed Project Term Sheet, Project Agreement and income participation model approach outlined in this Report;
 - a. And Authorize the Executive Director, Corporate Real Estate Management, or designate, to negotiate and enter into a Customer Term Sheet and a Customer Agreement between the City of Toronto

- and Enwave Energy Corporation or its affiliate to provide heating and cooling to the Etobicoke Civic Center, based on the terms and conditions in Schedule "B" of the Project Term Sheet that are acceptable to the Executive Director, Corporate Real Estate Management and in a form satisfactory to the City Solicitor;
- b. And Authorize the Executive Director, Corporate Real Estate Management to provide all City payments required by the executed Customer Agreement and the executed Project Agreement, including without limitation the Upfront Payment for Hot and Chilled Water, the Fixed Charge for Hot and Chilled Water, and the Consumption Charge for Hot and Chilled Water, all as further described in this report with subsequent payments to be made to Enwave Energy Corporation on a payment schedule agreed upon by the City and Enwave Energy Corporation;
- ii. Authorize the Deputy City Manager, Corporate Services, or designate to negotiate and enter into such leases, licenses, easements and other agreements as may be required to convey to Build Toronto Inc. or its subsidiary such lease, license, easement or other interests as may be required to give effect to the transactions contemplated in the Project Term Sheet and the Project Agreement, on terms and conditions acceptable to Deputy Director, Corporate Services, in consultation with the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor;
 - iii. Authorize the Deputy City Manager, Corporate Services to transfer at nominal value the lease, license, easement and other interests described in (ii) above to Build Toronto Inc. or its subsidiary.
4. Subject to adoption by City Council of Recommendation #3 above, the Board,
- a. Authorized any two officers of Build Toronto or its subsidiary to execute a Project Term Sheet on substantially the terms outlined in Confidential Attachments 1 and 2, provided the City has finalized a Customer Term Sheet with Enwave Energy Corporation or its affiliate;
 - b. Directed the Chief Executive Officer, CreateTO to negotiate such leases, licenses, easements and other agreements with the City and with Enwave Energy Corporation or its affiliate, substantially on the terms outlined in Confidential Attachments 1 and 2, as may be required to effect the transactions contemplated in the Project Term Sheet and the Project Agreement and authorize any two officers of Build Toronto Inc. or its subsidiary to execute same;
 - c. Directed the Chief Executive Officer, CreateTO to negotiate a Project Agreement and such other agreements with Enwave as may be required to effect the transactions contemplated in this Report, on substantially the same terms as outlined in Confidential Attachments 1 and 2 and authorize any two officers of Build Toronto Inc. or its subsidiary to execute same.
5. The Board directed the Chief Executive Officer, CreateTO in consultation with the Executive Director, Energy and Environment and the Executive Director, Corporate Real Estate Management and the Deputy City Manager Corporate Services, to report back to

the Board of Directors in the fourth quarter of 2022 with an update on the progress made on the deal with Enwave.

6. The Board directed that Confidential Attachments 1 and 2 remain confidential in their entirety until the expiry of the Project Agreement, at the discretion of the Chief Executive Officer, CreateTO, as they are about a proposed or pending acquisition or disposition of property belonging to the City, or one of its Agencies, or Corporations.

Based on the BTI Board decision, and in order to facilitate City Council approval, I **recommend that the CreateTO Board of Directors:**

1. Endorse the proposed Project Term Sheet, Project Agreement and income participation model, an alternative approach to the limited partnership approach under the joint development agreement originally approved by City Council;
2. Approve the Project Term Sheet substantially on the terms outlined in Confidential Attachments 1 and 2, to the report (June 13, 2022) from the Chief Executive Officer, CreateTO, subject to review of the Project Term Sheet and negotiation of the Customer Term Sheet and Customer Agreement by the City;
3. Authorize the public release of Confidential Attachments 1 and 2 to the report (June 13, 2022) from the Chief Executive Officer, CreateTO, after the expiry of the Project Agreement, at the discretion of the Chief Executive Officer, CreateTO.
4. Recommend that City Council:
 - a. endorse the proposed Project Agreement and income participation model and related Project Term sheet outlined in the report (June 13, 2022) from the Chief Executive Officer, CreateTO;
 - b. Authorize the Deputy City Manager, Corporate Services, or designate, to negotiate and enter into a Customer Term Sheet and a Customer Agreement between the City of Toronto and Enwave Energy Corporation or its affiliate to provide heating and cooling to the Etobicoke Civic Center, based on the terms and conditions in Schedule "B" of the Project Term Sheet that are acceptable to the Executive Director, Corporate Real Estate Management and in a form acceptable to the City Solicitor;
 - c. Authorize the Executive Director, Corporate Real Estate Management to provide all City payments required by the executed Customer Agreement and the executed Project Agreement, including without limitation the Upfront Payment for Hot and , and Chilled Water the fixed charge for Hot and Chilled Water, and the Consumption Charge for Hot and Chilled Water all as further described in this report with subsequent payments to be made to Enwave Energy Corporation on a payment schedule agreed upon by the City and Enwave Energy Corporation;

- d. Authorize the Deputy City Manager, Corporate Services, or designate to negotiate and enter into such leases, licenses, easements and other agreements as may be required to convey to Build Toronto Inc. or its subsidiary such lease, license, easement or other interests as may be required to effect the transactions contemplated in the Project Term Sheet and the Project Agreement, on terms and conditions acceptable to Deputy Director, Corporate Services, in consultation with the Executive Director, Corporate Real Estate Management, and in a form satisfactory to the City Solicitor; and
- e. Authorize the Deputy City Manager, Corporate Services to transfer at nominal value the lease, license, easement and other interests described in (ii) above to Build Toronto Inc. or its subsidiary.
- f. Authorize the public release of Confidential Attachments 1 and 2 to the report (June 13, 2022) from the Chief Executive Officer, CreateTO, after the expiry of the Project Agreement, at the discretion of the Chief Executive Officer, CreateTO.

Sincerely,

Vic Gupta

Chief Executive Officer, CreateTO

Enclosed:

Report to the BTI Board on June 20, 2022 (Proposed Enwave Geothermal District Energy System, Bloor Kipling)

Confidential Attachment 1- Summaries of Financials, Project Term Sheet and Real Estate Rights

Confidential Attachment 2- Summary of Project Term Sheet