

## PROFESSIONAL SERVICES AGREEMENT

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, between CITY OF RATON (hereinafter called OWNER) and SOUTHERN OASIS, INC. dba OPERATIONAL CONSULTANTS (hereinafter called CONSULTANT).

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

### Section 1: Purpose

- 1.1 The purpose of this Agreement is for CONSULTANT to provide Professional Services for the development of a Solid Waste Services facilities/equipment for the OWNER.

### Section 2: Scope of Work

- 2.1 Solid waste services facilities/equipment consultation is the CONSULTANT'S *general* scope of work for the Agreement. Amendments to this Agreement will outline the *specific* tasks CONSULTANT will perform as well as monetary compensation for each task.

### Section 3: Payment

- 3.1 The CONSULTANT'S fee shall be as outlined in the Section of this Agreement. Invoices will be submitted monthly for services. Payment is due upon presentation of invoice and is past due thirty (30) days from invoice date.

Work Hours	\$95.00 per hour
Travel Hours	\$30.00 per hour
Mileage Reimbursement	.55 per mile
Expenses with Report /Receipts	Full amount

- 3.2 The OWNER shall be responsible for the payment of the actual costs or expenses incurred by the CONSULTANT which may be advanced by the CONSULTANT in fulfillment of the Scope of Work described above, if the CONSULTANT receives prior approval by the Owner for such costs or expenses.

### Section 4: Taxes

- 4.1 The CONSULTANT shall be responsible for payment of the State of New Mexico Receipts Taxes levied on the amounts payable under this agreement.

**Section 5: Schedule and Term**

5.1 The work shall be completed in compliance with the schedule to be determined by the OWNER and CONSULTANT. The CONSULTANT shall perform the agreed to services as expeditiously as in consistent with professional skill and care.

**Section 6: Independent Contractor**

6.1 The CONSULTANT, its agents and employees, are independent contractors performing professional services for the OWNER and are not employees of the OWNER. The employees furnished shall be CONSULTANT'S employees exclusively and said employees shall be paid by CONSULTANT for all services in this connection. The CONSULTANT, and its agents and employees, shall not accrue leave retirement, insurance, bonding, use of vehicles, or any other benefits afforded to employees of the OWNER as a result of this Agreement. Further, the CONSULTANT shall be responsible for all obligations and reports covering Social Security, Unemployment insurance, Work's Compensation, Income Tax, and any and all other reports and deductions required by any applicable state or federal law.

**Section 7: Non-Discrimination**

7.1 During the term of this Agreement, the CONSULTANT shall not discriminate against any employee or applicant for employment to be used in the performance of the obligations of the CONSULTANT under this Agreement because of race, color religion, ancestry, national origin, age, sex, marital status, or physical or mental handicap.

**Section 8: Subcontractors**

8.1 The CONSULTANT shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the OWNER.

**Section 9: Performance**

9.1 CONSULTANT'S work performed pursuant to this Agreement will be performed in accordance with the standards of the profession. CONSULTANT, for a period of one (1) year after project completion, will correct errors in the CONSULTANT'S products as pointed out by OWNER at no cost to OWNER. In the event of fraud or negligence, OWNER may require CONSULTANT to correct any resulting defects at any time, at CONSULTANT'S sole expense.

## **Section 10: Licenses**

10.1 The CONSULTANT agrees that at all times under this Agreement all legally required or necessary professional and business licenses will be obtained and/or maintained by the CONSULTANT and any and all of its agents, contractors, subcontractors, or representatives.

## **Section 11: Assignment**

11.1 The CONSULTANT shall not assign or transfer any interest in the Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the OWNER.

## **Section 12: Records**

12.1 The CONSULTANT shall maintain records that indicate the date, work hours, and nature of the services rendered. The CONSULTANT shall make available for inspection by the OWNER all records, books of account, memoranda, and other documents pertaining to the OWNER upon reasonable request.

## **Section 13: Ownership of Documents**

13.1 All documents including drawings and specifications prepared or furnished by CONSULTANT pursuant to this agreement are instruments of service in respect of the project and CONSULTANT may retain ownership and property interest therein whether or not the project is completed. OWNER may make and retain copies for information reference in connection with the project. However, such documents are not intended or represented to be suitable for reuse by the OWNER or other on any other project. The OWNER or other may not reuse any documents prepared by CONSULTANT for this project.

13.2 CONSULTANT will be reimbursed for any additional drawings, designs, specifications, and notes requested by OWNER that are outside the requirements of this Agreement and any and all Amendments to this Agreement.

## **Section 14: Termination**

14.1 This Agreement and any modification thereof may be terminated by the OWNER at its absolute discretion with cause upon ten (10) days written notice. Upon such termination, the CONSULTANT shall be paid the reasonable value of any completed work in any stage of this Agreement which has been satisfactorily performed, and the compensation for which has not already been paid hereunder, as determined jointly by the CONSULTANT and the OWNER. Upon such termination, the CONSULTANT shall render a final report of its work performed up to the date of such termination and shall turn over reproducible copies of all maps, reports, and any other materials prepared for the OWNER.

19.1 Any notice required under this Agreement will be in writing addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

**Section 19: Notices**

18.2 If authorized in writing by OWNER, CONSULTANT shall furnish services relating to specific tasks not included in Section 2 of this Agreement. These services will be included as part of the Agreement when the scope and cost of the services is determined and agreed to by both parties. Payment for these services will be as presented in Section 3 of this Agreement.

18.1 This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

**Section 18: Amendments**

17.1 Any confidential information provided to or developed by the CONSULTANT in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the OWNER.

**Section 17: Confidentiality**

16.1 The CONSULTANT warrant that is presently has no interest and shall not acquire any interest - direct or indirect - which would conflict in any manner or degree with the performance of services required under this Agreement.

**Section 16: Conflict of Interest**

15.2 The CONSULTANTS, upon final payment of the amount due under this Agreement, shall release the OWNER, its officers and employees, from all liabilities, claims and obligations whatsoever arising under this Agreement.

15.1 It is expressly understood and agreed between CONSULTANT and OWNER, that CONSULTANT shall hold the OWNER harmless for all losses, damages claims actions or demands whatsoever resulting from the CONSULTANT'S actions or inaction's as a result of this Agreement.

**Section 15: Indemnification**

**Section 20: Scope of Agreement**

20.1 This Agreement supersedes all prior contracts or agreements; either verbal or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement between the parties with reference to said services. It cannot be modified or changed by any verbal promise by whosoever made, nor shall any written modification of it be binding on the OWNER until it has been approved in writing by both the OWNER and the CONSULTANT.

**Section 21: Applicable Law**

21.1 The CONSULTANT shall abide by federal, state, and local laws and regulations existing at the inception or during the term of this Agreement. In any lawsuit arising from the operation of this Agreement, the CONSULTANT agrees that the laws of the State of New Mexico shall govern.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

**OWNER:**

Name: City of Raton  
P. O. Box 910  
Raton, NM 87740

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

**CONTRACTOR:**

Name: Southern Oasis, Inc.  
dba Operational Consultants  
1102 24<sup>th</sup> Street  
Alamogordo, New Mexico 88310

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Joseph R. Lewandowski, President