

## **ATTACHMENT A**

### **AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR**

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Eggersmann North America Inc. with an address at 1444 Fulton Street, Fresno, CA 93721 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**WHEREAS**, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

#### **1. DESIGNATED REPRESENTATIVE**

Carlyle A. Johnston at phone number 805 882-3617 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Dr. Rolf Liebeneiner at phone number +49 173 7199 745 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

#### **2. NOTICES**

Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY:

Carlyle A. Johnston  
Resource Recovery & Waste Management Division  
County Public Works  
130 East Victoria Street, Suite 100  
Santa Barbara CA 93101

To CONTRACTOR: Eggersmann North America Inc., 1444 Fulton Street, Fresno, CA 93721

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

#### **3. SCOPE OF SERVICES**

CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

#### **4. TERM**

CONTRACTOR shall commence performance on January 1, 2025 and end performance on December 31, 2026 unless otherwise agreed in writing between the parties or unless earlier terminated in accordance with this Agreement.

#### **5. COMPENSATION OF CONTRACTOR**

In full consideration for CONTRACTOR's services, CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT A and EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments identified on EXHIBIT A and EXHIBIT B. Payment shall be net thirty (30) days from presentation of invoice.

#### **6. INDEPENDENT CONTRACTOR**

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

#### **7. STANDARD OF PERFORMANCE**

CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation. For avoidance of doubt, CONTRACTOR shall not be required to obtain any licenses or permits required under federal, state or local environmental laws to perform the services under this Agreement.

#### **8. DEBARMENT AND SUSPENSION**

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

#### **9. TAXES**

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with CONTRACTOR'S work performed under this Agreement and shall make any and all payroll deductions required by law

with respect to CONTRACTOR's employees. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following (with respect to CONTRACTOR's employees): FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, (if required under applicable law with respect to CONTRACTOR's employees) and workers' compensation insurance.

#### **10. CONFLICT OF INTEREST**

CONTRACTOR covenants that CONTRACTOR is presently unaware of any employment or interest, and shall not knowingly acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would bring CONTRACTOR into material conflict with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be knowingly employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

#### **11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

CONTRACTOR shall be the owner of the following items created by CONTRACTOR pursuant to this Agreement upon production, whether or not completed, excluding County Data as defined in this Section 11 below: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. "County Data" means all pre-existing data or information provided by COUNTY to CONTRACTOR under this Agreement, and any data relating to the County ReSource Center collected or generated by CONTRACTOR in connection with performance of the services for COUNTY under this Agreement. COUNTY retains all right, title and interest in and to the County Data, and COUNTY hereby grants CONTRACTOR a nonexclusive, nontransferable license to use the County Data in connection with providing the services to COUNTY under this Agreement.

Without limiting the foregoing, CONTRACTOR retains all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). CONTRACTOR hereby grants COUNTY a perpetual, nonexclusive, nontransferable, royalty-free license to use the Copyrightable Works and Inventions in connection with operation of the ReSource Center contemplated under this Agreement. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items as provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including reasonable attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

#### **12. NO PUBLICITY OR ENDORSEMENT**

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any CONTRACTOR publicity, advertising or promotional materials, without the prior written consent of the COUNTY. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY. Notwithstanding the

foregoing, CONTRACTOR may list the COUNTY's name or logo as a reference and past project in connection with project proposals and bid documents, and in any biographical information relating to CONTRACTOR in documents submitted by CONTRACTOR for any future potential projects and on CONTRACTOR's website.

### **13. COUNTY PROPERTY AND INFORMATION**

All of COUNTY's property, documents, and confidential information provided by COUNTY for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or confidential information, other than to CONTRACTOR's affiliates or affiliated companies in connection with providing the services, without COUNTY's prior written consent.

### **14. RECORDS, AUDIT, AND REVIEW**

CONTRACTOR shall keep such business records relating to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice, to confirm CONTRACTOR's compliance with the terms and conditions of this Agreement. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

### **15. INDEMNIFICATION AND INSURANCE**

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

### **16. NONDISCRIMINATION**

COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

### **17. NONEXCLUSIVE AGREEMENT**

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

### **18. NON-ASSIGNMENT**

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination, except for subcontracts with CONTRACTOR's affiliates or affiliated companies or employees of such affiliates or affiliated companies.

## **19. TERMINATION**

By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time for nonappropriation of funds or because of the failure of CONTRACTOR to fulfill the obligations herein, as provided in this Section 19 below.

1. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
  2. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions and fail to cure such default within 30-days of receiving a written notice of default from COUNTY describing such default, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- A. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B and EXHIBIT A, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment. Any such termination by CONTRACTOR shall be without prejudice to CONTRACTOR's right to pursue any and all remedies available under applicable law.
- B. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in the course and scope of performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for services performed and other amounts owed to CONTRACTOR under this Agreement as of the effective date of termination, in accordance with Exhibits A and B, to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the parties shall engage a third-party neutral mediator to resolve the dispute as efficiently and cost effectively as possible. The parties will share equally the costs of such mediator. The foregoing is cumulative and shall not affect any right or remedy which COUNTY and/or CONTRACTOR may have in law or equity.

## **20. SECTION HEADINGS**

The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

## **21. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## **22. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to COUNTY and/or CONTRACTOR is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

## **23. TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement and each covenant and term is a condition herein.

## **24. NO WAIVER OF DEFAULT**

No delay or omission of COUNTY and/or CONTRACTOR to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY and/or CONTRACTOR shall be exercised from time to time and as often as may be deemed expedient in the respective discretion of COUNTY and/or CONTRACTOR.

## **25. ENTIRE AGREEMENT AND AMENDMENT**

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

## **26. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

## **27. COMPLIANCE WITH LAW**

CONTRACTOR shall, at its sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter during the duration of this Agreement be in force with regard to CONTRACTOR's services provided under this Agreement.

## **28. CALIFORNIA LAW AND JURISDICTION**

This Agreement shall be governed by the laws of the State of California. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by final binding arbitration in Santa Barbara, California, before one arbitrator. The arbitrator must be a retired judge from a California state superior court or a federal court. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the arbitrator's award may be entered in any court

having jurisdiction. This clause shall not preclude parties from seeking injunctive relief or other provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

### **29. EXECUTION OF COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

### **30. AUTHORITY**

All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

### **31. SURVIVAL**

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

### **32. PRECEDENCE**

In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

Agreement for Services of Independent Contractor between the **County of Santa Barbara** and Eggersmann North America Inc.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by COUNTY.

**ATTEST:**

Mona Miyasato  
County Executive Officer  
Clerk of the Board

**COUNTY OF SANTA BARBARA:**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair, Board of Supervisors

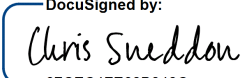
Date: \_\_\_\_\_

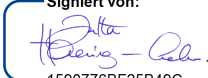
**RECOMMENDED FOR APPROVAL:**

Public Works

**CONTRACTOR:**

Eggersmann North America Inc.

By:  \_\_\_\_\_  
67CE64FE68B848C...  
Department Head

By:  \_\_\_\_\_  
4590776BE25B49C...  
Authorized Representative

Name: Jutta Haering-Lehn

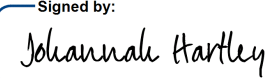
Title: CEO

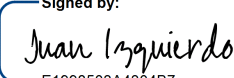
**APPROVED AS TO FORM:**

Rachel Van Mullem  
County Counsel

**APPROVED AS TO ACCOUNTING FORM:**

Betsy M. Schaffer, CPA  
Auditor-Controller

By:  \_\_\_\_\_  
C156A3FB88F7454...  
Deputy County Counsel

By:  \_\_\_\_\_  
E1998503A4304B7...  
Deputy

**APPROVED AS TO FORM:**

Risk Management

By:  \_\_\_\_\_  
05F556F00260466...  
Risk Management





**EXHIBIT A**

**STATEMENT OF WORK**

**Please see attached (i) Statement of Work, dated July 18, 2024, and (ii) that certain “Quotation 2420770005 Indicative Proposal for the Service of Operation of the ADF and CMU of the County of Santa Barbara located in 14470 Calle Real, Goleta, CA 93117, USA” dated September 13, 2024, submitted by Eggersmann North America, Inc. .**



**Scope of Work of the Facility of the Resource Center Santa Barbara**

**Dated: July 18, 2024**

**1. Facility oversight:**

The performance of the ADF will be improved by emphasizing the following points:

- 2. Software management:** Eggersmann will take care of the oversight and maintenance of all SCADA and software related to Eggersmann's original scope of supply. For the oversight of SCADA and software beyond Eggersmann's original scope of Supply, Eggersmann commit itself to help.
- 3. Update and management of the Operations and Maintenance Manuals:** Another obligation of Eggersmann will be the update and management of the Operations and Maintenance Manuals. However, the County will be required to make available to Eggersmann all equipment documents not provided by Eggersmann as well as contact with such suppliers in order to provide the required feedback and to update and manage the Operations and Maintenance Manuals of the facility.
- 4. Quarterly reporting to County on facility status:** Eggersmann will provide quarterly reports to the county on the status of the Facility, which will contain information on gas production, tons treated, parts replaced due to wear and tear, problems encountered, etc.



Eggersmann North America Inc.  
1444 Fulton Street, Fresno, CA 93721, USA

Carlyle Johnston  
County of Santa Barbara  
Public Works Department, Solid Waste office at  
130 East Victoria Street, Suite 100  
Santa Barbara, CA 93101

Eggersmann North America Inc.  
1444 Fulton Street  
Fresno, CA 93721  
USA

Name: Jutta Haering-  
Lehn

Fon:

E- j.haering-  
lehn@f-e.de

Mail:

www.eggersmann-na.com

September 3, 2024



**Quotation 2420770005**

**Indicative Proposal ("Proposal") for the Service of Operation of the ADF and CMU of the County of Santa Barbara located in 14470 Calle Real, Goleta, CA 93117, USA**

Dear Carlyle,

We are pleased to provide the County of Santa Barbara with a proposal for operation services, spare parts and consumables for a dry fermentation biogas and composting facility at the Santa Barbara County's ReSource Center. We believe that choosing our services for this project is a prudent choice. Eggersmann disposes of multiple solid reference projects worldwide, using a wide variety of feedstock and offers a highly robust and reliable technology with very low maintenance and operating costs and predictable outputs.

Details of our proposal are outlined on the following pages. We appreciate the opportunity to participate in your selection process and look forward to working with you in the future.

If you need any further information or support on the Proposal, please contact

Mr Ignacio Benitez  
Technical Sales Specialist & Manager  
Mobile: [i.benitez@bekon.com](mailto:i.benitez@bekon.com) or  
E-Mail: +1 805 656 1409

Mr Benitez is the Leader of the German Technical Support Team for this project.

Best regards

Eggersmann North America Inc.

Jutta Haering-Lehn

CEO



Indicative Proposal			
Customer:	County of Santa Barbara	Date:	September 3, 2024
Supplier	Eggersmann North America Inc.		
Project Name:	Operation of ADF&CMU Santa Barbara	Project Site Location:	Landfill Tajiguas, 14470 Calle Real Rd., Goleta, CA 93117

Scope of Supply	Total Price (in USD)
Operation of the dry fermentation biogas and composting plant (the "Facility").	<b>Months 1-12:</b> 910,569.87 <b>Months 13-24:</b> 956,098.37
Supply and delivery of spare parts and maintenance for the ADF. *ADF: Equipment originally supplied by BEKON.	As required. Will be invoiced separately
Supply and delivery of spare parts, maintenance and consumables for: Gore Composting System, Biofilter, Flare, CHP, Wheel loaders, D-Table, Decompactor. *ADF & CMU: Facility	As required. Will be invoiced separately, cost plus 30% fee
<b>Total (VAT/Sales Tax excluded)</b>	<b>1,866,668.24 plus costs for spare parts and maintenance</b>

<b>Prices:</b>	<p><b>Prices quoted are exclusive of VAT/Sales Tax. All prices are subject to an order by or prior to the validity date of this Proposal (see below).</b></p> <p>Prices quoted are based on the assumption that all site and environmental conditions are suitable for the operation of the Facility, in particular assuming that all permitting are satisfied.</p> <p>Prices quoted are based on the terms and conditions of this quote.</p>
<b>Proposal includes:</b>	<p><u>Operation of the dry fermentation biogas and composting plant (the "Facility")</u></p> <ul style="list-style-type: none"> <li>A Plant Manager provided by Eggersmann will be available on site to operate the Facility and will be assisted by the German Technical Support Team ("Support Team") that will support the Plant Manager in the anaerobic and aerobic treatment.</li> </ul> <p>The Support Team will consist of:</p> <ol style="list-style-type: none"> <li>Leader</li> </ol>



	<p>2. Engineers as required</p> <ul style="list-style-type: none"> <li>• <u>Plant visits.</u> The Leader of the Support Team will visit the plant every three (3) months for one (1) week, which will significantly help keep the Facility running properly. In total four (4) visits, one (1) week each, are included.</li> <li>• <u>Facility operation and maintenance.</u> For this it is necessary that both the personnel designated to execute the tasks selected by the Plant Manager execute these activities according to the instructions given by the Plant Manager and that the spare parts and consumables as well as the permits are present. Otherwise, a good performance of the facility cannot be guaranteed.</li> <li>• <u>Authority to issue instructions.</u> The Plant Manager is authorized to issue instructions to the County staff who operate the Facility.</li> <li>• <u>Training of County staff.</u> During the operation of the Facility staff will be trained in respect to health and safety and day-to-day operation of the Facility.</li> </ul> <p style="text-align: center;"><u>Supply and delivery of spare parts for the ADF</u></p> <ul style="list-style-type: none"> <li>• For proper operation of the ADF, Eggersmann needs to be allowed to order spare parts immediately whenever they are required. Therefore, a budget of at least 400,000.00 USD must be insured to order necessary spare parts. This will give Eggersmann and therefore the Plant Manager the power and agility to operate the ADF correctly and on time. This is of utmost importance for the proper functioning of the Facility.</li> <li>• Eggersmann will invoice the County of Santa Barbara the costs incurred for the spare parts and maintenance after the order was placed.</li> </ul> <p style="text-align: center;"><u>Supply and delivery of spare parts, maintenance consumables for the followings:</u></p> <ul style="list-style-type: none"> <li>• For a proper operation of the Facility, Eggersmann needs to be allowed to order both spare parts and maintenance service as well as consumables for the following equipment: BEKON ADF, Gore Composting System, Biofilter, Flare, CHP, Wheel loader, D Table, Decompactor.</li> </ul> <p style="text-align: center;">This will give Eggersmann and therefore the Plant Manager the power and agility to operate the Facility correctly and on time. This is of utmost importance for the proper functioning of the Facility.</p> <ul style="list-style-type: none"> <li>• Eggersmann will invoice the County of Santa Barbara costs incurred for the maintenance or spare parts of the equipment listed above. Eggersmann will charge 30% fee on costs for maintenance and spare parts from external suppliers.</li> </ul> <p style="text-align: center;"><u>Insurance</u></p> <ul style="list-style-type: none"> <li>• General Liability, Worker's Compensation</li> </ul>
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<b>Price excludes:</b>	<p style="text-align: center;">Any design or work in respect to</p> <ul style="list-style-type: none"> <li>• demolition of existing structures</li> <li>• adjustments to existing technical installations</li> <li>• earth work and soil preparation and/or improvement/replacement/piling</li> </ul>
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	<ul style="list-style-type: none"><li>• any civil or balance of plant work (buildings, foundations, access roads, landscaping, delivery and staging areas, etc.)</li><li>• any utility interconnections (power, gas, water, waste water, communication)</li><li>• detailed engineering for ADF, CMU, CHP, biogas treatment and injection, gas containment, acid scrubber, biofilter, active carbon filter, voltage transformer for electrical injection.</li><li>• supply of new equipment not specified in this Proposal</li></ul>
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<b>Contract terms:</b>	<ul style="list-style-type: none"><li>• The contract starts January 1, 2025</li><li>• Duration of the contract: 24 months</li><li>• The contract will automatically be renewed for another twelve (12) months by one (1) year if neither party cancels the contract six (6) months before the end of the contract.</li></ul>
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<b>Terms of payment:</b>	<p style="text-align: center;"><u>Delivery</u> <span style="float: right;"><u>Terms:</u></span></p> <p>Unless otherwise agreed to, Eggersmann undertakes to deliver DDP ((Incoterms® 2020) at the place indicated in the Service/Purchase Contract.</p> <p style="text-align: center;"><u>Payment Terms:</u></p> <p>First year of operation:</p> <ul style="list-style-type: none"> <li>• Down payment of 30% of the yearly contract price immediately after contract signing.</li> <li>• Remaining 70% of the yearly contract price in monthly payments.</li> </ul> <p style="text-align: center;">Second year and following years of operation:</p> <ul style="list-style-type: none"> <li>• Contract price in monthly payments.</li> </ul>
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<b>Language:</b>	<p>Unless otherwise agreed to, all technical documentation will be delivered in English. Communication language between the parties and their respective personnel shall be English.</p>
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<b>Validity:</b>	<p>This Proposal will remain valid until September 30, 2024 (subject to a written order being placed by client with Eggersmann North America Inc. on or before such date).</p>
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## EXHIBIT B

### PAYMENT ARRANGEMENTS Periodic Compensation

- A. For CONTRACTOR services to be rendered under this Agreement, CONTRACTOR shall be paid a total contract amount of \$1,857,073.00 plus costs for spare parts and maintenance as identified in **EXHIBIT A**.
- B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope of work and methodology contained in **EXHIBIT A**.
- C. On a monthly basis, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified, **including an initial down payment of 30% of the annual contract price during the first year**, as identified in **EXHIBIT A**. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of receipt of correct and complete invoices or claims from CONTRACTOR. For avoidance of doubt, payment shall be as follows:
- First year:
- Down payment of 30 % of the yearly contract price immediately after contract signing.
  - Remaining 70 % of the yearly contract price in monthly payments
- Second year and following years of operation:
- Contract price in monthly payments. (Please see page four of Exhibit A).
- D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

## EXHIBIT C

### Indemnification and Insurance Requirements (For Tajiguas/ADF Operations - Eggersmann)

#### INDEMNIFICATION

##### A. Indemnification pertaining to Professional Services:

CONTRACTOR agrees to defend, indemnify and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law. CONTRACTOR'S indemnification obligation does not apply to the COUNTY'S sole negligence or willful misconduct.

##### B. Indemnification pertaining to other than Professional Services:

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR'S indemnification obligation applies to COUNTY'S active as well as passive negligence but does not apply to COUNTY'S sole negligence or willful misconduct.

#### NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

#### INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors.

##### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9

(non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. ***(Not required if CONTRACTOR provides written verification that it has no employees)***
4. **Professional Liability:** (Errors and Omissions) Insurance appropriate to the CONTRACTOR'S profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Pollution Liability:** With limits no less than \$5,000,000 per occurrence or claim, and \$10,000,000 policy aggregate.

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, the COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR'S insurance at least as broad as ISO Form ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this contract, the CONTRACTOR'S insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention

or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR'S obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors.
10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:
  - i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
  - ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
  - iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.