

**City of Fayetteville Staff Review Form**

**2020-0409**

**Legistar File ID**

**6/2/2020**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Tim Nyander

5/13/2020

WATER SEWER (720)

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

Staff recommends approval of an Engineering Services Agreement with Black and Veatch, Corporation in an amount not to exceed \$107,592.00 for analysis and design of potable water pressure management solutions for the greater Clabber Creek area.

**Budget Impact:**

5400.720.5600-5314.00	Water and Sewer
Account Number	Fund
12009.1	Water System Rehabilitation/Replacement
Project Number	Project Title
<b>Budgeted Item?</b> <u>Yes</u>	Current Budget \$ 7,932,492.00
	Funds Obligated \$ 3,127,426.92
	<b>Current Balance \$ 4,805,065.08</b>
<b>Does item have a cost?</b> <u>Yes</u>	Item Cost \$ 107,592.00
<b>Budget Adjustment Attached?</b> <u>No</u>	Budget Adjustment \$ -
	<b>Remaining Budget \$ 4,697,473.08</b>

V20180321

**Purchase Order Number:** \_\_\_\_\_

**Previous Ordinance or Resolution #** \_\_\_\_\_

**Change Order Number:** \_\_\_\_\_

**Approval Date:** \_\_\_\_\_

**Original Contract Number:** \_\_\_\_\_

**Comments:**



**MEETING OF JUNE 2, 2020**

**TO:** Mayor and City Council

**THRU:** Susan Norton, Chief of Staff  
Tim Nyander, Utilities Director

**FROM:** Corey Granderson, Utilities Engineer

**DATE:** May 13, 2020

**SUBJECT:** **Engineering Services Agreement with Black and Veatch Corporation for the analysis and design of potable water pressure management solutions for the greater Clabber Creek area**

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**RECOMMENDATION:**

Staff recommends approval of an Engineering Services Agreement with Black and Veatch Corporation not to exceed \$107,592.00 for analysis and design of potable water pressure management solutions for the greater Clabber Creek area.

**BACKGROUND:**

Resolution 133-18 authorized Black & Veatch to perform a detailed water audit for the City of Fayetteville, identifying several recommendations to help reduce unbilled water-loss. One key recommendation from this study was to identify areas of town that could have excessive pressures reduced, thereby reducing frequency of line-breaks and background water leaks. The greater Clabber Creek residential area north of Mt. Comfort Road and west of Deane Solomon Road has been identified as a target area for pressure reduction.

**DISCUSSION:**

A formal selection committee was held on March 10, 2020 and Black and Veatch Corporation was selected to perform these design services. An engineering contract, scope, and fees have been prepared and reviewed by city staff. The engineering analysis, design, and bidding phases are not to exceed \$107,592.00. At time of bid award, additional construction phase engineering services would be necessary as an amendment.

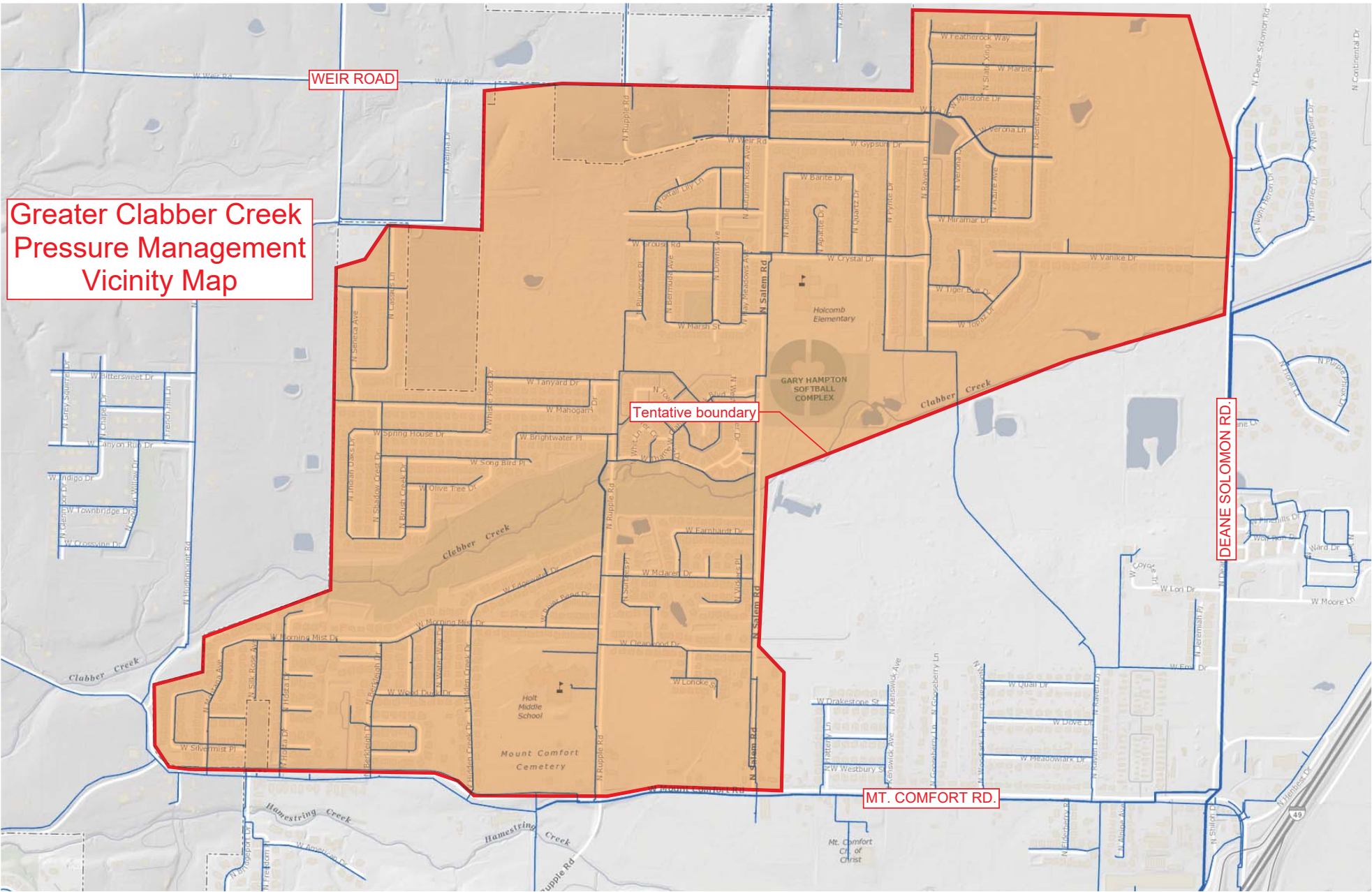
**BUDGET/STAFF IMPACT:**

Funds are available in the Water System Rehabilitation/Replacement account.

**Attachments:**

Greater Clabber Creek Vicinity Map  
Engineering Services Agreement  
Appendix A – Scope of Services; Fees

Greater Clabber Creek  
Pressure Management  
Vicinity Map



AGREEMENT  
For  
PROFESSIONAL ENGINEERING SERVICES  
Between  
CITY OF FAYETTEVILLE, ARKANSAS  
and  
BLACK & VEATCH, CORPORATION

THIS AGREEMENT is made as of \_\_\_\_\_, 2020, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and BLACK & VEATCH, CORPORATION (hereinafter called ENGINEER).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as CITY OF FAYETTEVILLE's professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of ENGINEER's services. All services shall be performed under the direction of a professional engineer registered in the State of Arkansas and qualified in the particular field.

**SECTION 1 - AUTHORIZATION OF SERVICES**

- 1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of ENGINEER.
- 1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of ENGINEER.
- 1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

**SECTION 2 - BASIC SERVICES OF ENGINEER**

- 2.1 Perform professional services in connection with the Project as hereinafter stated.
  - 2.1.1 The Scope of Services to be furnished by ENGINEER during the Project is included in Appendix A attached hereto and made part of this Agreement.
- 2.2 ENGINEER shall coordinate their activities and services with the CITY OF FAYETTEVILLE. ENGINEER and CITY OF FAYETTEVILLE agree that ENGINEER has full responsibility for the engineering services.

### **SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE**

- 3.1 CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of ENGINEER.
- 3.1.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.
- 3.1.2 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
- 3.1.3 Assist ENGINEER in obtaining access to property reasonably necessary for ENGINEER to perform its services under this Agreement.
- 3.1.4 Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 3.1.5 The Utilities Director is the CITY OF FAYETTEVILLE's project representative with respect to the services to be performed under this Agreement. The Utilities Director shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 3.1.6 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to ENGINEER in a timely manner.

### **SECTION 4 - PERIOD OF SERVICE**

- 4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.
- 4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. ENGINEER will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included as Appendix A.

### **SECTION 5 - PAYMENTS TO ENGINEER**

- 5.1 The maximum not-to-exceed amount authorized for this Agreement is **\$107,592.00**. The CITY OF FAYETTEVILLE shall compensate ENGINEER based on a Unit Price or Lump Sum basis as described in Appendix A.
- 5.2 Statements
  - 5.2.1 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for professional services consistent with ENGINEER's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by ENGINEER and approved by CITY OF FAYETTEVILLE. Applications for payment shall

be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the study and report for the Project.

5.3 Payments

5.3.1 All statements are payable upon receipt and due within thirty (30) days. If a portion of ENGINEER's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise ENGINEER in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.4 Final Payment

5.4.1 Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, ENGINEER shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by ENGINEER to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against ENGINEER or his sureties under this Agreement or applicable performance and payment bonds, if any.

**SECTION 6 - GENERAL CONSIDERATIONS**

6.1 Insurance

6.1.1 During the course of performance of these services, ENGINEER will maintain (in United States Dollars) the following minimum insurance coverages:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers' Compensation Employers' Liability	Statutory \$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
Professional Liability Insurance	\$1,000,000 Each Claim

ENGINEER will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and ENGINEER waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of ENGINEER's services.

## 6.2 Professional Responsibility

6.2.1 ENGINEER will exercise reasonable skill, care, and diligence in the performance of ENGINEER's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. CITY OF FAYETTEVILLE will promptly report to ENGINEER any defects or suspected defects in ENGINEER's services of which CITY OF FAYETTEVILLE becomes aware, so that ENGINEER can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of ENGINEER.

## 6.3 Cost Opinions and Projections

6.3.1 Cost opinions and projections prepared by ENGINEER relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on ENGINEER's experience, qualifications, and judgment as a design professional. Since ENGINEER has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, ENGINEER does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by ENGINEER.

## 6.4 Changes

6.4.1 CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of ENGINEER's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the duly authorized officer of ENGINEER.

## 6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

- 6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that ENGINEER is given:
- 6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
  - 6.5.2.2 An opportunity for consultation with the terminating party prior to termination.
- 6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
- 6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,
  - 6.5.3.2 Any payment due to ENGINEER at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of ENGINEER's default.
- 6.5.4 If termination for default is effected by ENGINEER, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to ENGINEER for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by ENGINEER relating to commitments which had become firm prior to the termination.
- 6.5.5 Upon receipt of a termination action under Paragraphs 6.5.1 or 6.5.2 above, ENGINEER shall:
- 6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),
  - 6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.
- 6.5.6 Upon termination under Paragraphs 6.5.1 or 6.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- 6.5.7 If, after termination for failure of ENGINEER to fulfill contractual obligations, it is determined that ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 6.5.4 of this clause.
- 6.6 Delays
- 6.6.1 In the event the services of ENGINEER are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond ENGINEER's reasonable control, ENGINEER shall be entitled to additional compensation and time for reasonable costs incurred by ENGINEER in temporarily closing down or delaying the Project.



## 6.7 Rights and Benefits

6.7.1 ENGINEER's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

## 6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and ENGINEER which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or ENGINEER in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 6.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 6.8.3 and 6.8.4 have been complied with.

### 6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give ENGINEER written Notice at the address listed in Paragraph 6.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and ENGINEER shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of ENGINEER and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to ENGINEER for services rendered by ENGINEER.

## 6.10 Publications

6.10.1 Recognizing the importance of professional development on the part of ENGINEER's employees and the importance of ENGINEER's public relations, ENGINEER may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to ENGINEER's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to ENGINEER. CITY OF FAYETTEVILLE may require

deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of ENGINEER's activities pertaining to any such publication shall be for ENGINEER's account.

#### 6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and ENGINEER from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

#### 6.12 Ownership of Documents

6.12.1 All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. ENGINEER may retain reproduced copies of drawings and copies of other documents.

6.12.2 Engineering documents, computer models, drawings, specifications and other hard copy or electronic media prepared by ENGINEER as part of the Services shall become the property of CITY OF FAYETTEVILLE when ENGINEER has been compensated for all Services rendered, provided, however, that ENGINEER shall have the unrestricted right to their use. ENGINEER shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of ENGINEER.

6.12.3 Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. ENGINEER makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

#### 6.13 Notices

6.13.1 Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:  
113 West Mountain Street  
Fayetteville, Arkansas 72701

ENGINEER's address:  
Black & Veatch, Corporation  
8400 Ward Parkway  
Kansas City, MO 64114

#### 6.14 Successor and Assigns

6.14.1 CITY OF FAYETTEVILLE and ENGINEER each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor ENGINEER shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

#### 6.15 Controlling Law

6.15.1 This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

#### 6.16 Entire Agreement

6.16.1 This Agreement represents the entire Agreement between ENGINEER and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to ENGINEER a purchase order, no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by ENGINEER, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

### **SECTION 7 - SPECIAL CONDITIONS**

#### 7.1 Additional Responsibilities of ENGINEER

7.1.1 CITY OF FAYETTEVILLE's review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve ENGINEER of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 ENGINEER shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by ENGINEER's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 ENGINEER's obligations under this clause are in addition to ENGINEER's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against ENGINEER for faulty materials, equipment, or work.

#### 7.2 Remedies

7.2.1 Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and ENGINEER arising

out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

### 7.3 Audit: Access to Records

7.3.1 ENGINEER shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement. ENGINEER shall also maintain the financial information and data used by ENGINEER in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. ENGINEER will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 7.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of \$10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of ENGINEER;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

### 7.4 Covenant Against Contingent Fees

7.4.1 ENGINEER warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the

contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that ENGINEER or any of ENGINEER’s agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to ENGINEER terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 7.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against ENGINEER as it could pursue in the event of a breach of the Agreement by ENGINEER As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs ENGINEER incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

7.6.1 City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF FAYETTEVILLE, ENGINEER will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and ENGINEER, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

ENGINEER, BLACK & VEATCH, CORP.

By : \_\_\_\_\_  
Mayor, Lioneld Jordan

By:  \_\_\_\_\_  
Jeffrey W. Henson, Associate Vice President

ATTEST:

By: \_\_\_\_\_  
City Clerk

Title: Vice President \_\_\_\_\_

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

## ATTACHMENT A – SCOPE OF SERVICES AND COMPENSATION

### PROJECT OBJECTIVES

This project will provide recommendations and design documents for installation of equipment for pressure management in the Greater Clabber Creek Area. The tasks will include:

- Hydraulic modeling
- Analysis of the history of breaks and leaks in the area
- Recommendation of location for pressure monitoring devices and initial analysis of pressure reduction potential
- Research & recommendations on vendors & specific equipment
- Develop an implementation plan
- Development of construction documents for the recommended implementation plan
- Permitting services
- Bidding services
- Construction phase services will be covered in a future amendment.

### SCOPE OF SERVICES

Proposed subtasks are described below. This scope details Task 1.

#### TASK 1

This scope of services is designed to model, analyze, and design a pressure reduction zone for the Greater Clabber Creek Area.

##### Task 1A. Project Management

Black & Veatch will provide overall management for the project. Prepare budget, schedule, and review ongoing activities as well as monitoring schedule and budget. Manage technical resources, and coordinate with the City. Prepare monthly invoices, including a status report covering work completed during the current billing period and work anticipated for the upcoming period. Review progress with the City on a regular basis.

Conduct monthly review meetings via conference call to discuss current project status and to solicit input from City staff regarding current work activities. Provide meeting notes including key decisions and action items of each meeting. Additionally, in-person meetings have been assumed for project kick-off, review of the implementation plan, and review of the 30% design documents.

**Deliverables:** Project Management;

- Monthly invoice and status report
- Project Work Plan
- Project Schedule
- Meeting Notes

### **Task 1B. Hydraulic Modeling and Pressure Reduction Potential**

Black & Veatch will conduct hydraulic modeling on the prospective Clabber Creek pressure management zone. This will include theoretical analysis of the existing conditions in, and immediately outside of the zone. Boundary valve and inlet point locations will be evaluated (possibly several scenarios) and provided for discussion with City staff.

Pressure reduction potential will be evaluated by utilizing the hydraulic model to estimate the critical points in the zone (and outside the zone if pass-through is required) and the potential pressure reduction that could be expected within current low-pressure requirements, with required headroom. The existing maximum day extended period (EPS) scenario will be used to establish baseline conditions for comparison of up to three scenarios with a reduced pressure area. Fire flow modeling will also be performed for the baseline condition and for 2 boundary configurations to ensure that the reduced pressure zone and areas along the boundaries or beyond will be minimally impacted.

#### **Deliverables:**

- Hydraulic model outputs outlining
- Current conditions (as per Existing Maximum Day EPS scenario)
- Potential boundary valve closures and inlet locations
- Recommended approach
- Technical Memorandum on pressure reduction potential

### **Task 1C: Research and Recommendations on Vendors and Equipment**

In parallel with Task 1B an evaluation of equipment and possible vendors will be conducted. The anticipated flows, sizes and types of pressure reducing, and monitoring equipment will be reviewed and reported upon. This task is designed to evaluate the following equipment in more detail:

- Pressure Reducing Valves
- Pressure and flow monitoring equipment
- Flow meters

**Deliverables:** Memo summarizing the findings on the equipment vendors

### **Task 1D: Implementation Plan**

Black & Veatch will develop a Pressure Management Implementation Plan (Plan) for the Clabber Creek zone. The Plan will be designed to outline the steps required to implement and manage a successful program at this location. This will include the following information in a report format.

**Deliverables:** Report including the following;

- Proposed Zonal Area
- Initial Setup of District Metered Area / Pressure Management Area, determination that zone is hydraulically sealed

- System monitoring throughout the program
- Commissioning
- Operation

### Task 1E: Construction Documents

Black & Veatch will develop documents for bidding of the pressure management equipment and chambers. This will include the following information in a drawing and specification format. Fee for design has assumed that civil, structural, electrical, and I&C engineers will provide design input.

**City Provided Information:** It is assumed the city will provide any survey or geotechnical work that may be needed once a site is selected. It is assumed that the chamber will be installed within the City right-of-way and property acquisition will not be needed.

**Deliverables:** Construction documents (basic, for bidding documents) including the following as 30% complete and 90% complete design documents;

- Site Plan and Civil Sheet for PRV/Meter Chamber(s) for two chambers.
- Electrical Plan and P&ID
- Associated Equipment Specifications (PRV's, monitoring loggers, control systems)

### Task 1F: Permitting Coordination

Black & Veatch will aid the City with permit coordination with the Arkansas Department of Health. This will include calls, and meetings (web-based or in-person as appropriate) to discuss and move forward with the project.

**Deliverables:** Interactions with the City and Department of Health. Reporting as necessary to provide the Department of Health with the details that they require.

### Task 1G: Bidding Services

Black & Veatch will prepare an agenda and attend the pre-bid meeting. Black & Veatch will receive questions and provide up to one addendum during the bidding process. Black & Veatch will review the bids received and prepare a recommendation for award. Black & Veatch will prepare conformed to bid documents.

**Deliverables:**

- Pre-Bid Meeting Agenda
- Addendum
- Bid Recommendation
- Conformed to bid documents

## SCHEDULE

It is anticipated that the Implementation Plan will be issued within four months from receiving the Notice to Proceed, with the bidding documents being issued within nine months. This schedule is contingent upon receipt of requested data within two weeks from request.



## COMPENSATION

Task 1 will be executed on a time and materials basis to a not to exceed fee of \$92,592, including expenses. An additional allowance of \$15,000 is also requested. This will be billed monthly on time and materials basis. The total not to exceed is \$107,592.

### Billing Rates

TITLE	HOURLY RATE
Project Director	\$341.00
Project Manager	\$248.00
Engineering Manager	\$186.00
Director, Water Loss Control	\$295.00
Sr. Hydraulic Modeler	\$202.00
Hydraulic Modeler	\$124.00
Project Controls	\$193.00
Project Staff	\$128.00
Discipline Lead	\$205.00
BIM Technician	\$124.00
Technician	\$118.00
Senior Engineer	\$155.00
Discipline Engineer	\$137.00
QAQC	\$233.00
Senior Estimator	\$202.00
Project Finance	\$109.00
Administration	\$93.00

## INFORMATION TO BE PROVIDED BY THE CITY

A data request list will be provided to the City upon notice to proceed.

Owner: City of Fayetteville

Project: Greater Clabber Creek Pressue Zone

PHASE/Task		Project Director	Project Manager/ Engineer of Record	Admin	Engineering Manager	Civil Engineer	Civil Director/QC	Structural Director/QC	Structural Engineer	Electrical Director/QC	Electrical Engineer	Electrical Technician	I&C Director/QC	I&C Engineer	I&C Technician	Water Res Sr. Engineer	Modeler	Director, Water Loss Control	BIM Sr Technician	Estimator Director/QC
		\$341.00	\$248.00	\$93.00	\$186.00	\$128.00	\$233.00	\$233.00	\$137.00	\$224.00	\$155.00	\$118.00	\$217.00	\$155.00	\$118.00	\$202.00	\$124.00	\$295.00	\$124.00	\$233.00
(Billing Rate, \$\$,Hr.)																				
<b>WORK BREAKDOWN STRUCTURE</b>	<b>PHASE</b>																			
Work Breakdown Structure below is an example and can be removed		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Management	0000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Monthly Invoicing	0010	-	10	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Project Workplan	0020	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
Project Schedule	0030	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-
Meetings and Meeting Minutes	0040	2	4	-	-	20	-	-	-	-	-	-	-	-	-	-	-	16	-	-
Hydraulic Modeling and Pressure Reduction Potential	0100	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Develop Hydraulic Model	0110	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	16	4	-	-
Evaluate boundary valve and point locations	0120	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	10	2	-	-
Technical Memorandum	0130	-	2	2	-	4	-	-	-	-	-	-	-	-	-	2	8	4	-	-
Research and Recommendation on Vendors and Equipment	1000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contact Vendors	1100	-	-	-	-	4	-	-	-	-	-	-	-	-	-	-	-	4	-	-
Prepare Memo	1200	-	1	-	-	4	-	-	-	-	-	-	-	-	-	-	-	2	-	-
Prep Task 4	1400	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Implementation Plan Report	1500	-	4	2	-	8	-	-	-	-	-	-	-	-	-	4	-	16	-	-
Review Meeting	1600	-	4	-	-	8	-	-	-	-	-	-	-	-	-	-	-	8	-	-
Constuction Documents	2000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prepare 30% Drawings and Specifications	2100	-	4	4	4	40	4	2	18	2	8	12	2	8	12	-	-	-	20	2
Prepare 90% Drawings and Specifications	2200	-	4	2	4	20	4	-	16	-	4	4	-	4	8	-	-	-	16	2
Submit Final Bid Documents	2300	-	2	2	4	12	-	-	2	-	2	2	-	2	2	-	-	-	8	-
Bidding	5000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Attend Pre-Bid Meeting	5100	-	4	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prepare Addenda	5200	-	2	2	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Review Bids and Provide Recommendation	5300	-	1	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prepare Conformed to Bid Documents	5400	-	1	4	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Optional Services Allowance	6000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total, Hours</b>		2	47	24	12	136	8	2	36	2	14	18	2	14	22	12	34	60	44	4
<b>Total, Billings</b>																				

Owner: City of Fayetteville

Project: Greater Clabber Creek Pressue Zone

PHASE/Task		Sr. Estimator	Finance	Sr. Project Controls	SUBTOTAL, hours	SUBTOTAL, Billings \$	Travel/Per Diem Expenses	Major Reproduction Expenses	SUBTOTAL, EXPENSES w/o MULTIPLIER	SUBTOTAL, EXPENSES	TOTAL Billings
		\$202.00	\$109.00	\$193.00							
<b>WORK BREAKDOWN STRUCTURE</b>											
(Billing Rate, \$\$, Hr.)											
Work Breakdown Structure below is an example and can be removed	<b>PHASE</b>										
Project Management	0000	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Monthly Invoicing	0010	-	5	5	26	\$ 4,548	\$ -	\$ -	\$ -	\$ -	\$ 4,548
Project Workplan	0020	-	-	-	4	\$ 1,086	\$ -	\$ -	\$ -	\$ -	\$ 1,086
Project Schedule	0030	-	-	-	4	\$ 1,086	\$ -	\$ -	\$ -	\$ -	\$ 1,086
Meetings and Meeting Minutes	0040	-	-	-	42	\$ 8,954	\$ 1,300	\$ -	\$ 1,300	\$ 1,300	\$ 10,254
Hydraulic Modeling and Pressure Reduction Potential	0100	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Develop Hydraulic Model	0110	-	-	-	24	\$ 3,972	\$ -	\$ -	\$ -	\$ -	\$ 3,972
Evaluate boundary valve and point locations	0120	-	-	-	14	\$ 2,234	\$ -	\$ -	\$ -	\$ -	\$ 2,234
Technical Memorandum	0130	-	-	-	22	\$ 3,770	\$ -	\$ 200	\$ 200	\$ 200	\$ 3,970
Research and Recommendation on Vendors and Equipment	1000	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Contact Vendors	1100	-	-	-	8	\$ 1,692	\$ -	\$ -	\$ -	\$ -	\$ 1,692
Prepare Memo	1200	-	-	-	7	\$ 1,350	\$ -	\$ -	\$ -	\$ -	\$ 1,350
Prep Task 4	1400	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Implementation Plan Report	1500	8	-	-	42	\$ 9,346	\$ -	\$ -	\$ -	\$ -	\$ 9,346
Review Meeting	1600	-	-	-	20	\$ 4,376	\$ 1,300	\$ 200	\$ 1,500	\$ 1,500	\$ 5,876
Construction Documents	2000	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Prepare 30% Drawings and Specifications	2100	8	-	-	150	\$ 21,848	\$ 500	\$ -	\$ 500	\$ 500	\$ 22,348
Prepare 90% Drawings and Specifications	2200	2	-	-	90	\$ 13,116	\$ 500	\$ -	\$ 500	\$ 500	\$ 13,616
Submit Final Bid Documents	2300	2	-	-	40	\$ 5,724	\$ -	\$ 200	\$ 200	\$ 200	\$ 5,924
Bidding	5000	-	-	-	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Attend Pre-Bid Meeting	5100	-	-	-	8	\$ 1,504	\$ 500	\$ -	\$ 500	\$ 500	\$ 2,004
Prepare Addenda	5200	-	-	-	8	\$ 1,194	\$ -	\$ -	\$ -	\$ -	\$ 1,194
Review Bids and Provide Recommendation	5300	-	-	-	5	\$ 760	\$ -	\$ -	\$ -	\$ -	\$ 760
Prepare Conformed to Bid Documents	5400	-	-	-	9	\$ 1,132	\$ -	\$ 200	\$ 200	\$ 200	\$ 1,332
Optional Services Allowance	6000	-	-	-	-	\$ -	\$ 15,000	\$ -	\$ 15,000	\$ 15,000	\$ 15,000
<b>Total, Hours</b>		<b>20</b>	<b>5</b>	<b>5</b>	<b>523</b>						
<b>Total, Billings</b>						<b>\$ 87,692</b>	<b>\$ 19,100</b>	<b>\$ 800</b>		<b>\$ 19,900</b>	<b>\$ 107,592</b>