

**CITY MANAGER'S REPORT  
FEBRUARY 12, 2018 CITY COUNCIL REGULAR MEETING**

**ITEM:** **AGREEMENTS WITH WGR SOUTHWEST, INC. TO PROVIDE COMPLIANCE SUPPORT SERVICES FOR THE CITY'S STORM WATER DISCHARGE PERMIT SD 14-10 AND A RELATED BUDGET AMENDMENT**

**RECOMMENDATION:** **Adopt a Resolution Approving Agreements with WGR Southwest, Inc., for Permit Compliance and Construction Project Plan Review and Inspection Support Services for the Phase II MS4 Storm Water Discharge Permit SD 14-10 and a Related Budget Amendment**

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**SUMMARY:**

Approval of agreements with WGR Southwest, Inc. (WGR) is requested to provide continued support services to manage and implement the City's Phase II MS4 storm water discharge permit compliance program (SD 14-10). Staff requests that City Council approve a professional services agreement with WGR to provide ongoing compliance support for the Phase II Small MS4 General Permit for a cost of \$59,468 to be paid from funds collected by the City from the six storm water maintenance districts. Staff also requests approval of an agreement with WGR to provide construction project plan review and inspection support services for storm water discharge permit compliance related to new development. The cost for the development review and inspection services under the agreement with WGR is \$40,300 and is collected from development plan check and inspection fees for storm water permit compliance.

**BACKGROUND:**

The current 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 has many components and the City is required to implement these components in stages over the five year implementation period of the Permit.

WGR has provided storm water permit compliance support to the City since May 31, 2007. The current agreement with WGR will terminate on April 3, 2018, and at the request of staff, WGR has provided a cost proposal not to exceed \$59,468 for continued management and implementation of the Phase II MS4 Permit compliance program through June 30, 2019. The proposal provided by WGR includes a scope of work and cost to extend the agreement commencing on June 30, 2019 for up to two additional one year periods not to exceed June 30, 2021.

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**SUPPORT FOR THE CITY'S STORM WATER DISCHARGE PERMIT**

These activities include:

- Providing education and outreach
- Developing a public involvement and participation strategy
- Developing and implementing illicit discharge detection and elimination procedures
- Developing a Construction Runoff Control Program
- Updating and maintaining Pollution Prevention and Good Housekeeping for City facilities
- Assisting with the Post-Construction Storm Water Management Program
- Assisting with the Regional Water Quality Monitoring Plan
- Provide storm water program management, assessment and reporting
- Preparation of an annual report

In addition, WGR has provided a proposal for plan review and inspection services for the storm water discharge permit compliance tasks related to new development. The cost for these services is estimated to be \$40,300 based on the current volume of construction projects.

**REASON FOR RECOMMENDATION:**

Approval of these two agreements with WGR will allow the City to remain in compliance with the Phase II Small MS4 General Permit.

**FISCAL IMPACT:**

Funds approved in the City's budget for storm water discharge permit compliance for the current and 2018/2019 FY are insufficient to authorize these agreements and will need to be supplemented by allocating storm water maintenance funds and plan check/inspection fees to the Storm Water Discharge Permit Regulatory Compliance Program SD 14-10 through the following budget amendment;

Staff Requests the following budget amendment:

Increase Appropriations	
2500-50-21-420-01-00	\$ 9,911.00
2510-50-20-420-01-00	\$ 9,911.00
2560-50-61-420-01-00	\$ 9,912.00
2570-50-63-420-01-00	\$ 9,912.00
2640-50-68-420-01-00	\$ 9,911.00
2390-50-66-420-01-00	\$ 9,911.00

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Increase Revenue	
1010-50-01-341-01-01	\$ 6,045.00
1010-50-01-341-02-02	\$ 40,300.00
Increase Appropriations	
1010-50-04-420-01-00	\$ 40,300.00

**ATTACHMENTS:**

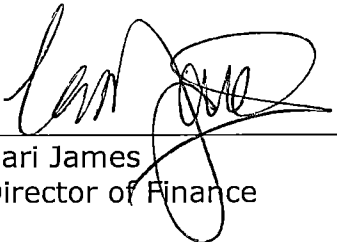
- A. Resolution Approving Agreements with WGR Southwest, Inc., for Permit Compliance and Construction Project Plan Review and Inspection Support Services for the Phase II MS4 Storm Water Discharge Permit
- B. Agreement with WGR Southwest, Inc. to Provide Compliance Support for the City's Phase II MS4 Storm Water Discharge Permit
- C. Agreement with WGR Southwest, Inc. to Provide Construction Project Review and Inspection Support Services for the City's Phase II MS4 Storm Water Discharge Permit

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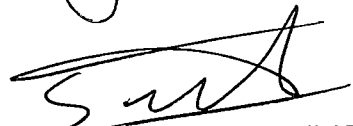
**APPROVALS:**

  
\_\_\_\_\_  
Greg Gibson  
Senior Civil Engineer

02/06/18  
Date

  
\_\_\_\_\_  
Cari James  
Director of Finance

2/6/18  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

2-6-18  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

2.6.18  
Date

**RESOLUTION NO. 18-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP  
APPROVING AGREEMENTS WITH WGR SOUTHWEST, INC. FOR PERMIT  
COMPLIANCE AND CONSTRUCTION PROJECT PLAN REVIEW AND  
INSPECTION SUPPORT SERVICES FOR THE PHASE II MS4 STORM WATER  
DISCHARGE PERMIT**

**WHEREAS**, the current Phase II Small MS4 General Permit for storm water discharge was adopted by the State Water Resources Control Board (SWRCB) on February 5, 2013 and became effective on July 1, 2013; and

**WHEREAS**, WGR Southwest Inc., (WGR) has provided storm water permit compliance support to the City since May 31, 2007, and are uniquely familiar with the City's storm water programs and their implementation; and

**WHEREAS**, the current agreement with WGR will terminate on April 3, 2018, and at the request of staff, WGR has provided a proposal for continued management and implementation of the Phase II MS4 Permit compliance program through June 30, 2019 for a cost not to exceed \$59,468; and

**WHEREAS**, in addition, WGR has provided a proposal for plan review and inspection services for the storm water discharge permit compliance tasks related to new development for a cost not to exceed \$43,900 based on the current volume of construction projects; and

**WHEREAS**, funds approved in the City's budget for storm water discharge permit compliance for the current and 2018/2019 FY are insufficient to authorize these agreements and will need to be supplemented by allocating storm water maintenance funds and plan check/inspection fees to the Storm Water Discharge Permit Regulatory Compliance Program SD 14-10 through the following budget amendment;

Staff requests the following budget amendment:

Increase Appropriations	
2500-50-21-420-01-00	\$ 9,911.00
2510-50-20-420-01-00	\$ 9,911.00
2560-50-61-420-01-00	\$ 9,912.00
2570-50-63-420-01-00	\$ 9,912.00
2640-50-68-420-01-00	\$ 9,911.00
2390-50-66-420-01-00	\$ 9,911.00

Increase Revenue	
1010-50-01-341-01-01	\$ 6,045.00
1010-50-01-341-02-02	\$ 40,300.00

Increase Appropriations	
1010-50-04-420-01-00	\$ 40,300.00

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop does hereby approve a professional services agreement with WGR to provide ongoing compliance support for the Phase II Small MS4 General Permit for a cost of \$59,468 to be paid from funds collected by the City from the six storm water maintenance districts allocated to the City's Storm Water Discharge Regulatory Compliance Program SD 14-10 in accordance with the following budget amendment; and

**BE IT FURTHER RESOLVED**, approval of an agreement with WGR to provide construction project plan review and inspection support services for storm water discharge permit compliance related to new development. The cost for the development review and inspection services under the agreement with WGR is \$40,300 and is collected from development plan check and inspection fees for storm water permit compliance (SD 14-140) in accordance with the following budget amendment.

The foregoing resolution was passed and adopted this 12th day of February 2018, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

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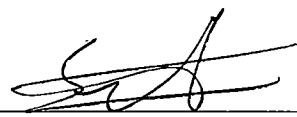
Sonny Dhaliwal, Mayor

**ATTEST:**

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Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**



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Salvador Navarrete, City Attorney

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN THE CITY OF LATHROP AND WGR SOUTHWEST, INC.  
TO PROVIDE COMPLIANCE SUPPORT FOR THE CITY'S STORM  
WATER DISCHARGE PERMIT**

**THIS AGREEMENT**, dated for convenience this 4th day of April, 2018, is by and between WGR Southwest, Inc. ("CONSULTANT") and the CITY OF LATHROP, a California municipal corporation ("CITY");

**RECITALS:**

**WHEREAS**, CITY Staff requires specialized consulting services to maintain compliance with its Storm Water Discharge Permit; and

**WHEREAS**, CONSULTANT is specially trained, experienced, and competent to perform Storm Water Discharge Permit Compliance Support Services, which are required by this agreement; and

**WHEREAS**, CITY selected the CONSULTANT pursuant to said qualifications; and

**WHEREAS**, CONSULTANT is willing to render such Storm Water Discharge Permit Compliance Services as hereinafter defined, on the following terms and conditions.

**NOW, THEREFORE**, CONSULTANT and the CITY agree as follows:

**AGREEMENT**

**(1) Scope of Service.**

CONSULTANT agrees to perform Compliance Support Services in accordance with the scope of work and fee proposal provided by CONSULTANT, attached hereto as Exhibit "A" and incorporated herein by reference. CONSULTANT agrees to diligently perform these services in accordance with the upmost standards of its profession and to CITY's satisfaction.

**(2) Compensation.**

CITY hereby agrees to pay CONSULTANT a sum not to exceed **\$59,468** for the Services set forth in Exhibit "A". CONSULTANT shall be paid any uncontested sum due and payable within thirty (30) days of receipt of billings containing all information pursuant to Paragraph 5 below. Compensation for any task must be equal to or less than the percentage of task complete. In no event shall CONSULTANT be entitled to compensation for work not included in Exhibit "A", 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.



CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

**(3) Effective Date and Term.**

The effective date of this Agreement is April 4, 2018, and it shall terminate no later than June 30, 2019. City may renew the Agreement commencing on July 1, 2019 for up to two additional one year periods not to exceed June 30, 2021. City shall give CONSULTANT thirty (30) days written notice of City's intention to renew this agreement. If agreement is renewed, agreement amount shall be adjusted annually on July 1 as follows:

Contract Period	Annual Total
07/01/19 – 06/30/20	\$49,902
07/01/20 – 06/30/21	\$54,863

**(4) Independent Contractor Status**

It is expressly understood and agreed by both parties that CONSULTANT, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of the CITY. As an independent contractor, CONSULTANT is responsible for controlling the means and methods to complete the scope of work described in Exhibit "A" to City's satisfaction. CONSULTANT expressly warrants not to represent, at any time or in any manner, that CONSULTANT is an employee of the CITY.

**(5) Billings**

CONSULTANT's bills shall include a list of all tasks, a total amount due, the amounts previously billed, and the net amount due on the invoice. Except as specifically authorized by CITY, CONSULTANT shall not bill CITY for duplicate services performed by more than one person. In no event shall CONSULTANT submit any billing for an amount in excess of the rates or the maximum amount of compensation provided in section (2) for either task or for the entire Agreement, unless modified by a properly executed change order.

**(6) Advice and Status Reporting**

CONSULTANT shall provide the CITY with timely reports, orally or in writing, of all significant developments arising during performance of its services hereunder, and shall furnish to CITY such information as is necessary to enable CITY to monitor the performance of this Agreement.

**(7) Assignment of Personnel**

CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. If CITY asks CONSULTANT to remove a person assigned to the work called for under this Agreement, CONSULTANT agrees to do so immediately, without requiring the City to process a reason or explanation

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
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for its request.

The services shall be performed by, or under the direct supervision, of CONSULTANT's Authorized Representative: John M. Teravskis. CONSULTANT shall not replace its Authorized Representative without the prior written approval by the CITY.

**(8) Assignment and Subcontracting**

It is recognized by the parties hereto that a substantial inducement to CITY for entering into this Agreement was, and is, the professional reputation and competence of CONSULTANT. Neither this Agreement nor any interest therein may be assigned by CONSULTANT without the prior written approval of CITY'S authorized representative. CONSULTANT shall not subcontract any portion of the performance contemplated and provided for herein, other than the subcontractors noted in the proposal, without prior written approval of the CITY'S authorized representative.

**(9) Insurance**

On or before beginning any of the services or work called for by any term of this Agreement, CONSULTANT, at its own cost and expense, shall carry, maintain for the duration of the Agreement, and provide proof thereof that is acceptable to the CITY the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the CITY. CONSULTANT shall not allow any subcontractor to commence work on any subcontract until all insurance required of the CONSULTANT has also been obtained for the subcontractor. Verification of this insurance shall be submitted and made part of this Agreement prior to execution.

(a) Workers' Compensation. CONSULTANT shall, at CONSULTANT's sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by CONSULTANT. Said Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars. In the alternative, CONSULTANT may rely on a self-insurance program to meet these requirements provided that the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the CONSULTANT, if a program of self-insurance is provided, shall waive all rights of subrogation against the CITY for loss arising from work performed under this Agreement.

(b) Commercial General and Automobile Liability Insurance.

**CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.**

CONSULTANT, at CONSULTANT's own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this Agreement in an amount not less than one million dollars per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement.

If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) and Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- (i) CITY, its officers, employees, agents, and volunteers are to be covered as insured with respect to each of the following: liability arising out of activities performed by or on behalf of CONSULTANT, including the insider's general supervision of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents, or volunteers.
- (ii) The insurance shall cover on an occurrence or an accident basis, and not on a claim made basis.
- (iii) An endorsement must state that coverage is primary insurance and that no other insurance affected by the CITY will be called upon to contribute to a loss under the coverage.
- (iv) Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

- (v) Insurance is to be placed with California-admitted insurers with a Best's rating of no less than A: VII.
  - (vi) Notice of cancellation or non-renewal must be received by CITY at least thirty days prior to such change.
- (c) Professional Liability. CONSULTANT, at CONSULTANT's own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than One Million Dollars (\$1,000,000) per claim made and per policy aggregate covering the licensed professionals' errors and omissions, as follows:
- (i) Any deductible or self-insured retention shall not exceed \$150,000 per claim.
  - (ii) Notice of cancellation, material change, or non-renewal must be received by the CITY at least thirty days prior to such change shall be included in the coverage or added as an endorsement to the policy.
  - (iii) The policy must contain a cross liability or severability of interest clause.
  - (iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:
    1. The retroactive date of the policy must be shown and must be before the date of the Agreement.
    2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
    3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The CITY shall have the right to exercise at the CONSULTANT'S cost, any extended reporting provisions of the policy should the CONSULTANT

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WGR SOUTHWEST, INC.

cancel or not renew the coverage.

4. A copy of the claim reporting requirements must be submitted to the CITY prior to the commencement of any work under this Agreement.

- (d) Deductibles and Self-Insured Retentions. CONSULTANT shall disclose the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, upon express written authorization of the CITY's authorized representative, CONSULTANT may increase such deductibles or self-insured retentions with respect to CITY, its officers, employees, agents, and volunteers. The CITY's authorized representative may condition approval of an increase in deductible or self-insured retention levels upon a requirement that CONSULTANT procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- (e) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), or (c) of this section of the Agreement is reduced, limited, or materially affected in any other manner, CONSULTANT shall provide written notice to CITY at CONSULTANT'S earliest possible opportunity and in no case later than five days after CONSULTANT is notified of the change in coverage.

- (f) In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

- (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- (ii) Order CONSULTANT to stop work under this Agreement or withhold any payment which becomes due to CONSULTANT hereunder, or both stop work and withhold any payment, until CONSULTANT demonstrates compliance with the requirements hereof;

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

(iii) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's breach.

**(10) Indemnification - CONSULTANT'S Responsibility**

As to the CONSULTANT's work hereunder, it is understood and agreed that (a) CONSULTANT has the professional skills necessary to perform the work, (b) CITY relies upon the professional skills of CONSULTANT to perform the work in a skillful and professional manner, and (c) CONSULTANT thus agrees to so perform.

Acceptance by CITY of the work performed under this Agreement does not operate as a release of said CONSULTANT from such professional responsibility for the work performed. It is further understood and agreed that CONSULTANT is apprised of the scope of the work to be performed under this Agreement and CONSULTANT agrees that said work can and shall be performed in a fully competent manner in accordance with the standard of care applicable to CONSULTANT's profession.

CONSULTANT shall indemnify, defend, and hold CITY, its officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused by the willful misconduct or negligent acts or omissions of CONSULTANT, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the negligence or willful misconduct of the CITY, its officers, employees, agents, or volunteers. It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

**(11) Licenses**

If a license of any kind, which term is intended to include evidence of registration, is required of CONSULTANT, its employees, agents, or subcontractors by federal or state law, CONSULTANT warrants that such license has been obtained, is valid and in good standing, and CONSULTANT shall keep it in effect at all times during the term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

**(12) Business Licenses**

CONSULTANT shall obtain and maintain a CITY of Lathrop Business License until all Agreement services are rendered and accepted by the CITY.

**(13) Termination**

Either CITY or CONSULTANT may cancel this Agreement upon 30 days written notification to the other party. In the event of termination, the CONSULTANT shall be entitled to compensation for services performed to the effective date of termination; provided, however, that the CITY may condition payment of such compensation upon CONSULTANT's delivery to the CITY of any or all documents, photographs, computer software, video and audio tapes, and other materials provided to CONSULTANT or prepared by or for CONSULTANT or the CITY in connection with this Agreement.

**(14) Funding**

CONSULTANT agrees and understands that renewal of this agreement in subsequent years is contingent upon action by the City Council consistent with the appropriations limits of Article XIII (B) of the California Constitution and that the Council may determine not to fund this agreement in subsequent years.

**(15) Notices**

All contracts, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) Days by delivery of a hard copy of the material sent by facsimile transmission. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City: City of Lathrop  
City Clerk  
390 Towne Centre  
Lathrop, CA 95330

Copy to: City of Lathrop  
Department of Public Works  
390 Towne Centre

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

Lathrop, CA 95330

MAIN: (209) 941-7430

FAX: (209) 941-7449

To Consultant: **WGR Southwest, Inc.**  
**11780 N Hwy 99**  
**Lodi, CA 95240**

Phone: **(209) 334-5363**

Fax: **(209) 334-5374**

**(16) Miscellaneous**

- (a) Consent. Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (b) Controlling Law. The parties agree that this Agreement shall be governed and construed by and in accordance with the Laws of the State of California.
- (c) Definitions. The definitions and terms are as defined in these specifications.
- (d) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Agreement, which directly results from an Act of God or an act of a superior governmental authority.
- (e) Headings. The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.
- (f) Incorporation of Documents. All documents constituting the Agreement documents described in Section 1 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in the Agreement and shall be deemed to be part of this Agreement.
- (g) Integration. This Agreement and any amendments hereto between the parties constitute the entire Agreement between the parties concerning the Project and Work, and there are no other prior oral or written agreements between the parties that are not incorporated in this Agreement.
- (h) Modification of Agreement. This Agreement shall not be modified



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WGR SOUTHWEST, INC.

or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.

- (i) **Provision.** Any agreement, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Agreement shall define or otherwise control, establish or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (j) **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the provisions of this Agreement not so affected shall remain in full force and effect.
- (k) **Status of CONSULTANT.** In the exercise of rights and obligations under this Agreement, CONSULTANT acts as an independent contractor and not as an agent or employee of CITY. CONSULTANT shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of CITY, and CONSULTANT expressly waives any and all claims to such right and benefits.
- (l) **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.
- (m) **Time of the Essence.** Time is of the essence of this Agreement and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday or any Day observed as a legal holiday by CITY, the time for performance shall be extended to the following Business Day.
- (n) **Venue.** In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
- (o) **Recovery of Costs.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

**(17) Notice to Proceed**

Prior to commencing work under this agreement, CONSULTANT shall receive a

**CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.**

written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONSULTANT for any services prior to issuance of the Notice to Proceed.

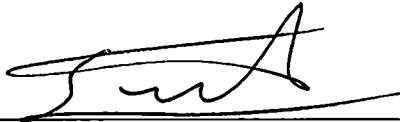
**(18) Signatures**

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement 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  
WGR SOUTHWEST, INC.**

Approved as to Form:

City of Lathrop  
City Attorney



2-6-18

Salvador Navarrete

Date

Recommended for Approval:

City of Lathrop

\_\_\_\_\_  
Tim McCoy  
Director of Public Works

Date

Accepted By:  
Reso No:

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

\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

Date

CONSULTANT:

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

Fed ID # 33-0717621

Business License # 13-2103

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name and Title)



January 29, 2018

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

RE: Proposal for the Outsourced Compliance Staff Support.

Dear Mr. Gibson,

WGR Southwest, Inc. (WGR) is pleased to provide you with this proposal to outsource the City's staff level position who will be responsible for the management and implementation of the Phase II MS4 Permit compliance program. WGR believes it makes financial and organizational sense for the City to consider outsourcing this position as the City does for other staff positions. We believe that the advantages of outsourcing include the following:

- We propose using a team of experienced professionals rather than a single employee. WGR would actually use various members of its staff to fulfill the outsourced staff position. Even as an environmental consultant, we have different individuals with different strengths. We would select the appropriate person for each task. However, to the extent possible, we would attempt to use the same person (a Compliance Technician) in reoccurring roles in order to maintain consistency and to build relationships with their City of Lathrop contacts.
- Another advantage is that you will only need to use WGR when it is necessary. Once the storm water compliance program has been developed and matures, it may not be necessary to keep the same level of staff resource to manage the program. As a consultant, we can be cut back on hours much easier than reducing a full time City employee to part time.
- Our company carries professional liability insurance. Although we hope it never happens and will work hard to avoid it, if one of our staff makes a mistake that results in non-compliance and fines are levied against the City, or if our storm water construction inspector has a vehicle accident at a construction site, we have insurance policies to help protect the City from liability.
- Other advantages include that our staff are well connected with other municipalities and can leverage collaborative or other cost saving and time saving opportunities. Our firm has a good reputation and working relationship with the Water Board which helps us be able to know who to ask about Permit questions.

This proposal is organized into the following sections:

- Section A: Internal Storm Water Coordinator*
- Section B: Estimated Budget Proposal*

**SECTION A: Internal Storm Water Coordinator**

WGR is proposing to provide a Compliance Technician (who is a junior level staff person working at the lower hourly rate requested by the City) to continue to fill this internal Storm Water Coordinator staff position. WGR would be responsible to provide all of the Phase II MS4 Permit knowledge and direction to this staff resource and to prioritize his assigned tasks and daily and weekly workload. This will be accomplished through weekly oversight by a WGR Senior Compliance Specialist. The City would be responsible to provide the WGR Compliance Technician with City information, maps, contacts, internal files and documents, and other resources to necessary to enable the staff person to effectively communicate with other City staff and access City facilities and files pertinent to the execution of the Permit-required activities. WGR would provide a laptop and vehicle for the assigned WGR staff person to use for City-related business. The City has suggested that we provide a cost estimate to fill this position for a one-year period through June 2019. WGR has provided options for extending the contract an additional two years.

WGR can provide support for the following general support tasks on an as-needed basis. The number of hours are *estimated* based on the level of supported needed by the City during the first two years of the permit term. ***The actual degree of involvement from City staff may increase or decrease the actual WGR expense in this area.***

The following are the hourly rates for the above-described personnel. These rates are valid through July 1, 2019.

Senior Compliance Specialist / QSD	\$145/hour
Compliance Specialist / QSP	\$105/hour
Compliance Technician	\$72/hour
Project related mileage	\$0.56/mile

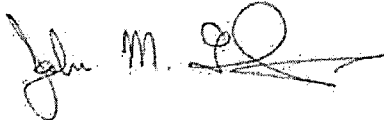
<b>E.16</b>	<b>ANNUAL REPORTING PROGRAM (Due October 15<sup>th</sup> annually)</b>	<b>\$2,900</b>
<b>E.16.a</b>	Senior Compliance specialist 20 hours (Assumes assistance from City staff and departments in the compilation and provision of supporting data and information.)	

**SECTION B: Estimated Budget Proposal**

Please find included with this proposal **Attachment A** which provides a line item cost estimate to provide a Compliance Technician, weekly oversight by a Senior Compliance Specialist and additional Compliance Support for likely future needs through the end of June 2019 with two optional contract extensions.

We thank you for this additional opportunity to serve you. We believe that outsourcing this position will save the City costs, relieve some of the storm water-related workload of other City staff personnel, and improve the quality of the storm water compliance program. If I can answer any questions concerning our proposal or the MS4 permit requirements, please do not hesitate to call me or to schedule a meeting to discuss the proposed scope of work.

Respectfully submitted,  
**WGR Southwest, Inc.**

A handwritten signature in black ink, appearing to read "John M. Teravskis", with a stylized flourish at the end.

John M. Teravskis, CPESC, QSD/QSP, QISP, ToR  
Senior Compliance Specialist and  
Operations Manager for Northern California

Estimated Budget for Phase II MS4 Program Management

January 29, 2018

	Rate	April 4, 2018 - June 30, 2019		July 1, 2019 - June 30, 2020		July 1, 2020 - June 30, 2021	
		Quantity for the 15-month period	Sub-total	Quantity for the 1st 12-month extension period	Sub-total	Quantity for the 2nd 12-month extension period	Sub-total
Senior Compliance Specialist (Oversight)	\$145 /hour	114	\$16,530	52	\$7,540	52	\$8,294
Compliance Technician	\$72 /hour	552	\$39,744	544	\$39,168	544	\$43,085
Project-related mileage (estimate)	\$0.56 /mile	525	\$294	525	\$294	525	\$294
Annual Report SMARTS	\$145 /hour	20	\$2,900	20	\$2,900	20	\$3,190
			<b>\$59,468</b>		<b>\$49,902</b>	10% increase on labor rates	<b>\$54,863</b>

Notes:

- 1) WGR will not charge labor or mileage for commuting between Lodi and Lathrop for normal scheduled business hours. Commuting for emergency response after hours will be charged.
  - 2) Mileage is only charged for WGR's vehicle when it is used to perform project-related activities.
  - 3) WGR will equip the Compliance Technician with a laptop computer. The City will provide an office space and other logistics related to the project-related activities.
  - 4) Initial year cost estimate is based on a Compliance Technician working two 8-hour workdays over 35 weeks\* and a Senior Compliance Specialist performing oversight at 2 hours per week for the 57 weeks.
  - 5) Optional extension year cost estimates are based on a Compliance Technician working two 8-hour workdays over 34 weeks\* and a Senior Compliance Specialist performing oversight at 1 hour per week for the 52 weeks.
  - 6) As and when acceptable and approved by the City, WGR may exchange a more senior level person for the Compliance Technician at a higher rate but working less hours for a given period.
- \* It is assumed that the Compliance Technician will perform monthly construction site compliance inspections (estimated 24 hours a month) as part of their duties under another contracted agreement.

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN THE CITY OF LATHROP AND WGR SOUTHWEST, INC.  
TO PROVIDE STORM WATER POLLUTION PREVENTION PLAN,  
EROSION AND SEDIMENT CONTROL PLAN, AND TO POST  
CONSTRUCTION SUBMITTAL REVIEWS RELATED TO STORM  
WATER PERMIT COMPLIANCE**

**THIS AGREEMENT**, dated for convenience this 12th day of February 2018, is by and between WGR Southwest, Inc. ("CONSULTANT") and the CITY OF LATHROP, a California municipal corporation ("CITY");

**RECITALS:**

**WHEREAS**, CITY Staff requires specialized consulting services to provide storm water pollution prevention plan (SWPPP), erosion and sediment control plan (ESCP) and post construction submittal reviews related to storm water discharge permit compliance; and

**WHEREAS**, CONSULTANT is specially trained, experienced, and competent to perform such SWPPP, ESCP and post construction submittal review, which are required by this agreement; and

**WHEREAS**, CITY selected the CONSULTANT pursuant to said qualifications; and

**WHEREAS**, CONSULTANT is willing to perform SWPP and ESCP related to post construction submittal review related to storm water discharge permit compliance, which are required by this agreement as hereinafter defined, on the following terms and conditions.

**NOW, THEREFORE**, CONSULTANT and the CITY agree as follows:

**AGREEMENT**

**(1) Scope of Service.**

CONSULTANT agrees to perform SWPPP and ESCP related to post construction submittal reviews in accordance with the scope of work and fee proposal provided by CONSULTANT, attached hereto as Exhibit "A" and incorporated herein by reference. CONSULTANT agrees to diligently perform these services in accordance with the upmost standards of its profession and to CITY's satisfaction.

**(2) Compensation.**

CITY hereby agrees to pay CONSULTANT on a time and expense reimbursement not to exceed up to a sum not to exceed **\$40,300** for the Services set forth in Exhibit "A".



CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

CONSULTANT shall be paid any uncontested sum due and payable within thirty (30) days of receipt of billings containing all information pursuant to Paragraph 5 below. Compensation for any task must be equal to or less than the percentage of task complete.

In no event shall CONSULTANT be entitled to compensation for work not included in Exhibit "A", 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.**

The effective date of this Agreement is February 12, 2018, and it shall terminate no later than June 30, 2019.

**(4) Independent Contractor Status**

It is expressly understood and agreed by both parties that CONSULTANT, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of the CITY. As an independent contractor, CONSULTANT is responsible for controlling the means and methods to complete the scope of work described in Exhibit "A" to City's satisfaction. CONSULTANT expressly warrants not to represent, at any time or in any manner, that CONSULTANT is an employee of the CITY.

**(5) Billings**

CONSULTANT's bills shall include a list of all tasks, a total amount due, the amounts previously billed, and the net amount due on the invoice. Except as specifically authorized by CITY, CONSULTANT shall not bill CITY for duplicate services performed by more than one person. In no event shall CONSULTANT submit any billing for an amount in excess of the rates or the maximum amount of compensation provided in section (2) for either task or for the entire Agreement, unless modified by a properly executed change order.

**(6) Advice and Status Reporting**

CONSULTANT shall provide the CITY with timely reports, orally or in writing, of all significant developments arising during performance of its services hereunder, and shall furnish to CITY such information as is necessary to enable CITY to monitor the performance of this Agreement.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

**(7) Assignment of Personnel**

CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. If CITY asks CONSULTANT to remove a person assigned to the work called for under this Agreement, CONSULTANT agrees to do so immediately, without requiring the City to process a reason or explanation for its request.

The services shall be performed by, or under the direct supervision, of CONSULTANT's Authorized Representative: John M. Teravskis. CONSULTANT shall not replace its Authorized Representative without the prior written approval by the CITY.

**(8) Assignment and Subcontracting**

It is recognized by the parties hereto that a substantial inducement to CITY for entering into this Agreement was, and is, the professional reputation and competence of CONSULTANT. Neither this Agreement nor any interest therein may be assigned by CONSULTANT without the prior written approval of CITY'S authorized representative. CONSULTANT shall not subcontract any portion of the performance contemplated and provided for herein, other than the subcontractors noted in the proposal, without prior written approval of the CITY'S authorized representative.

**(9) Insurance**

On or before beginning any of the services or work called for by any term of this Agreement, CONSULTANT, at its own cost and expense, shall carry, maintain for the duration of the Agreement, and provide proof thereof that is acceptable to the CITY the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the CITY. CONSULTANT shall not allow any subcontractor to commence work on any subcontract until all insurance required of the CONSULTANT has also been obtained for the subcontractor. Verification of this insurance shall be submitted and made part of this Agreement prior to execution.

- (a) Workers' Compensation. CONSULTANT shall, at CONSULTANT'S sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by CONSULTANT. Said Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars. In the alternative, CONSULTANT may rely on a self-insurance program to meet these requirements provided that the program of self-insurance complies fully with the provisions of the California Labor Code.

**CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.**

The insurer, if insurance is provided, or the CONSULTANT, if a program of self-insurance is provided, shall waive all rights of subrogation against the CITY for loss arising from work performed under this Agreement.

- (b) Commercial General and Automobile Liability Insurance. CONSULTANT, at CONSULTANT's own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this Agreement in an amount not less than one million dollars per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement.

If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) and Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- (i) CITY, its officers, employees, agents, and volunteers are to be covered as insured with respect to each of the following: liability arising out of activities performed by or on behalf of CONSULTANT, including the insider's general supervision of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents, or volunteers.
- (ii) The insurance shall cover on an occurrence or an accident basis, and not on a claim made basis.
- (iii) An endorsement must state that coverage is primary insurance and that no other insurance affected by the CITY will be called upon to contribute to a loss under the coverage.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

- (iv) Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
  - (v) Insurance is to be placed with California-admitted insurers with a Best's rating of no less than A: VII.
  - (vi) Notice of cancellation or non-renewal must be received by CITY at least thirty days prior to such change.
- (c) Professional Liability. CONSULTANT, at CONSULTANT's own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than One Million Dollars (\$1,000,000) per claim made and per policy aggregate covering the licensed professionals' errors and omissions, as follows:
- (i) Any deductible or self-insured retention shall not exceed \$150,000 per claim.
  - (ii) Notice of cancellation, material change, or non-renewal must be received by the CITY at least thirty days prior to such change shall be included in the coverage or added as an endorsement to the policy.
  - (iii) The policy must contain a cross liability or severability of interest clause.
  - (iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:
    1. The retroactive date of the policy must be shown and must be before the date of the Agreement.
    2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The CITY shall have the right to exercise at the CONSULTANT'S cost, any extended reporting provisions of the policy should the CONSULTANT cancel or not renew the coverage.
  4. A copy of the claim reporting requirements must be submitted to the CITY prior to the commencement of any work under this Agreement.
- (d) Deductibles and Self-Insured Retentions. CONSULTANT shall disclose the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.
- During the period covered by this Agreement, upon express written authorization of the CITY's authorized representative, CONSULTANT may increase such deductibles or self-insured retentions with respect to CITY, its officers, employees, agents, and volunteers. The CITY's authorized representative may condition approval of an increase in deductible or self-insured retention levels upon a requirement that CONSULTANT procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.
- (e) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), or (c) of this section of the Agreement is reduced, limited, or materially affected in any other manner, CONSULTANT shall provide written notice to CITY at CONSULTANT'S earliest possible opportunity and in no case later than five days after CONSULTANT is notified of the change in coverage.
- (f) In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

- (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- (ii) Order CONSULTANT to stop work under this Agreement or withhold any payment which becomes due to CONSULTANT hereunder, or both stop work and withhold any payment, until CONSULTANT demonstrates compliance with the requirements hereof;
- (iii) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's breach.

**(10) Indemnification - CONSULTANT'S Responsibility**

As to the CONSULTANT's work hereunder, it is understood and agreed that (a) CONSULTANT has the professional skills necessary to perform the work, (b) CITY relies upon the professional skills of CONSULTANT to perform the work in a skillful and professional manner, and (c) CONSULTANT thus agrees to so perform.

Acceptance by CITY of the work performed under this Agreement does not operate as a release of said CONSULTANT from such professional responsibility for the work performed. It is further understood and agreed that CONSULTANT is apprised of the scope of the work to be performed under this Agreement and CONSULTANT agrees that said work can and shall be performed in a fully competent manner in accordance with the standard of care applicable to CONSULTANT's profession.

CONSULTANT shall indemnify, defend, and hold CITY, its officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused by the willful misconduct or negligent acts or omissions of CONSULTANT, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the negligence or willful misconduct of the CITY, its officers, employees, agents, or volunteers. It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

**CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.**

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

**(11) Licenses**

If a license of any kind, which term is intended to include evidence of registration, is required of CONSULTANT, its employees, agents, or subcontractors by federal or state law, CONSULTANT warrants that such license has been obtained, is valid and in good standing, and CONSULTANT shall keep it in effect at all times during the term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

**(12) Business Licenses**

CONSULTANT shall obtain and maintain a CITY of Lathrop Business License until all Agreement services are rendered and accepted by the CITY.

**(13) Termination**

Either CITY or CONSULTANT may cancel this Agreement upon 30 days written notification to the other party. In the event of termination, the CONSULTANT shall be entitled to compensation for services performed to the effective date of termination; provided, however, that the CITY may condition payment of such compensation upon CONSULTANT's delivery to the CITY of any or all documents, photographs, computer software, video and audio tapes, and other materials provided to CONSULTANT or prepared by or for CONSULTANT or the CITY in connection with this Agreement.

**(14) Funding**

CONSULTANT agrees and understands that renewal of this agreement in subsequent years is contingent upon action by the City Council consistent with the appropriations limits of Article XIII (B) of the California Constitution and that the Council may determine not to fund this agreement in subsequent years.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

**(15) Notices**

All contracts, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) Days by delivery of a hard copy of the material sent by facsimile transmission. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City:                   City of Lathrop  
                                  City Clerk  
                                  390 Towne Centre  
                                  Lathrop, CA 95330

Copy to:                   City of Lathrop  
                                  Department of Public Works  
                                  390 Towne Centre  
                                  Lathrop, CA 95330

MAIN: (209) 941-7430  
FAX: (209) 941-7449

To Consultant:           **WGR Southwest, Inc.**  
                                  **11780 N Hwy 99**  
                                  **Lodi, CA 95240**

Phone:                   **(209) 334-5363**  
Fax:                       **(209) 334-5374**

**(16) Miscellaneous**

- (a) Consent. Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (b) Controlling Law. The parties agree that this Agreement shall be governed and construed by and in accordance with the Laws of the State of California.
- (c) Definitions. The definitions and terms are as defined in these specifications.



**CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.**

- (d) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Agreement, which directly results from an Act of God or an act of a superior governmental authority.
- (e) Headings. The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.
- (f) Incorporation of Documents. All documents constituting the Agreement documents described in Section 1 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in the Agreement and shall be deemed to be part of this Agreement.
- (g) Integration. This Agreement and any amendments hereto between the parties constitute the entire Agreement between the parties concerning the Project and Work, and there are no other prior oral or written agreements between the parties that are not incorporated in this Agreement.
- (h) Modification of Agreement. This Agreement shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.
- (i) Provision. Any agreement, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Agreement shall define or otherwise control, establish or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (j) Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the provisions of this Agreement not so affected shall remain in full force and effect.
- (k) Status of CONSULTANT. In the exercise of rights and obligations under this Agreement, CONSULTANT acts as an independent contractor and not as an agent or employee of CITY. CONSULTANT shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of CITY, and CONSULTANT expressly waives any and all claims to such right and benefits.
- (l) Successors and Assigns. The provisions of this Agreement shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT  
WGR SOUTHWEST, INC.

- (m) Time of the Essence. Time is of the essence of this Agreement and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday or any Day observed as a legal holiday by CITY, the time for performance shall be extended to the following Business Day.
- (n) Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
- (o) Recovery of Costs. The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

**(17) Notice to Proceed**

Prior to commencing work under this agreement, CONSULTANT shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONSULTANT for any services prior to issuance of the Notice to Proceed.

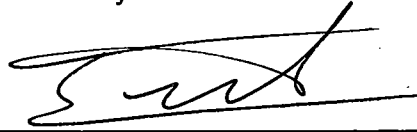
**(18) Signatures**

The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement 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  
WGR SOUTHWEST, INC.

Approved as to Form:

City of Lathrop  
City Attorney



2.6.18

\_\_\_\_\_  
Salvador Navarrete

\_\_\_\_\_  
Date

Recommended for Approval:

City of Lathrop

\_\_\_\_\_  
Greg Gibson  
Senior Civil Engineer

\_\_\_\_\_  
Date

Accepted By:  
Reso No:

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

\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

\_\_\_\_\_  
Date

CONSULTANT:

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

Fed ID # 33-0717621

Business License # 13-2103

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name and Title)



January 29, 2018

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

RE: Construction Project Review and Inspection Support

Dear Mr. Gibson,

WGR Southwest, Inc. (WGR) is pleased to provide you with this proposal for construction project Storm Water Pollution Prevention Plan (SWPPP), Erosion and Sediment Control Plan (ESCP), post-construction submittal reviews and monthly construction site compliance inspections.

The number of reviews and inspections are *estimated* based on the level of supported indicated by the City and current volume of active construction projects.

SWPPP or ESCP Review for Compliance with City & State Requirements	\$385/review	Based on previous utilization, WGR assumes 18 reviews (\$6,930)
Project-specific Post-Construction Submittal Review for Compliance with City & State Requirements	\$385/review	Based on previous utilization, WGR assumes 12 reviews (\$4,620)
Monthly Construction Inspections (First time inspection of a CGP-permitted project)	\$175/location (estimated 10 locations)	WGR assumes 10 first time inspections through June 2019 (\$1,750)
Monthly Construction Inspections (Subsequent inspection of a CGP-permitted project or any inspection of a non-CGP permitted project that is required to be inspected per the City's MS4 permit)	\$120/inspection (estimated 15 monthly inspections)	WGR assumes 225 subsequent inspections through June 2019 (\$27,000)

We thank you for this additional opportunity to serve you. If I can answer any questions concerning our proposal or the MS4 permit requirements, please do not hesitate to call me or to schedule a meeting to discuss the proposed scope of work.

Respectfully submitted,  
**WGR Southwest, Inc.**

John M. Teravskis, CPESC, QSD/QSP, QISP, ToR  
 Senior Compliance Specialist and  
 Operations Manager for Northern California