

ITEM 4.10

CITY MANAGER'S REPORT SEPTEMBER 12, 2022 CITY COUNCIL REGULAR MEETING

ITEM: APPROVE AMENDMENT NO. 1 WITH WGR SOUTHWEST, INC. FOR PHASE II SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM PROGRAM, RCP SD 22-32 AND RELATED BUDGET AMENDMENT

RECOMMENDATION: Adopt Resolution Approving Amendment No. 1 with WGR Southwest, Inc. to provide Support Services for Phase II Small Municipal Separate Storm Sewer System Program, Regulatory Compliance Program (RCP) SD 22-32 and Related Budget Amendment

SUMMARY:

Approval of Amendment No. 1 with WGR Southwest, Inc. (WGR) is requested to provide continued support services for the City's National Pollutant Discharge Elimination System (NPDES) Phase II Small Municipal Separate Storm Sewer Systems (MS4) General Permit regulatory compliance program for Storm Drain (SD) 22-32.

Staff is requesting approval of Amendment No. 1 is for an amount not to exceed \$105,124 and is to be paid from the stormwater inspection fees collected during the building permit process.

Sufficient funds were not allocated in fiscal year 22/23 therefore, staff also requests approval of a budget amendment to transfer the funds to the Project.

BACKGROUND:

The current NPDES Phase II Small MS4 General Permit was adopted by the State Water Resources Control Board on February 5, 2013 and became effective on July 1, 2013. The permit requirements include inspection of small construction projects, (defined as projects with less than one acre of soil disturbance) that are also required to submit project specific Erosion and Sediment Control Plans (ESCPs) for the City to review. The City is also required to maintain an inventory of all the small construction projects.

Until recently, WGR has provided the City with comprehensive storm water permit compliance support services, which are now mostly administered by Public Works staff. In September 2021, the City entered into Professional Services Agreement (PSA) with WGR for \$61,900 to provide Inspection Services related SD 22-32 project.

Additional services are needed to continue updating and maintaining its Post Construction Storm Water Management Program and Inspection Services. The cost of Amendment No. 1 is for an amount not to exceed \$105,124.

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SEPTEMBER 12, 2022 CITY COUNCIL REGULAR MEETING
APPROVE AMENDMENT NO. 1 WITH WGR SOUTHWEST, INC. FOR PHASE II
RCP SD 22-32 AND RELATED BUDGET AMENDMENT

REASON FOR RECOMMENDATION:

Approval of Amendment No. 1 with WGR will allow the City to comply with the NPDES Phase II Small MS4 General Permit for small construction project inspections and tasks related to administering the Post Construction Storm Water Management Program.

FISCAL IMPACT:

Funds approved in the City's budget for the Storm Water Discharge Permit Compliance for Fiscal Year 2022-2023 are insufficient to authorize the amendment with WGR and will need to be supplemented by allocating storm water inspection fees to the Storm Water Discharge Permit Regulatory Compliance Program SD 22-32 through the following budget amendment:

Increase Appropriations		
2020-50-03-420-01-00	SD 22-32	\$95,316
Increase Revenue		
2020-50-03-341-02-03	SD 22-32	\$95,316

ATTACHMENTS:

- A. Resolution Approving Amendment No. 1 with WGR Southwest, Inc. to Provide Support Services for the National Pollutant Discharge Elimination System (NPDES) Phase II Small Municipal Separate Storm Sewer Systems (MS4) General Permit Regulatory Compliance Program (RCP) SD 22-32 and Related Budget Amendment

- B. Amendment No. 1 with WGR Southwest, Inc. to provide Support Services for the National Pollutant Discharge Elimination System (NPDES) Phase II Small Municipal Separate Storm Sewer Systems (MS4) General Permit Regulatory Compliance Program (RCP) SD 22-32 and Related Budget Amendment

CITY MANAGER'S REPORT
SEPTEMBER 12, 2022 CITY COUNCIL REGULAR MEETING
APPROVE AMENDMENT NO. 1 WITH WGR SOUTHWEST, INC. FOR NPDES
PHASE 2 SMALL MS4 PERMIT SUPPORT SERVICES, RCP SD 22-32

APPROVALS:



Greg Gibson
Senior Civil Engineer

08/22/2022

Date



Brad Taylor
City Engineer

8/25/2022

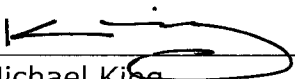
Date



Cari James
Finance Director

8/25/2022


Date



Michael King
Assistant City Manager

8.29.2022


Date



Salvador Navarrete
City Attorney

8-24-2022

Date



Stephen J. Salvatore
City Manager

9.6.22

Date

RESOLUTION NO. 22-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING AMENDMENT NO. 1 WITH WGR SOUTHWEST, INC. TO PROVIDE SUPPORT SERVICES FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) GENERAL PERMIT REGULATORY COMPLIANCE PROGRAM (RCP) SD 22-32 AND RELATED BUDGET AMENDMENT

WHEREAS, the current NPDES Phase II Small MS4 General Permit was adopted by the State Water Resources Control Board on February 5, 2013 and became effective on July 1, 2013; and

WHEREAS, the permit requirements include inspection of small construction projects, (defined as projects with less than one acre of soil disturbance) that are also required to submit project specific Erosion and Sediment Control Plans (ESCPs) for the City to review; and

WHEREAS, the City is also required to maintain an inventory of all the small construction projects and to develop and maintain a Post Construction Storm Water Management Program under the permit requirements; and

WHEREAS, until recently, WGR has provided the City with comprehensive storm water permit compliance support services, which today are mostly administered by Public Works staff with the exception of small construction project inspections; and

WHEREAS, in September 2021, an agreement with WGR was approved to provide small construction project inspection support services from September 2021 through June 30, 2022; and

WHEREAS, a letter agreement was issued to extend the agreement for several months using the remaining budget, however, additional funding is needed to extend the services through June 2023; and

WHEREAS, the City has also requested WGR to help with additional tasks related to updating and maintaining its Post Construction Storm Water Management Program; and

WHEREAS, the cost for Contract Amendment No. 1 for WGR to provide these services is not to exceed \$105,124 based on the current volume of small construction projects and the current post-construction storm water management program; and

WHEREAS, approval of the agreement with WGR will allow the City to remain in compliance with the NPDES Phase II Small MS4 General Permit for small construction project inspections and tasks related to administering the Post Construction Storm Water Management Program; and

WHEREAS, funds approved in the City’s budget for storm water discharge permit compliance for Fiscal Year 2022-2023 are insufficient to authorize a contract amendment with WGR, and will need to be supplemented by allocating storm water inspection fees to the Storm Water Discharge Permit Regulatory Compliance Program SD 22-32 through a budget amendment.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop does hereby approve Contract Amendment No. 1 to the professional services agreement with WGR to provide small construction inspection and Post-Construction Storm Water Program administration support services for the Phase II Small MS4 General Permit for a cost not to exceed \$105,124 to be paid on an hourly basis from funds collected by the City for storm water inspection fees and allocated to the City’s Storm Water Discharge Regulatory Compliance Program SD 22-32 in accordance with the following budget amendment:

Increase Appropriations		
2020-50-03-420-01-00	SD 22-32	\$95,316
Increase Revenue		
2020-50-03-341-02-03	SD 22-32	\$95,316

The foregoing resolution was passed and adopted this 12th day of September 2022, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:


ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

Teresa Vargas, City Clerk

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney

AMENDMENT NO. 1

TO THE AGREEMENT TO PROVIDE PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF LATHROP AND WGR SOUTHWEST, INC.

PROVIDE SUPPORT SERVICES FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) GENERAL PERMIT REGULATORY COMPLIANCE PROGRAM (RCP) SD 22-32

This Amendment (hereinafter "AMENDMENT NO. 1") to the agreement between WGR Southwest, Inc. and the City of Lathrop dated September 30, 2021 (hereinafter "AGREEMENT") dated for convenience this September 12, 2022, is by and between WGR Southwest, Inc. ("CONSULTANT") and the CITY OF LATHROP, a California municipal corporation ("CITY");

RECITALS:

WHEREAS, CONSULTANT is specially trained, experience, and competent to perform Professional Consulting Services, which are required by this agreement; and

WHEREAS, on September 30, 2021 CONSULTANT and CITY entered into an AGREEMENT to provide NPDES Small Construction Project Inspection support; and

WHEREAS, CONSULTANT has provided the CITY with a scope of work attached as Exhibit "A" for AMENDMENT NO. 1 to continue NPDES Small Construction Project Inspection support services, in amount not to exceed \$105,124 through June 30, 2023, and.

NOW, THEREFORE, CONSULTANT and CITY agree as follows;

AMENDMENT NO. 1 to AGREEMENT

- (1) **Scope of Service.** Section (1) of the AGREEMENT for Consulting is hereby amended to add the following:

CONSULTANT agrees to perform additional services in conformance with the scope of work and fee, submitted by the CONSULTANT, attached hereto as Exhibit "A" and incorporated fully herein by this reference. The aforementioned work is in addition to the scope of work in the original AGREEMENT dated September 30, 2021 for Professional Consulting Services. The scope of work is hereby amended by adding Exhibit "A" attached hereto. CONSULTANT agrees to diligently perform these services in accordance with the upmost standards of its profession and the CITY'S satisfaction.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH WGR SOUTHWEST, INC TO PROVIDE SUPPORT SERVICES FOR THE NPDES PHASE II SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) SD 22-32

(2) Compensation. Section (2) of the AGREEMENT for Consulting Services is hereby amended as follows:

CITY hereby agrees to pay CONSULTANT an additional sum not to exceed \$105,124 for the Professional Consulting Services set forth in Exhibit “A” of this AMENDMENT NO. 1. CONSULTANT shall be paid within thirty (30) days of receipt of progress billings containing all information contained in Paragraph 5 of the original AGREEMENT. In no event shall CONSULTANT be entitled to compensation for work not included in the original scope of work, and this AMENDMENT NO. 1 unless a written change order or authorization describing the extra work and payment terms has been executed by CITY’S Authorized Representative prior to the commencement of the work.

(3) Effective Date and Term. Section (3) of the AGREEMENT for Consulting is hereby amended as follows:

The effective date of AMENDMENT NO. 1 is September 12, 2022 and it shall terminate no later than June 30, 2023. All other terms of the original AGREEMENT shall remain in full force and effect.

(4) Applicability To Original Consultant AGREEMENT

All terms and conditions set forth in the AGREEMENT dated September 30, 2021 are still in effect and are incorporated by reference herein and said AGREEMENT is incorporated by reference herein.

Signatures

The individuals executing this AMENDMENT NO. 1 represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this AMENDMENT NO. 1 on behalf of the respective legal entities of the CONSULTANT and the CITY. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH WGR
SOUTHWEST, INC TO PROVIDE SUPPORT SERVICES FOR THE NPDES PHASE II
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4) SD 22-32

Approved as to Form:

City of Lathrop
City Attorney



Salvador Navarrete

8-24-2022

Date

Recommended for Approval:

City of Lathrop
Assistant City Manager

Michael King

Date

Approved
~~Accepted By~~

City Manager
City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330

Stephen J. Salvatore

Date

CONSULTANT:

WGR Southwest, Inc.
11780 N Hwy 99
Lodi, CA 95240

Signature

Date

(Print Name and Title)

August 9, 2022

Mr. Gregory W. Gibson
City of Lathrop
390 Towne Center Dr.
Lathrop, CA 95330

RE: E.10.c Small Construction Project Inspection Support and E.12.i & E.12.h Operation & Maintenance Self Certification Letter and Post-Construction Inventory Support

Dear Mr. Gibson,

WGR Southwest, Inc. (WGR) is pleased to bring you this proposal to provide support for the City's Phase II MS4 Storm Water Program tasks. Specifically, the City has requested support for inspecting small Erosion and Sediment Control Plan (ESCP) projects for Building Permits, provide additional support as needed to coordinate inspections, update construction inventories, and assist in non-compliance matters, to assist in drafting annual O&M Self Certification letters, and update and maintain the Post-Construction BMP Inventory.

E.10.c Small Construction Project Inspection Support:

WGR proposes a unit-cost of \$155/inspection to perform pre-construction, post-construction, and follow-up inspections required by the Phase II MS4 Permit at small (<1 acre of soil disturbance) construction projects. The number of inspections (presented in Attachment A) are *estimated* based on the level of supported indicated by the City and current volume of active small construction projects. WGR has reviewed the number of inspections performed from January 2022 to June 2022 as a basis for the estimate.

Under the "Additional Support" category, we estimate a maximum of two hours a week at an hourly staff rate of \$121/hour to provide support for updating the construction inventory and coordinating inspections with applicants and staff as needed.

E.12.i & E.12.h Support (Annual Self Certification Letters and Post Construction Inventory):

The City has requested support in updating and maintaining the Post Construction Standards Plan (PSP) inventory with the current owner Operations and Maintenance (O&M) agreements. WGR will need to meet with staff to review development projects within the past few years, ensure copies of all maintenance agreements are available, ensure information on agreements is relevant, assist in updating agreement information if necessary, and update City files and spreadsheets with the current, relevant information.

Additionally, the City has requested assistance in drafting the 2022-2023 Annual Self-Certification Letters and maintaining the self-certification database spreadsheet once responses have been received. A second and third letter may need to be issued for certain owners if no response is received.

WGR proposes a T&M-based cost approach for the E.12.i & h program support. WGR estimates approximately 48 hours at the Compliance Specialist rate of \$121/hour and 40 hours at the Compliance Technician Rate of \$100/hour (a not-to-exceed cost of **\$9,808.00**).

Please see Attachment A for the cost estimate.

We thank you for this additional opportunity to serve you. If I can answer any questions concerning our proposal or the permit requirements, please do not hesitate to call me or to schedule a meeting to discuss the proposed scope of work.

Respectfully,
WGR Southwest, Inc.



Jonah Sonner, QSP, CISEC
Municipal Programs Manager &
Compliance Specialist
(209) 334-5363, ext. 119
jsonner@wgr-sw.com

ATTACHMENT A
WGR Southwest, Inc.
Estimated Annual Costs for City of Lathrop E.10 Construction Program Support

E.10 Construction Program Support (til June 2023):

Inspection Type and Rate:	2	Inspections (Pre & Post)	for	150	Sites	@	\$155	Per inspection	\$46,500	Sub-totals
Small ESCP Construction Inspections - for projects with a Building Permit (Only require a Pre-Construction and Post Construction inspection. If a follow-up inspection is required, it will be considered a part of the figure below)	20	Follow-up inspections	for	12	Months	@	\$155	Per inspection	\$37,200	
Follow-up MS4 Construction Inspections (as required due to corrective actions, this is a monthly estimate and may increase or decrease during each month depending on how many failed inspections occur during a month)	8	Hours per month	for	12	Months	@	\$121	Hour	\$11,616	
Additional Support for Meetings, Scheduling Inspections, or Updating Construction Inventory										\$95,316

Post-Construction O&M Program Support (E.12.i & h):	40	Compliance Specialist hours	@	\$121	/hr				\$4,840	
Assisting the City in updating and maintaining Post Construction BMP Inventory (E.12 h)	8	Compliance Specialist hours	@	\$121	/hr				\$968	
Drafting and assisting in sending Annual O&M Self-Certification Letters (2023) Updating Self-Certification Inventory with responses. (E.12.i)	40	Compliance Technician hours	@	\$100	/hr				\$4,000	
										\$9,808

Total Estimated 2022-23 Cost: \$105,124

Costs reimbursed to the City by developer/fees Number of projects estimated