



September 26, 2013

City of Clinton  
415 Gary Blvd  
Clinton, OK 73601

Attention: Mr. Steve Hewitt, City Manager

**Reference: Exploratory Boring Project**

Dear Mr. Hewitt:

This letter is written to serve as an agreement between the City of Clinton, Oklahoma, (CLIENT) and Professional Engineering Consultants, P.A. (PEC) to perform professional services to assist the City of Clinton with conducting an exploratory drilling and testing program to evaluate locations favorable for siting and completing water supply wells in the Washita River alluvial groundwater basin, hereinafter called the PROJECT.

Specifically, PEC proposes to perform the Scope of Services as outlined in Paragraph A below.

**A. Scope of Services:**

1. Drill up to seven (7) exploratory borings using Geoprobe® Direct Push Technology (DPT) / Hydrologic Profile Testing (HPT). PEC will subcontract with GSI Engineering, Wichita, KS to provide these services, and will supervise all related activities and be present during performance of field operations. The anticipated maximum depth of the DPT/HPT borings is 125 feet.
2. The DPT/HPT borings will be used to determine depth to bedrock, determine total thickness of the Washita alluvium, identify the top of the water table and infer lithology. Inference of lithology will be accomplished through analysis of signal responses and data generated from the HPT tool. PEC will evaluate all data collected from the DPT/HPT borings and make recommendations for drilling and completing up to two (2) temporary, 6.0-inch diameter PVC test wells.
3. PEC will subcontract with Layne Christensen Company, Guthrie, OK to drill and complete the test wells, will supervise all related activities and be present during performance of field operations. The data collected from the test wells will be used to evaluate the suitability of selected sites for drilling and completing permanent water supply well(s). The anticipated maximum depth of the test wells is 125 feet.
4. The test well(s) will be used to facilitate collection and logging of subsurface lithology and to conduct test pumping to evaluate drawdown, specific capacity, well yield, hydraulic conductivity, transmissivity, radius of influence, identification of potential hydraulic boundary conditions and collect water samples for submittal to an ODEQ certified laboratory for chemical analysis. The test wells will be plugged and abandoned after all drilling and testing operations have been completed.

5. PEC will analyze data collected from the test wells to evaluate aquifer hydraulic conditions and develop recommendations for siting and completing up to two (2) permanent water supply well locations.
6. PEC will prepare a Technical Summary Report to present the findings of Items 1-5 above and provide preliminary cost opinions to drill and complete one or more permanent water supply wells.
7. Present the findings the project to the City Manager and all interested city officials for purposes of engaging in dialogue and allowing the city to make comments and ask questions.

**B. Responsibility of CLIENT:**

The CLIENT agrees to provide the following items pursuant to PEC accomplishing the Scope of Services outlined herein:

1. Facilitate and assist PEC with gaining access to DPT/HPT and test well drill sites.
2. Provide PEC with information or data pertinent to successful completion of the Project.
3. Provide timely review and comments of interim information prepared by PEC for the CLIENT for review.
4. Provide other information requested by PEC to assist in the development of the final deliverable.

**C. Exclusions:**

The following items are specifically excluded from the Scope of Services provided by PEC:

1. Design, bidding and construction phase services associated with drilling of permanent water supply wells.
2. Professional services associated with water treatment design/process engineering.
3. Services associated with regulatory permitting.
4. Services related to negotiation, permitting or evaluation of water rights.

**D. Payment Provisions:**

PEC proposes to perform the Scope of Services described herein for a lump sum of **\$109,543**.

Unless otherwise agreed upon, billings will be made monthly based on completion of the items listed above.

Taxes are not included in stated fees. CLIENT shall reimburse PEC for any sales, use and value-added taxes, which apply to these services.

**E. Time of Performance:**

PEC proposes to begin work on the PROJECT within five (5) business days following receipt of an executed copy of this agreement and to complete the Scope of Services

within sixty (60) business days, exclusive of any delays beyond the control of PEC such as subcontractor backlog/scheduling, weather and/or issues related to permission to access boring/drill sites.

This letter and the Standard Conditions attached hereto comprise the entire agreement between the CLIENT and PEC. They may be altered only by written supplemental agreement agreed to by both parties. Furthermore, this agreement may be canceled by CLIENT, for any reason, by providing PEC with thirty (30) days prior written notice.

Thank you for contacting us to provide professional services on the subject PROJECT. Should you have questions or need additional information, please do not hesitate to call. Return receipt of an executed copy of this letter will serve as our contract and notice to proceed with the work.

Sincerely,

**PROFESSIONAL ENGINEERING CONSULTANTS, P.A.**



James W. Roberts  
Hydrogeologist  
Municipal Division

Attachments: Project Costs  
PEC Standard Conditions

**PROFESSIONAL ENGINEERING CONSULTANTS, P.A.**

By: Ethan J.L. Edwards  
Ethan J.L. Edwards, P.E.

Date: 9/26/13

**City of Clinton, Oklahoma**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTEST:

By: \_\_\_\_\_



**CITY OF CLINTON, OKLAHOMA  
EXPLORATORY DRILLING PROGRAM COSTS  
WASHITA RIVER ALLUVIAL AQUIFER**

**Professional Services (PEC)**

Project management	\$ 7,512.00
On-site supervision, sampling and technical evaluation	\$ 15,023.00
Technical evaluation of subsurface, chemistry & hydraulic data	\$ 5,367.00
Development of summary report & recommended well design	<u>\$ 6,293.00</u>
<b>Professional Hydrogeological Fees Subtotal</b>	<b>\$ 34,195.00</b>

**Geoprobe® DPT/HPT Borings (Subcontractor: GSI Engineering)**

Mobilization	\$ 2,000.00
DPT/HPT Boring (each)	<u>\$ 1,253.00</u>
<b>Cost for 1 DPT/HPT Boring Total</b>	<b>\$ 3,253.00</b>
<b>Cost for 7 DPT/HPT Borings</b>	<b>\$ 10,765.00</b>

**Test Well Drilling/Testing (Subcontractor: Layne Christensen Company)**

Mobilization	\$ 7,698.00
Drill, sample & construct 6-inch X 125' PVC test well	\$ 20,172.00
Develop and pump Test Well (12 hours)	\$ 5,403.00
Plug & abandon borehole	<u>\$ 1,000.00</u>
<b>Cost for 1 Test Well</b>	<b>\$ 34,273.00</b>

**Drill/Complete 1 Additional Test Well**

Drill, sample & construct 6-inch X 125' PVC test well	\$ 20,172.00
Develop and pump test Test Well 12 hours	\$ 5,403.00
Plug & abandon borehole	<u>\$ 1,000.00</u>
<b>Cost for Additional Test Well</b>	<b>\$ 26,575.00</b>

**Cost for 2 Test Wells \$ 60,848.00**

**Laboratory Analytical Services**

Geotechnical / sieve gradation of formation samples	\$ 1,265.00
Groundwater chemistry (1 sample)	<u>\$ 2,470.00</u>
<b>Total Analytical Costs</b>	<b>\$ 3,735.00</b>

**Grand Total \$109,543.00**

## PEC STANDARD CONDITIONS

1. **STANDARD OF CARE:** Professional Engineering Consultants, P.A., its officers, directors, employees, agents, shareholders, partners, consultants, sub-consultants, contractor, and sub-contractors (collectively "PEC") shall provide professional services to Client, its officers, directors, employees, agents, owners, members, shareholders, partners, consultants, sub-consultants, contractors, and sub-contractors, (collectively "Client") according to the agreed upon scope of services. PEC will perform the services with the level of care and skill ordinarily exercised by other consultants of the same profession under similar circumstances at the time the services are performed, and in the same locality.

2. **USE OF DOCUMENTS:** Drawings, specifications, reports, programs, manuals, cost estimates, or other documents, including documents on electronic media, prepared under this Agreement are instruments of service and as such are only applicable to the subject PROJECT. Use of these documents for any other purpose without written authorization and consent of PEC is prohibited. PEC shall retain ownership thereof.

3. **INSURANCE:** PEC and the Client agree to each maintain statutory Worker's Compensation, Employer's Liability Insurance, General Liability Insurance, and Automobile Insurance coverage for the duration of this agreement. Additionally, PEC will maintain Professional Liability Insurance for PEC's negligent acts, errors, or omissions in providing services pursuant to this Agreement. If the Client is a design professional, then the Client agrees to maintain Professional Liability Insurance for its negligent acts, errors, or omissions in providing services pursuant to this Agreement. If a project is Design-Build, the Client and all subcontractors providing professional design or other services (e.g., architects, engineers, inspectors) shall maintain professional or similar liability insurance for claims arising from its negligent performance of said services. Proof of insurance shall be provided, upon request, prior to commencement of said services.

4. **NO GUARANTEE:** PEC does not provide a warranty or guarantee, express or implied, for any portion of the scope of services including drawings, specifications, reports, programs, manuals, cost estimates, or other documents of service. PEC does not warrant or guarantee any certification of the project, including any level of LEED certification. Items of beneficial use to the Owner, whether or not included in the contract documents, shall be paid for by the Owner. The provisions of this paragraph shall apply notwithstanding any statement or language contained in any other document or agreement that might be related to the project.

5. **INDEMNIFICATION/HOLD HARMLESS:** PEC agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client and its employees from any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) resulting from PEC's negligent acts, errors, or omissions through services provided pursuant to this Agreement by PEC or anyone for whom PEC is legally liable. The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless PEC, its employees and subconsultants from any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) resulting from the negligent acts, errors, or omissions by Client or those contractors, subcontractors, consultants, or anyone for whom Client is legally liable, and arising from the project(s) that is the subject of this agreement. PEC is not obligated to indemnify the Client in any manner whatsoever for the Client's own negligence. If any liability, damages, or costs (including reasonable attorneys' fees and costs of defense) result from the concurrent negligence of PEC and the Client, this indemnification shall only apply to the extent of each party's proportion of the responsibility.

6. **DISPUTES:** Any action or claims arising out of or related to this Agreement or the project that is the subject of this Agreement shall be

governed by Oklahoma law. Good faith negotiation and mediation are express conditions precedent to the filing of any legal action. Mediation shall be conducted in accordance with the latest edition of the Construction Mediation Rules of the American Arbitration Association.

7. **ASSIGNMENT OR SUBLETTING OF CONTRACT:** Client shall not assign, transfer, or sublet any rights, duties, or interests accruing from this Agreement without the prior written consent of PEC. This Agreement shall be binding upon the Client, its successors and assigns.

8. **NON PAYMENT/TERMINATION OF AGREEMENT:** If the Client fails to make payment for services and expenses within 30 days following receipt of an invoice, PEC may, after giving seven days written notice to the Client, without liability for delay charges, suspend services under this Agreement until PEC has been paid in full for all amounts due. Each party to this Agreement reserves the right to terminate the Agreement at any time, without cause, upon 15 days written notice and subject to payment to PEC for the value of services rendered up to the time of termination.

9. **DIFFERING SITE CONDITIONS:** The conditions at the site are the property of the Client/Owner regardless of whether or not they could be identified by an investigation or exploration conducted according to the professional standard of care. A "Differing Site Condition" is a subsurface, hidden, latent, or physical condition at a project site/building not revealed by the site exploration, site investigation, or other information provided to the Client and which cannot be reasonably anticipated. Special risks occur whenever engineering is applied to identifying site/building conditions. Even a comprehensive investigation according to the professional standard of care may not detect all subsurface or site/building conditions. PEC shall not be liable for site/building conditions which could not be identified by such an investigation or exploration. Accordingly, the Owner/Client agrees to indemnify, including all costs and attorney fees, and hold PEC harmless from all claims for Differing Site Conditions, provided PEC performs the services specified in the Contract in a manner reasonably conforming to the terms of the Contract and to the Standard of Care.

10. **EXTRA WORK:** Services not specified in the Scope of Services set forth in this Agreement or due to regulatory changes shall be considered "extra work". No "extra work" will be performed without additional compensation per a supplemental agreement.

11. **FORCE MAJEURE:** The Client shall not hold PEC responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of PEC, or that could not have been reasonably foreseen and prevented including, but not limited to, fire, weather, floods, earthquakes, epidemics, war, riots, terrorism, strikes, and unanticipated site conditions.

12. **AGREEMENT SOLELY FOR PARTIES' BENEFIT:** This agreement is solely for the benefit of PEC and Client. Nothing herein is intended in any way to benefit any third party or otherwise create any duty or obligation on behalf of PEC or Client in favor of such third parties.

13. **LIMITATION OF LIABILITY:** To the fullest extent permitted by law, PEC's total liability to Client is limited to the greater of \$50,000 or two times PEC's fee, for any and all damages or expenses arising out of this Agreement from any cause(s) or under any theory of liability. In no event shall PEC be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by Client or its subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.