

# OFFER TO CONNECT



The Corporation of the Town of Kingsville

---

February 28, 2018

E.L.K. Energy Inc. (hereafter identified as E.L.K. or the Board) makes this Estimated Offer to construct the distribution system upgrade/expansion required for supplying electrical service to

Customer/Developer, The Corporation of the Town of Kingsville, at the following Property known municipally 103 Park Street Kingsville, ON and legally described as Part Lot 1, Con. 1 Eastern Division Gosfield (Kingsville) as in R1083172; in the Town of Kingsville in the County of Essex as indicated in the single line drawing of Schedule A in accordance with the following terms:

1. The Customer/Developer, along with the signing of this agreement, submits \$44,533.30 CDN Dollars including HST in cash/cheque payable to E.L.K. as an estimated capital contribution for the engineering design and upgrading/expansion construction costs as detailed in Schedule B.
2. The Customer/Developer submits \$53,202.43 CDN Dollars including HST in cash, letter of credit from a bank as defined in the *Bank Act*, or surety bond as an expansion deposit against the load forecast and as security for those items referenced in Schedule B.
3. The Customer/Developer agrees to pay any increase in the capital contribution amount to E.L.K. and, E.L.K. agrees to refund any reduction in the capital contribution amount to the Customer/Developer that results from a re-calculation of the capital contribution prior to connection of the electrical service. This re-calculation will reflect the actual project costs incurred and include any cost adjustments due to the Alternative Bid Process, using the Economic Evaluation Model of Schedule B.
4. Schedule(s) A, B, C, D and E herewith attached will form part of this agreement.
5. Customer/Developer and E.L.K. hereby agree to be bound by, and act at all times in accordance with E.L.K.'s Conditions of Service (on Expansions/Offer To Connect, Connection Denial, Inspection Before Connection, Customer Rights, E.L.K. Rights, Disputes, Easements, etc.) and the Distribution System Code of the Ontario Energy Board. A copy of the Conditions Of Service is available from E.L.K. and a copy of the Distribution System Code is available at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca).
6. Customer/Developer hereby agrees to enter into a Connection Agreement, if requested by E.L.K., prior to the termination of this Agreement. Customer/Developer hereby agrees to enter into a Development Agreement, prior to commencement of any work for the installation of any assets required to fulfill this Agreement. A copy of the draft format of the Development Agreement is attached as Schedule F, which shall be completed with necessary information and changes by E.L.K.'s solicitor.

#### **Requirement for Drawings and Specifications**

7. Customer/Developer hereby agrees to submit to E.L.K. for final written approval, detailed plans, specifications and drawings, in paper format and digitized AutoCad version 14, and such other material and information that E.L.K. may reasonably require. All design and construction is to be in accordance with the Electrical Safety Authority and E.L.K. Underground Standards (available from E.L.K.). Any changes, modifications, or revisions to the Plans required by E.L.K. shall be made at the

expense of the Customer/Developer. After all necessary changes, modifications or revisions have been made, the Customer/Developer shall furnish E.L.K. with a complete set of paper and digitized format Plans as revised. Upon completion of the installation, the Customer/Developer shall provide a further complete set of "as built" paper and digitized format Plans, to the satisfaction of E.L.K.

#### **Payment of E.L.K. Costs and Expenses**

8. Whenever this Agreement shall refer to the payment of costs or expenses for services provided by E.L.K., it is agreed and understood that such costs and expenses shall include all direct and indirect costs of E.L.K. including administrative charges, markup charges and burden calculated in accordance with the policies and directives of E.L.K. in effect at the time such costs and expenses were incurred. E.L.K. may invoice, including interim invoicing, from time to time for all services, materials, or costs and expenses incurred by it pursuant to this Agreement and such invoices shall be due as provided therein.
9. Customer/Developer agrees that no contract shall be awarded under the Alternative Bid Process (which term is defined under the Distribution System Code) and no work shall commence for the installation of any assets required to fulfill this Agreement or portion thereof in respect of which E.L.K. is to bear any portion of cost, without approval in writing of E.L.K. in accordance with the Distribution System Code.

#### **Timing, Access, Easements and Ownership**

10. E.L.K. agrees that this Estimated Offer shall be irrevocable by E.L.K. until 4:30 pm. on the 28<sup>th</sup> day of March 2018, after which time if not accepted this Estimated Offer shall be null and void.
11. E.L.K.'s obligations with respect to accounting for and applying the expansion deposit place under paragraph 2 of this Agreement against sums owing to E.L.K. pursuant to this Agreement shall be completed and satisfied subsequent to a final review of the 5 year Connection Horizon and once the adjusted Capital Contribution amount has been established as agreed in Item #2 of the main body of this Agreement.
12. E.L.K. shall be allowed to inspect, test and commission, at the Customer/Developer's expense, any distribution system assets constructed under the Alternative Bid Process by a pre-qualified contractor. The Customer/Developer shall provide unimpeded access at all times for all employees, contractors, subcontractors and agents of E.L.K. and for their equipment to perform installations, inspections, tests and commissioning works contemplated by this Agreement.
  - 12.1. Provided that if any such inspection, testing or commissioning discloses any valid objection to nonstandard construction, registering of easement(s) on title, or any outstanding work order or deficiency notice, or the fact that the assets in their present state are unacceptable, E.L.K. shall advise the Customer/Developer in writing, If within 20 days of written notice, the Customer/Developer is unable or unwilling to remove, remedy or satisfy the objection, E.L.K., may elect in writing to terminate this Agreement, and upon so electing and notwithstanding any intermediate

acts or negotiations in respect of such objection, this Agreement shall be at an end, and all money therefore paid to E.L.K. shall remain with E.L.K. to the extent of its damages (which damages shall include, without costs on a solicitor and client basis respecting this agreement and its furtherance of this agreement. The Customer/Developer hereby consents to the municipality releasing to E.L.K. details of all outstanding work orders or deficiency notices affecting the expansion assets installed under the Alternative Bid Process and, Customer/Developer agrees to execute and deliver to E.L.K. or E.L.K.'s solicitor such further authorizations in this regard as E.L.K. may reasonably require.

12.2. Provided that the distribution system assets constructed under the Alternative Bid Process meet the distribution standards of E.L.K. and free from all restrictions, charges, liens, claims and encumbrances, except as otherwise specifically provided in this Agreement and, providing that where an easement is required, the easement will be acquired, at no cost to E.L.K. (i.e. reference plan, registration on title, etc. and the width and extent of the easement shall be determined by E.L.K.). The Customer/Developer is responsible for the costs of registering the easement on title, and the Customer/Developer shall prepare and deliver a reference plan and associated easement documents to the satisfaction of E.L.K.'s solicitor prior to commencement of the work.

12.3. Provided title to and ownership of all distribution system assets constructed under the Alternative Bid Process shall upon, and not earlier than, the Board's written notice of acceptance of the work and services and at all times thereafter be vested in and automatically transferred to the Board and said notice shall in conjunction with this agreement operate as a good and valid transfer effective as of the date of said notice. Provided that and without detracting from the foregoing, the Developer agrees to execute and deliver to the Board, without cost, any transfers, conveyances and other assurances in connection with the foregoing and transferring and conveying title thereto to the Board free and clear of any and all encumbrances and shall do so prior to energizing if called upon, or as may be further required under the Development Agreement, unless otherwise provided for as follows:

(a) Street Lighting Services revert to Town of Kingsville

12.4. Where any of the distribution system assets are constructed under the Alternative Bid Process by a pre-qualified contractor, the Developer hereby agrees to construct within 180 days of signing this agreement at his own expense, including where applicable a complete underground electrical distribution system for the Subdivision, including pad-mounted transformers, all trenching and backfilling in earth and also install service conductors to the right-of way limits. The system shall be designed and installed in accordance with the Board's specifications which are in effect at the time of installation of the system and as more specifically illustrated on Schedule C. The Developer agrees to maintain the system in accordance with the Board's specifications in effect from time to time until termination of the maintenance period as identified herein provided that

the Board reserves the right to complete said maintenance work as agent on behalf of and at the cost of the Developer. The installation of the electrical distribution system shall be subject to inspection by the Board from time to time. If the Developer fails to cause the distribution system assets to be constructed within the required 180 days, the Developer acknowledges this Offer to Connect shall be void and E.L.K. shall be at liberty to make the capacity allocated for the Offer to Connect available for other customers. Upon electing to do so in writing to the Developer, E.L.K. will refund the amounts called for in paragraphs 1 and 2 of this Offer to Connect less any and all expenses or costs incurred by E.L.K. under this Offer to Connect up to the date of making its election.

- 12.5. Where any of the distribution system assets are not constructed under the Alternative Bid Process and are to be constructed by E.L.K., the Developer hereby agrees and undertakes to complete such pre-servicing site work as is necessary within 120 days of acceptance of this Offer to Connect to allow E.L.K. to complete underground electrical distribution system for the subdivision, including pad mount transformers, all trenching and backfilling in earth and also install service conductors to the right of way limits .

#### **Liability and Default of this Agreement**

13. The Customer/Developer agrees to indemnify and save harmless E.L.K. from and against all loss or damage, expense, claims, suits and liability on account of any and all damage to or loss or destruction of any property (including without limitation, the work hereby covered and all property of the Customer/Developer and E.L.K.), or injury to or death of any person (including without limitation, employees of the Customer/Developer and E.L.K.) arising directly or indirectly out of or in connection with any willful or negligent act or unlawful or non-performance of any obligation of the Customer/Developer, its contractors, employees and invitees under this Agreement or on any lands of the Customer/Developer or on any lands, easements or rights-of-way conveyed or to be conveyed to E.L.K.

- 13.1. During the construction of the expansion or during any other construction or attendance on lands, easements or rights-of-way to be conveyed to E.L.K., pursuant to this Agreement, the Customer/Developer shall maintain a policy of public liability insurance in the amount of not less than \$5,000,000.00 and containing endorsements showing E.L.K. as an additional named Insured and having a cross-liability clause and in a form satisfactory to E.L.K. or the Solicitors for E.L.K. Before commencing construction of assets contemplated by this Agreement or entering upon any lands, right-of-ways, easements or municipal road allowance, the Customer/Developer shall provide E.L.K. with a certified copy of such an insurance policy.

14. The Customer/Developer acknowledges that in the event of default by the Customer/Developer in performing its obligations under this Agreement, E.L.K. may elect, in addition to any other remedies available at law, including but not limited to those remedies provided to E.L.K. under the Development Agreement, to vigorously pursue realization of all security to ensure that the work under this Agreement is

completed. The Customer/Developer agrees that any persons or other entities, including E.L.K., may make use of all installations constructed by the Customer/Developer to complete the work and that ownership of all assets installed by the Customer/Developer revert to E.L.K. except for any Street Lighting Services which revert to the Town of Kingsville upon completed installation.

#### **Notice**

15. Any notice, acceptance or other communication required or permitted to be given in this agreement shall be in writing and may be sufficiently given by personal notice, or by sending same by facsimile or other prepaid recorded communication, or by ordinary mail, to the other party at the addresses set out herein, or by leaving it at the addresses set out herein. All such notices, acceptances or other communications shall be deemed to have been validly and effectively given at the time and date of service, where personally served, or at the time and date of delivery, where left at the party's address, or on the third day following sending, where sent by ordinary mail, or on the next business day following sending, when sent by other means set out herein.

#### **Successors and Assigns**

16. This Agreement and its attached Schedules shall extend to and be binding upon and inure to the benefit of the Customer/Developer and E.L.K., and to their respective successors and assigns. In the event of a successor or assign, the Customer/Developer or E.L.K. is required to give written notice to the other Party to this Agreement, identifying the name of the successor or assign and the date that the change comes into effect.

#### **Miscellaneous**

17. Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Customer/Developer and E.L.K. or by their respective solicitors.
18. If there is a conflict between any provision written or typed in this agreement (including any Schedule to this Agreement and the Development Agreement in its executed format) and any provision in the printed portion hereof, the written or typed provision shall supercede the printed provision to the extent of such conflict. This agreement including any Schedules attached hereto, shall constitute the entire Agreement between the Customer/Developer and E.L.K.
19. Where Harmonized Sales Tax (H.S.T.) is applicable, then such H.S.T. shall be in addition to and not included in the amounts quoted in this Agreement and services provided to the Customer/Developer by E.L.K. unless otherwise stated to be inclusive of H.S.T. (such as paragraphs 1. And 2. Above)
20. It is intended that, without in any way varying the express terms of this agreement, the Policy Statement regarding Customer and Complaint Dispute Resolution shall be of application to this agreement.

21. Definitions: The following words and terms shall have the following meanings where used throughout this document and the schedules attached to it:

- a) "DSC" shall mean the Distribution System Code set forth by the Ontario Energy Board as amended or replaced from time to time and any numbers after such term shall represent the section of the DSC being referenced;
- b) "EEM" shall mean the Economic Evaluation Model used to calculate the Developer's Capital Contribution for the purposes of this document;

**SIGNED BY THE AUTHORIZED OFFICERS AND COPIES RECEIVED**

DATED at the Town of Essex in the County of Essex and Province of Ontario on this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

The Corporation of the Town of Kingsville

\_\_\_\_\_  
Per: Jennifer Astrologo  
Director of Corporate Services/Clerk

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Per:  
*We have authority to bind the Corporation.*

\_\_\_\_\_  
Date:

E.L.K. Energy Inc.:

\_\_\_\_\_  
Per: Michael Audet,  
Chief Executive Officer

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Per: Ron McDermott,  
Chairman of the Board  
*We have authority to bind the Corporation.*

\_\_\_\_\_  
Date:

**ACKNOWLEDGEMENT**

I acknowledge receipt of my signed copy of this accepted Agreement For Construction Of Distribution System Expansion.

E.L.K. Energy Inc.:

The Corporation of the Town of Kingsville

\_\_\_\_\_  
Per: Michael Audet,  
Chief Executive Officer

\_\_\_\_\_  
Per: Jennifer Astrologo  
Director of Corporate Services/Clerk

\_\_\_\_\_  
Per: Ron McDermott,  
Chairman of the Board

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

172 Forest Avenue  
Essex, ON N8M 3E4

2021 Division Road North  
Kingsville, ON N9Y 2Y9

Telephone (519) 776-5291

Telephone (519) 733-2305

Fax (519) 776-5640

Fax (519)

Edwin C. Hooker,  
Wolf Hooker Professional Corporation  
Phone: (519) 776-4244  
Fax: (519) 776-7727  
E.L.K. Solicitor & telephone

Jennifer Astrologo  
The Corporation of the Town of Kingsville  
Phone: (519) 733-2305  
Town Contact & telephone



### Schedule B: Estimate of Work

The following capital contribution amount for the construction work associated with the distribution system upgrade/expansion was calculated using the E.L.K. Economic Evaluation Model as noted in Schedule D. The input quantities to the E.L.K. EEM came from the Customer/Developer's forecast of load to be connected over a 5 year connection horizon as detailed in Schedule C and the associated revenues and costs resulting from the connected load as determined by E.L.K..

The E.L.K. Economic Evaluation Model calculates that a Capital Contribution of \$44,533.30 is to be paid by the Customer/Developer to E.L.K. for the engineering design and construction of the upgrade/expansion to the main distribution system to supply the Customer/Developer's new electrical service. This Contributed Capital amount will be recalculated using the actual costs and connections over the 5-year connection horizon as noted in Items #3 & #11 in the main body of this agreement.

Listed below is a description of all the items associated with this upgrade/expansion work. Shown also is the estimated costs for each item and whether the item is eligible for the Alternative Bid Process which is described in Schedule E.

Item	Description	E.L.K. Estimated Cost	Eligible for Alter. Bid option (Y/N)	Initial to select Alter. Bid Item
1	Supply and install 150 KVA pad mount Transformer, transformer vault, primary duct bank.	\$32,314.76	Yes	
2	Terminate the primary cables on E.L.K.'s existing hydro pole.	\$6,864.07	No	
3	Place the new underground distribution system into service.	\$13,029.31	No	
4				
5				
Etc.				

(1) The breakdown of the total engineering and design, materials, labour, equipment and administration costs for E.L.K. to complete the project are as follows:

Engineering and Design	
Materials	\$ 29,894.40
Labour	\$ 11,044.70
Equipment	\$ 4,608.54
Administration	\$ 6,660.50
Total	<u>\$ 52,208.14</u>

(2) If the Customer/Developer uses the Alternative Bid Process as described in Schedule E, the additional E.L.K. costs to service the Alternative Bid Process is \$ 3,230.00

These E.L.K. services costs, to be paid by the Customer/Developer through periodic invoicing by E.L.K., may include but not be limited to, the following:

- a) Analysis of alternatives bid submissions,
- b) Supervision of work by pre-qualified contractor, and
- c) Costs of inspection and commissioning by E.L.K. staff.

If the Customer/Developer uses the Alternative Bid Process security shall be required as outlined below:

Description	Estimated Cost
Capital contribution as stated in Item #1 in the main body of this Agreement.	\$44,533.30
Additional E.L.K. costs to service the Alternative Bid Process in Schedule B (2) of this Agreement.	\$3,230.00
Expansion deposit securing: a) shortfalls in the load forecast as stated in Item #2 in the main body of this Agreement and b) failure of the i) Developer to construct the expansion to the proper design and technical standards and specifications and ii) the facilities to operate properly when energized 10% of the Expansion deposit, \$5,320.24, will be retained for the two year warranty period set forth in Schedule E of this Agreement.	\$53,202.43

Capital contribution calculation:

Present value of operating cash flow	\$	13,909
Present value of taxes	\$	(3,686)
Present value of operating cash flow	\$	10,223
Present value of capital	\$	(50,992)
Present value of CCA tax shield	\$	1,359
Net present value	\$	<u>(39,410)</u>
HST	\$	<u>(5,123)</u>
Capital contribution	\$	<u>(44,533)</u>

Assumptions (as required by Appendix B of the Distribution System Code):

Customer connection horizon	5 years
Customer revenue horizon	25 years
Customer additions	As provided by customer/developer in Schedule C
Average energy/demand per added customer	Energy is utility/customer class specific historical and demand is as provided by customer/developer in Schedule C
Approved rates	E.L.K. Energy Inc. Tariff of Rates & Charges Effective and Implementation Date Nov 1, 2017
New facilities/investments/capital	As per Schedule B of the Offer to Connect dated Feb 12, 2018
Annual operating, maintenance and administration	Utility/customer class specific historical, range of \$2,328.51 to \$2,562.12 per year.
After tax weighted average cost of capital	Based on the prospective capital mix, debt and preference share cost rates, and the latest approved rate of return on common equity.
Marginal income tax rate	Current "substantively enacted" rates



**Schedule C: Customer/Developer Information**  
**General Service**

Planned Connection Schedule (# lots per development year):

Year 1	1
Year 2	0
Year 3	0
Year 4	0
Year 5	0

Total number of connections: 1

Customer's Forecast of Electric Load:

Month	kW Demand	kWh
1 Mar	45	1750
2 Apr	45	3000
3 May	60	3000
4 Jun	65	3000
5 Jul	65	4000
6 Aug	65	4500
7 Sep	65	4500
8 Oct	60	3000
9 Nov	45	2000
10 Dec	45	1750
11 Jan	45	1750
12 Feb	45	1750
Average	54	2830

Design Peak demand 65 kW      Forecasted Plant Power Factor 90 %

Service Voltage (check appropriate one):

130/208 volts single phase

three phase

Generator on Site (check yes or no):

Yes

No

List Large Motors

Type	HP	Voltage
Elevator	5	208/1
RTU (103A MCA)		208/3

I acknowledge that:

- The above information will be used by E.L.K. to make me an offer for the connection of my electrical service(s) to their distribution system.
- If I change the above information after signing this form, E.L.K. can charge me for additional costs they incur as a result of my changes.

Customer (please print):

TLA DU GHECO

Date: Jan 24/2018

Customer (signature):



Date: January 24/2018



**Schedule D: Expansion Deposit Annual Review**

The expansion deposit will be returned in accordance with the Ontario Energy Board's Distribution System Code including paragraph 3.2.23:

Once the facilities are energized and subject to sections 3.2.22 and 3.2.25, the distributor shall annually return the percentage of the expansion deposit in proportion to the actual connections (for residential developments) or actual demand (for commercial and industrial developments) that materialized in that year (i.e. if twenty percent of the forecasted connections or demand materialized in that year, then the distributor shall return to the customer twenty percent of the expansion deposit). This annual calculation shall only be done for the duration of the customer connection horizon as defined in Appendix B. If at the end of the customer connection horizon the forecasted connections (for residential developments) or forecasted demand (for commercial and industrial developments) have not materialized, the distributor shall be allowed to retain the remaining portion of the expansion deposit.

**Schedule E: Alternative Bid Process**

**Step #1**

E.L.K. shall calculate the Contributed Capital requirement of the asset upgrade/expansion using the Economic Evaluation Analysis as identified in Schedule D. The data input into the model for calculation was provided by the Customer/Developer (note Schedule C Customer/Developer Information) and by E.L.K.'s forecast of expected revenues and operational maintenance costs over the 5 year connection horizon.

**Step #2**

The Customer/Developer shall solicit bids, at their own expense, from pre-qualified contractors to construct the assets and perform the work identified in Schedule B as eligible for alternative bids. The Customer/Developer has the prerogative to select all or some of those eligible for alternative bids.

E.L.K. maintains a list of pre-qualified contractors for all services that are eligible for the Alternative Bid Process. The Customer/Developer shall request and obtain this listing of pre-qualified contractors from E.L.K. staff. Only contractors from this list shall be acceptable to construct the eligible items identified for alternative bids in Schedule B.

**Step #3**

The Customer/Developer shall take into consideration the estimated additional costs of the E.L.K. services for engineering and managing the Alternative Bid Process for constructing the expansion assets under the Alternative Bid Process. An estimate of these costs are detailed in Schedule B.

These E.L.K. services costs, to be paid by the Customer/Developer through periodic invoicing by E.L.K. may include, but not be limited to, the following:

- a) Analysis of alternatives bid submissions,
- b) Supervision of work by pre-qualified contractor, and
- c) Costs of inspection and commissioning by E.L.K. staff.

**Step #4**

The Customer/Developer shall evaluate the costs of those items eligible for the alternative bid in Steps #2 plus the additional costs of Step #3 and then decide whether to proceed with the Alternative Bid Process.

If the Customer/Developer chooses to proceed with the Alternative Bid Process then he should go to Step#6.

If the Customer/Developer chooses to have E.L.K. build the expansion assets then go to Step #5.

**Step #5**

Two Customer/Developer representatives with corporate binding authority shall:

- (a) Initial the attached Schedules to acknowledge their inclusion as a part of this Agreement.
- (b) Sign this Agreement.
- (c) Sign acknowledgement of receipt of a signed copy of this Agreement.

- (d) Submit payment, in cash/cheque payable to E.L.K., as a capital contribution for the construction costs in the amount noted in Item #1 of the main body of this Agreement and the expansion deposit called for in Item #2 of the main body of this Agreement.
- (e) Submit proof of a policy of public liability insurance as outlined in Item #12.1 of the main body of this Agreement.

Two E.L.K. representatives with corporate binding authority shall:

- (a) Initial the attached Schedules to acknowledge their inclusion as a part of the Agreement.
- (b) Sign this Agreement.
- (c) Sign acknowledgement of receipt of signed copy of this Agreement.

This terminates the Alternative Bid Process because of the Customer/Developer's choice to have E.L.K. construct the expansion. Do not proceed to Step #6.

### **Step #6**

Two Customer/Developer representatives with corporate binding authority shall:

- (a) Initial the items on Schedule B for which the Customer/Developer will seek bids from pre-qualified contractors.
- (b) Initial the remaining Schedules to acknowledge their inclusion as a part of the Agreement.
- (c) Sign this Agreement.
- (d) Sign acknowledgement of receipt of signed copy of this Agreement.
- (e) Submit proof of a policy of public liability insurance as outlined in Item 12.1 of the main body of this Agreement.
- (f) Submit payment, in cash/cheque payable to E.L.K., as a capital contribution for the construction costs in the amount noted in Item #1 of the main body of this Agreement and the expansion deposit called for in Item #2 of the main body of this Agreement.

Two E.L.K. representatives with corporate binding authority shall:

- (a) Initial the items on Schedule B for which the Customer/Developer will seek bids from pre-qualified contractors.
- (b) Initial the remaining Schedules to acknowledge their inclusion as a part of the Agreement.
- (c) Sign this Agreement.
- (d) Sign acknowledgement of receipt of signed copy of this Agreement.

### **Step #7**

Customer/Developer shall submit to E.L.K. for final written approval, detailed plans, specifications and drawings, in paper format and digitized AutoCad version 14, and such other material and information that E.L.K. may reasonably require.

The Customer/Developer must provide E.L.K. with original bid documents for review. The costs of the selected Alternative Bid will be borne directly by the Customer/Developer and all costs associated with the electrical distribution servicing shall be separately shown in all tenders and shall be monitored throughout the work by E.L.K. staff to ensure proper cost assignment.

### **Step #8**

E.L.K. shall inspect, test and commission, at the Customer/Developer's expense, any distribution system assets constructed under the Alternative Bid Process. The Customer/Developer shall provide unimpeded access at all times for all employees,

contractors, subcontractors and agents of E.L.K. and for their equipment to perform installations, inspections, tests and commissioning works contemplated by this Agreement.

**Step #9**

Re-calculate the costs to identify the amount to be refunded or the increased cost to the Customer as per Item #2 of the main body of the Agreement. The settlement shall be refunded to the Customer/Developer on or before the completion of this Agreement as noted in Item #10, but not before the date and time of Item #11, in the main body of this Agreement.

**Step#10**

The initial demand or connections proposed by the Customer, as submitted in Schedule C, for the EEM, must be reasonable and shall be subject to acceptance by E.L.K. The Customer and E.L.K. agree that on the one year anniversary of the first dollars spent by E.L.K., the average demand and or customer connections for the period will be compared to the forecasted demand or customer connections as provided in Schedule C of this Agreement. E.L.K. shall, subject to Step #11, return annually the percentage of the expansion deposit in proportion to the actual demand or connections that materialized in that year. (*i.e.* if twenty percent of the forecasted connections or demand materialized in that year, then E.L.K. shall return to the customer twenty percent of the expansion deposit) This annual calculation shall only be done for the duration of the customer connection horizon, not to exceed five years. If at the end of the customer connection horizon the forecasted connections (for residential developments) or forecasted demand (for commercial and industrial developments) have not materialized, E.L.K. shall be allowed to retain the remaining portion of the expansion deposit.

After the five year Connection Horizon, E.L.K. is not obligated to provide any re-evaluation of the proposed development.

**Step #11**

E.L.K. reserves its right to retain up to ten percent of the expansion deposit for a warranty period of two years. This portion of the expansion deposit can be applied to any work required to repair the expansion facilities within the two year warranty period. The two year warranty period begins:

- (a) when the last forecasted connection in the expansion project materializes (for residential developments) or the last forecasted demand materializes (for commercial and industrial developments); or
- (b) at the end of the customer connection horizon, five years from the energization date of the facilities, whichever is first. E.L.K. shall return any remaining portion of this part of the expansion deposit at the end of the two year warranty period.

**Step #12**

When the Customer/Developer transfers the expansion facilities that were constructed under the alternative bid option to E.L.K., and provided that E.L.K. has inspected and approved the constructed facilities, E.L.K. shall pay the Customer/Developer a transfer price. The transfer price shall be the lower of the cost to the Customer/Developer to construct the expansion facilities, which is the sum of;

- a) Additional E.L.K. costs to service the Alternative Bid Process in Schedule B (2) of this Agreement.
- b) The Customer/Developer's contractor costs to construct the expansion facilities.

or the amount set out in Schedule B of this offer to do the contestable work. If the Customer/Developer does not provide E.L.K. with the Customer/Developer's cost information in a timely manner, then E.L.K. may use the amount for the contestable work as set out in this offer for the transfer price instead of the Customer/Developer's cost.

**Step #13**

A settlement of the Capital Contribution amount may require the Customer/Developer to pay E.L.K. or it may be necessary for E.L.K. to refund the Customer/Developer the settlement amount depending on the results of the Economic Evaluation Analysis as identified in Schedule D. Where E.L.K. is required to pay a transfer price, the transfer price shall be considered a cost to E.L.K. for the purposes of completing the final Economic Evaluation Analysis.