

CONSULTING SERVICES AGREEMENT

This **Consulting Services Agreement** (“Agreement”) is made and entered into this ___ day of ___, 2021, to be effective as of June 15, 2021, by and between the **PLATTE CANYON WATER AND SANITATION DISTRICT** a quasi-municipal corporation and political subdivision of the State of Colorado (“District”) and **PATRICK J. FITZGERALD** (“Consultant”), (singularly referred to herein as a “Party” and collectively referred to herein as the “Parties”).

RECITALS

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WHEREAS, Consultant was the District Manager for over 47 years and has extensive knowledge of the District’s field operations, computer systems, budgetary process, intergovernmental agreements, relationship with Denver Water including Denver Water’s rates, fees and charges, and relationship with the City of Littleton and the City of Englewood with respect to South Platte Renew, the waste water treatment facility owned jointly by said Cities; and

WHEREAS, Consultant retired from his position as Manager effective June 1, 2021; and

WHEREAS, at the time of or shortly after Consultant’s retirement, and upon the request of the District’s Board of Directors (“Board”), Consultant was asked to provide consulting services to District on an as needed basis, for a limited period of time; and

WHEREAS, Consultant is willing to provide such services to District; and

WHEREAS, the District and Consultant desire to enter into an agreement setting forth the terms and provisions, pursuant to which Consultant will provide consulting services to District for the balance of 2021.

NOW, THEREFORE, for and in consideration of the promises herein contained, the Parties hereto agree as follows:

1. **Independent Contractor**. In performing services hereunder, Consultant shall be an independent contractor to District and not an employee or agent of the District. During the Term of this Agreement or any renewals or extensions thereof, Consultant shall make provision, at Consultant’s sole cost and expense, for all insurance coverages Consultant deems appropriate with regard to health care, general liability, and Worker’s Compensation insurance. The District shall not be responsible for withholding any portion of the compensation paid to Consultant hereunder for the payment of any FICA, Worker’s Compensation or other taxes or benefits on behalf of Consultant, nor shall District be responsible for, or have any liability to Consultant for any injury to Consultant sustained while performing services for the District. **Consultant is not entitled to**

Workers Compensation benefits, and Consultant is obligated to pay Federal and State Income Tax on any monies earned, pursuant to this Agreement.

2. **Manner and Method of Work.** In performing services hereunder, Consultant shall have full control over the selection of Consultant's employees, if any, and the manner and method of the provision of services hereunder, except that certain training and/or consulting services will need to be performed by Consultant at the District office or such locations that District may from time-to-time specify. Notwithstanding any other provision contained in this Agreement, to the contrary, District is concerned only with the results of the services performed by Consultant and that the same be provided in a timely and competent manner.

3. **Scope of Services.** Without having a specific or predetermined scope of work ("Scope of Services"), Consultant agrees to provide up to twenty (20) hours per month of consulting time ("Services") to District on any matter within Consultant's area of expertise, when requested to do so by the District Manager. It is anticipated that Consultant will be requested to provide Services with respect to the District's involvement with the Distributor Denver Water Rates and Fees Technical Advisory Committee ("TAC"), South Platte Renew, and various intergovernmental agreements entered into by District, and/or the Southwest Metropolitan Water and Sanitation District, prior to May of 2021, or such other special projects as District's Manager may request.

4. **Authorization to Provide Services.** Consultant is authorized and hereby agrees to provide Services on an as needed basis, when requested to do so by the District's Manager, either in writing or verbally. Any verbal request to perform Services having an estimated cost of more than \$500.00, will be confirmed in writing and will not be performed by Consultant until such time as a specific work order setting forth the scope of Services and the schedule for the performance thereof is agreed to in writing by both Consultant and District, acting by and through the District Manager.

5. **Performance of Services.** Consultant shall devote such time, effort, and resources in the performance of the Services, as is reasonable and necessary to complete the Services in a prudent, professional, and timely manner.

6. **Ownership of Work Product.** It is agreed, that any and all documents, recommendations, or information provided to District by Consultant, in connection with the Services that Consultant performs for District, shall be the property of the District.

7. **Compensation.** For the Services performed by Consultant during the Term of this Agreement, Consultant will be compensated at Consultant's hourly rate of \$112 per hour or on a per task basis, if agreed to in advance by Consultant and District. Notwithstanding any other provision contained in this Agreement to the contrary, total compensation for Services provided by Consultant to District during calendar year 2021

shall not exceed \$2,240.00 per month, without the prior express written consent of the District's Manager. Consultant shall provide an invoice each month for the Services completed during the preceding month. Each invoice shall be submitted no later than the tenth day of the month following the month Services were performed. Each invoice shall be submitted only for those Services actually performed during the period for which the invoice is submitted. Consultant shall submit with each invoice any such supporting documentation as District may reasonably request.

Unless Consultant has not properly performed the Services, invoices shall be paid within thirty (30) to forty-five (45) days after receipt. District shall have the right to refuse to pay all or any portion of an invoice that is inconsistent with this Agreement. District may delay payment until it can verify the accuracy of an invoice, obtain releases or waivers with respect to Services covered in the invoice, or resolve a dispute with Consultant regarding an invoice.

8. **Term and Termination.** Unless sooner terminated pursuant to the provisions hereof, this Agreement shall remain in effect and shall not expire until December 31, 2021 ("Initial Term"). Notwithstanding the foregoing sentence, the District may terminate this Agreement at any time and for any reason, or no reason, by giving Consultant at least ten (10) days advance written notice.

8.1 **Option to Extend.** At the option of the Board, and with the consent of Consultant, this Agreement may be renewed or extended for a term of up to an additional twelve (12) consecutive months, if Parties mutually agree. In the event, the Board desires to renew this Agreement for any additional period of time after December 31, 2021, the Board shall no later than one (1) month prior to the expiration of the Initial Term, notify Consultant in writing that the Board wishes to exercise its option to renew this Agreement, stating the length of the proposed additional term, which in no event, shall be longer than twelve months (12) months. Upon receipt of such notice, Consultant shall have ten (10) business days to state in writing, his willingness to renew for an additional period of time, as set forth in the Board's notice on the same terms and conditions contained in this Agreement, or upon such changed terms and conditions as the Parties shall agree. If the Board does not exercise its right to extend this Agreement, as set forth above; this Agreement shall terminate as of December 31, 2021.

9. **Licenses.** Consultant shall, at his expense, obtain and maintain such licenses, if any, as may be required by law to perform the services required under this Agreement.

10. **Amendment.** This Agreement is subject to amendment only by the written consent of the Parties, and such amendment shall be effective as of the date the amendment is executed by the Parties, or such other date as the Parties shall designate.

Any amendment shall be approved by District with the same formality as the original execution of this Agreement. No action taken or statement made by any employee or agent of the District shall serve to amend this Agreement unless approved or ratified by the Board of Directors of the District at a regular or special meeting.

11. **Compliance with Law.** In performing this Agreement, Consultant shall comply with all applicable laws, rules and regulations including, but not limited to all federal, state and local laws. By way of explanation and not limitation, Consultant certifies that Consultant shall comply with the provisions of § 8-17.5-101, C.R.S., et seq, Further, Consultant hereby swears or affirms under penalty of perjury that Consultant: i) is a United States citizen or legal permanent resident or otherwise lawfully present in the United States, pursuant to federal law, ii) shall comply with the provisions of § 24-76-101, et seq., and iii) shall produce one of the forms of identification requested by § 24-76.5-103, C.R.S., prior to the performance of any of its other obligations hereunder.

12. **Insurance.** Consultant shall not commence work on any Services for District until Consultant has Workers Compensation insurance to cover liability under the laws of the State of Colorado, if necessary, in connection with the Services performed pursuant to this Agreement by Consultant.

13. **Severability.** Invalidation of any of the provisions of this Agreement or any paragraph, sentence, clause, phrase or word herein, or the application thereof to any given circumstance, shall not affect the validity of the remainder of this Agreement.

14. **Waiver.** No waiver by any of the Parties to this Agreement of any covenant, term, condition or agreement contained herein shall be deemed or construed as a waiver of any other covenant, term, condition or agreement, nor shall the waiver of any breach thereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

15. **Time of the Essence.** Time is of the essence in the performance of this Agreement.

16. **Assignment.** This Agreement is personal to Consultant, and Consultant shall not have the right, power or authority to assign this Agreement or any portion hereof, or to delegate any duties or obligations arising hereunder either voluntarily, involuntarily or by operation of law, without the prior written approval of District.

17. **Integration.** This Agreement embodies the entire agreement and understanding between the Parties and supersedes all prior agreements and understandings, if any, between the Parties relating to the subject matter hereof. This Agreement specifically supersedes and replaces the terms and provisions of all prior

agreements, whether verbal or written entered into between Consultant and District, which agreements are no longer in effect.

18. **Reports.** The District may, from time to time, request brief written or oral progress reports concerning the course of the performance of this contract by Consultant, which reports if oral, may be presented to District at a regular or special meeting of the Board of Directors.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the ____ day of _____, 2021, to be effective as of the Effective Date set forth above.

**PLATTE CANYON WATER AND
SANITATION DISTRICT**

Attest

By: _____
George E. Hamblin, Jr., President

William Buckner., Secretary/Treasurer

CONSULTANT

Patrick J. Fitzgerald