

PROFESSIONAL CONSULTANT SERVICES AGREEMENT

THE ECOHERO SHOW, LLC.

CRV Bottles & Cans Recycling

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2022 ("Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("City"), and THE ECHOHERO SHOW, LLC. a California Limited Liability Company ("Consultant").

1. **Scope of Services.** City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services more particularly described in Exhibit "A," to promote anti-littering and bottle/can messaging in Elementary Schools ("Services"), attached hereto and incorporated herein by reference, in conjunction with a CRV Bottles & Cans Recycling ("Project").

2. **Term.** This Agreement shall be effective on the date first written above and shall remain in effect from July 1, 2022 through June 30, 2024, unless otherwise terminated pursuant to the provisions herein.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed Twenty-Eight Thousand Dollars (\$28,000.00), payable in accordance with the terms set forth in Exhibit "B." Said payment shall be made in accordance with City's usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof.

4. **Notices.** Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

Public Works Department
Solid Waste Division
City of Riverside
Attn: Christina Navaratnam
8095 Lincoln Avenue
Riverside, CA 92504

To Consultant

THE ECOHERO SHOW, LLC.
A California Limited Liability Company
Attn: Brett Edwards
2012 West Alluvial Avenue
Fresno, CA 93711

11. **Indemnification.**

11.1 **Design Professional Defined.** For purposes of this Agreement, “Design Professional” includes the following:

- A. An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.
- B. An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.
- C. An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.
- D. An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

11.2 **Defense Obligation For Design Professional Liability.** Consultant agrees, at its cost and expense, to promptly defend the City, and the City’s employees, officers, managers, agents and council members (collectively the “Parties to be Defended”) from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings to the extent the same arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. Consultant will reimburse City for reasonable defense costs for claims arising out of Consultant’s professional negligence based on the percentage of Consultant’s liability. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant’s Services under this Agreement.

11.3 **Indemnity For Design Professional Liability.** When the law establishes a professional standard of care for Consultant’s services, to the fullest extent permitted by law, Consultant shall indemnify, protect and hold harmless the City and the City’s employees, officers, managers, agents, and Council Members (“Indemnified Parties”) from and against any and all claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fines and penalties,

12.1.2 **Ratings.** Any insurance policy or coverage provided by Consultant or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

12.1.3 **Cancellation.** The policies shall not be canceled unless thirty (30) days' prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

12.1.4 **Adequacy.** The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Consultant pursuant to this Agreement are adequate to protect Consultant. If Consultant believes that any required insurance coverage is inadequate, Consultant will obtain such additional insurance coverage as Consultant deems adequate, at Consultant's sole expense.

12.2 **Workers' Compensation Insurance.** By executing this Agreement, Consultant certifies that Consultant is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Consultant shall carry the insurance or provide for self-insurance required by California law to protect said Consultant from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Consultant shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that Consultant is self-insured for such coverage, or 2) a certified statement that Consultant has no employees, and acknowledging that if Consultant does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days' prior written notice before modification or cancellation thereof.

12.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Consultant against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Consultant. The City, and its officers, employees and agents, shall be named as additional insureds under the Consultant's insurance policies.

12.3.1 Consultant's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

12.3.2 Consultant's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Consultant's automobile and/or commercial general liability

13. **Business Tax.** Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

14. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

15. **City's Right to Employ Other Consultants.** City reserves the right to employ other Consultants in connection with the Project. If the City is required to employ another consultant to complete Consultant's work, due to the failure of the Consultant to perform, or due to the breach of any of the provisions of this Agreement, the City reserves the right to seek reimbursement from Consultant.

16. **Accounting Records.** Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

17. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production, website, or other similar medium without the prior written consent of the City.

18. **Ownership of Documents.** All reports, maps, drawings and other contract deliverables prepared under this Agreement by Consultant shall be and remain the property of City. Consultant shall not release to others information furnished by City without prior express written approval of City.

19. **Copyrights.** Consultant agrees that any work prepared for City which is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If any such work is deemed for any reason not to be a work made for hire, Consultant assigns all right, title and interest in the copyright in such work, and all extensions and renewals thereof, to City, and agrees to provide all assistance reasonably requested by City in the establishment, preservation and enforcement of its copyright in such work, such assistance to be provided at City's expense but without any additional compensation to Consultant. Consultant agrees to waive all moral rights relating to the work developed or produced, including without limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.

25.2 City may terminate this Agreement upon fifteen (15) days' written notice to Consultant, in the event:

25.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

25.2.2 City decides to abandon or postpone the Project.

26. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset, shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

27. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

28. **Venue.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in the Superior Court, County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that each party will bear their own attorney's fees and costs.

29. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression, or sexual orientation, military and veteran status, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

30. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

THE ECOHERO SHOW, LLC
A California Limited Liability Company

By: _____
City Manager

By: Brett Edwards
Brett Edwards
[Printed Name]
CEO
[Title]

Attest: _____
City Clerk

Certified as to Availability of Funds:

By: _____

By: Kirsten
for Chief Financial Officer

[Printed Name]

[Title]

Approved as to Form:

By: Susan Ulbrich
Senior Deputy City Attorney



The EcoHero Show LLC
2012 W. Alluvial |
Fresno, CA 93711 US
888-482-3885
ecoheroshow@gmail.com
<http://www.ecoheroshow.com/>

Scope of Work for
City of Riverside

Date:
May 2021

Summary:

Riverside is considering hiring *The EcoHero Show* to promote anti-littering and bottle/can messaging in elementary schools, funded by CalRecycle Beverage Container Funds.

About *The EcoHero Show*:

We believe monumental change begins with youth and combined our passions for hip-hop and sustainability to create *The EcoHero Show*. Since 2015, Mr. Eco and his EcoHero sidekicks have performed for schools around the globe, with the philosophy that every kid can change the world! Through our program, we introduce students to sustainability issues and how they can get involved. Performers teach dances or call & responses to each of their music videos. Between songs, various topics are discussed through storytelling & trivia to illustrate how students can have an impact on their ecosystem at home and at school.

Our Whole School Assemblies are 40 minutes long and ideal for students in K – 6th grades. Our Classroom Presentations are 45 minutes long and currently for 2nd through 5th graders. Shows were historically performed via in-person assembly but have since switched to virtual live-streaming to continue educating in light of the pandemic.

[Click here](#) to watch our assembly overview video.

[Click here](#) to watch our classroom overview video.

[Click here](#) to watch our custom song overview video.

Experience:

- *The EcoHero Show* has been hired by 110+ cities/counties in CA, with the majority using CalRecycle grants.
- We have performed environmental shows programming for 1,200+ schools in five countries reaching 600,000+ students.
- Our YouTube channel has 1,800+ subscribers and 2.5 million views
- *The EcoHero Show* has adapted their program to suit both in-person and live-streaming performances.

[Click here](#) to view the upper grade lessons.

Long Term Impact:

It can be challenging to fully track the positive impact our shows are making on students in the long term. However, social media has allowed some of that to surface with students now in high school reaching out to us. Below is one of the comments we received on a YouTube video.

"Not sure if you remember me because it was several years ago, but you visited my elementary school called Harloe. I'm now a Freshman in high school. I need to give you a lot of credit for how you changed me. Before I was your average run of the mill kid crazed about video games. Now I am part of a student council encouraging community service and aspiring to become a law enforcement ranger of the national park service. It wasn't all you that turned me out to be like this, but you certainly hit the on switch. I have major respect for your work and hope you can spread this knowledge to students everywhere!"

The Cook, YouTube User

Student Testimonial:

[Click here](#) to watch a 2nd grade "Principal of the Day" from Indio visiting and thanking City Council members for bringing our show to her school.

Virtual Performance Pricing:

- Whole School Assemblies are \$850 per school.
- Classroom Presentations are \$275 per class.
- *This pricing covers all costs related to booking and performing the show.*

Custom Song Pricing:

- Original Song Creation: \$5,000
- Original Song Enhancements:
 - Lyric Video Creation: \$2,500
 - Music Video Creation: \$10,000
- *This pricing covers all costs related to custom song & video development.*

No Risk:

We only charge for the performances *after* they are fully completed. So if we are unable to book the amount of schools originally agreed upon, you can then reallocate those funds to other projects. We provide booking updates throughout the year so you can plan accordingly.

EXHIBIT “B”
COMPENSATION

EXHIBIT “C”

KEY PERSONNEL

Brett Edwards, CEO / Owner