

**AVALON CITY COUNCIL MEETING
WILL ALSO INCLUDE A MEETING OF THE
AVALON HOUSING AUTHORITY
TUESDAY, DECEMBER 6, 2016 – 6:00 P.M.
CITY COUNCIL CHAMBERS
410 AVALON CANYON ROAD, AVALON
A G E N D A**

In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact Denise Radde, City Clerk (310) 510-0220. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35. 102-35.104 ADA Title II). All public records relating to an agenda item on this agenda are available for the public inspection at the time the records are distributed to all, or a majority of all, members of the City Council. Such records shall be available at City Hall located at 410 Avalon Canyon Rd.

CALL TO ORDER / PLEDGE OF ALLEGIANCE / INVOCATION / ROLL CALL

ANNOUNCEMENTS

WRITTEN COMMUNICATIONS

CITY MANAGER REPORT / CITY ATTORNEY REPORT

COUNCILMEMBER REPORTS / MAYOR REPORT

PRESENTATION

Ray McKewon from Exceptional Music will show a short video of the Summer Concert series successes over the past several years.

ORAL COMMUNICATION

Members of the public may address the City Council at this time. No action will be taken on non-agenda items at this meeting. Speakers should limit comments to three (3) minutes each.

CONSENT CALENDAR

All items listed on the Consent Calendar are considered to be routine by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a specific item is removed from the Consent Calendar for further discussion and possible action.

1. Actions

Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

Recommended Action

Approve actions from the November 15, 2016 regular City Council.

**CITY COUNCIL AGENDA
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2. Adopt Ordinance to Adopt Changes to Title Nine of the Avalon Municipal Code to Authorize Administrative Approval of Minor Renovation Projects

In 1991, the Planning Commission established a policy to allow some minor renovation projects to be approved administratively by Staff. This ordinance will codify that policy with minor change. The Planning Commission is recommending that "Minor Renovation" also include temporary uses as well as the types of projects already administered by the policy. This ordinance was introduced and all further readings waived at the last City Council meeting on November 15, 2016.

Recommended Action

Adopt ordinance amending Section 9-8.204 of the Avalon Municipal Code in its entirety to allow administrative approval of minor renovations projects and amending Section 9-3.613 to add the definition of "Minor Renovation".

3. Approval of Park/Facility Monument Signs

Staff would like to place monument signs at each of the City park/facility locations. The signs will be entry signs into the park/facilities: outlining the name of the park; highlighting the hours of the park; and indicating whether the park/facility is available for rent, and if so, the City of Avalon's contact information for reservations.

Recommended Action

Approve the design and language for five park/facility monument signs and authorize Staff to purchase and install the signs at there intended locations.

4. Request to Authorization to Solicit a Request for Qualifications for Development Impact Fees

The City Council has requested that the City Staff investigate implementing Development Impact Fees which will ensure that new development pays its own way for impacts it creates.

Recommended Action

Authorize the City Manager to solicit proposals from professional firms to prepare a development impact fee study.

GENERAL BUSINESS

5. Discussion on Possible Code Amendment to Avalon Municipal Code Vehicle Section 4-4.1705(b)(2) - Maximum Length and Width of an Autoette Permit

The City has been approached by Mercedes Benz of Laguna Niguel/Smart Center to consider amending the current Municipal Code to allow for the newest SmartForTwo (Smart Car). The amendment would need to allow for a five inch increase to the width and the length would remain within the allowed "autoette" requirement of 120".

Recommended Action

Discuss and if consensus, provide direction to Staff to make the appropriate amendment to the Vehicle Code Section 4-4.1705(b)(2).

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6. Housing Successor Agency Annual Report for Fiscal Year 2015-16
Health and Safety Code Section 34176.1 (enacted by Senate Bill 341 and Assembly Bill 1793) requires successor housing entities to prepare an annual report documenting compliance with expenditure proportionality and other requirements. The report is due to the California Department of Housing and Community Development by December 31.
Recommended Action
Adopt a resolution approving a Housing Authority Successor Agency Annual Report for Fiscal Year 2015-16.

7. Approval of Exclusive Negotiating Agreement (ENA) with C&C Development
On October 18, 2016 the Housing Authority Board of Directors authorized Staff to negotiate an Exclusive Negotiating Agreement (ENA) with C& C Development Company, LLC, a California limited liability company.
Recommended Action
Approve Exclusive Negotiation Agreement and authorize the Executive Director to sign the ENA.

ADJOURN

NOTICE OF POSTING

I, Denise Radde, declare that the City Council Agenda for December 6, 2016 was posted Friday, December 2, 2016, on the City's website www.cityofavalon.com, and at City Hall, 410 Avalon Canyon Road. Copies of agendas and staff reports are available at City Hall.



Denise A. Radde, City Clerk / Chief Administrative Officer

CITY OF AVALON CITY COUNCIL

MEETING DATE: December 6, 2016

AGENDA ITEM: 1

ORIGINATING DEPT: City Clerk

CITY MANAGER: _____

PREPARED BY: Denise Radde, City Clerk

SUBJECT: City Council Actions

RECOMMENDED ACTION(S): Approve actions from the November 15, 2016 regular City Council meeting.

REPORT SUMMARY: Although the live recording is the official record of public meetings, actions are prepared for the Council's approval.

FISCAL IMPACTS: N/A

GOAL ALIGNMENT: Not aligned,

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: N/A

FOLLOW UP ACTION: File Actions in the City Clerk's office.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda pursuant to the Brown Act.

ATTACHMENTS: Actions

**CITY OF AVALON CITY COUNCIL
TUESDAY, NOVEMBER 15, 2016
ACTIONS**

CITY COUNCIL CALL TO ORDER 6:00 p.m.

ROLL CALL - Mayor Anni Marshall, Mayor Pro Tem Oley Olsen, and Councilmember Cinde Cassidy, Richard Hernandez, and Joe Sampson. Also present City Manager David Jinkens, Chief Administrative Officer/City Clerk Denise Radde and City Attorney Scott Campbell.

PRESENTATIONS

1. Update from Southern California Edison was provided on Stage III Water Rationing.

CONSENT CALENDAR

There were seven items on the Consent Calendar. Motion to approve Items 1-7 by Joe Sampson, seconded by Cinde Cassidy. (All Ayes)

1. Actions
Approved actions from the November 1, 2016 regular City Council.
2. Warrants
Approved the total disbursements from October 12, 2016 to November 9, 2016 totaling \$1,486,068.35.
3. Resolutions Appointing an Alternate Director to the Public Agency Risk Sharing Authority of California Board of Directors and California Transit Systems Joint Powers Authority
Adopted Resolution 16-38 appointing the Chief Administrative Officer/City Clerk to serve as the Alternate Director to the Public Agency Risk Sharing Authority of California (PARSAC) Board of Directors and Resolution 16-39 appointing the Chief Administrative Officer/City Clerk to serve as the Alternate Director to the California Transit Systems Joint Powers Authority (CalTIP).
4. Contract with HDR Inc. to Conduct a Sewer, Saltwater and Solid Waste Cost of Service Study
 - (1) Determined that the cost of service study can be procured more economically and efficiently without a formal request for proposal process.
 - (2) Authorized the City Manager to contract with HDR Engineering, Inc. to conduct a sewer, saltwater and solid waste cost of service study for the City of Avalon for a cost not to exceed \$34,850.
 - (3) Authorized the City Manager to approve up to an additional \$5,000 (15%) for unforeseen expenses, if necessary.

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5. Resolution Approving the New Grant of \$80,000 Allocated to Park Improvements at Joe Machado Field from the Los Angeles County Regional Park and Open Space District and Adoption of the City of Avalon's Youth Employment Plan
Adopted Resolution 16-40 approving the application for grant funds from the Los Angeles County Regional Park and Open Space District for Fourth Supervisorial District 1996 Safe Neighborhood Parks (Proposition A) Funding for City of Avalon Parks Enhancement Projects and approving the Avalon's Youth Employment Plan.
6. Funding Agreement with County for New Desalination Plan
Approved and authorized the City Manager to execute a funding agreement with the County of Los Angeles for the County's funding of up to \$500,000 for construction costs related to the Catalina Water Desalination Plan No. 2.
7. Approval of Recognition Event Expenses for Supervisor Don Knabe
Ratified the action taken by Staff to expend monies on Supervisor Knabe celebration and approved expenditures in the amount of \$11,735.80 in recognition of service rendered to the City of Avalon by Supervisor Don Knabe.

GENERAL BUSINESS

8. Ebus Charging Infrastructure - Concrete Slab Installation
Motion by Oley Olsen and seconded by Joe Sampson to allow Staff to schedule the Public Work's crew to proceed in installing a concrete slab at the current Ebus charging facility pad and adopted Resolution 16-41 authorizing Staff to proceed with the improvements. A four-fifths vote was needed by the City Council in favor of allowing Staff to do the work. (All Ayes)
9. Ordinance to Adopt Changes to Title Nine of the Avalon Municipal Code to Authorize Administrative Approval of Minor Renovation Projects
Introduced and waived all further readings of an ordinance amending Section 9-8.204 of the Avalon Municipal Code in its entirety to allow administrative approval of minor renovations projects and amending Section 9-3.613 to add the definition of "Minor Renovation". Motion by Oley Olsen, seconded by Richard Hernandez. (All Ayes)
10. Shore Boat Service-Review and Action
After discussion the motion was made by Oley Olsen and seconded by Anni Marshall to direct the City Manager and Harbor Master to issue a second Request For Proposal offering up to a \$250,000 subsidy to operate a year round shore boat service. Bids will be judged upon the amount they propose for subsidy. The below option will be considered if the RFP does not produce any reasonable bidders. (All Ayes)

(Alternate: Direct the City Manager through the Harbor Master to pursue a City-operated shore boat service with an annual operating budget not to exceed \$250,000 and an

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initial capital expenditure of \$600,000 to \$800,000 for three shore boats. The procurement of the boats and proposed funding would be presented to the City Council prior to committing the purchase.)

11. Report and Possible Action for the City to Provide Water to Local Residents as an Urgency Measure Recommended Action
After discussion it was noted that Staff will continue to work on this item.

Adjourned to the Avalon Municipal Hospital Board of Trustees' Meeting – 7:56 – 8:01 p.m.

CLOSED SESSION 8:00 – 8:50 p.m.

Following the appropriate announcement of the Closed Session items the City Council went into Closed Session to discuss the following:

1. CONFERENCE WITH LABOR NEGOTIATOR

Agency designated representatives: City Council, David Jinkens, City Manager
Compensation and Benefits for Management, Exempt and Other Unrepresented
Employees

Following Closed Session Legal Counsel announced that there was no reportable action.

ADJOURN

Mayor Marshall adjourned the City Council meeting at 8:51p.m.

I, Denise Radde, City Clerk of the City of Avalon, do hereby certify that the DVD videotape of the City Council Meeting on November 15, 2016, is the official record of that Council Meeting and is on file and maintained in City Hall.

Denise A. Radde, City Clerk / Chief Administrative Officer

CITY OF AVALON CITY COUNCIL

MEETING DATE: December 6, 2016

AGENDA ITEM: 2

ORIGINATING DEP: Planning

CITY MANAGER: _____

PREPARED BY: Amanda Cook, Planning Director

SUBJECT: Adopt an Ordinance of the City Council of the City of Avalon Amending Avalon Municipal Code Title Nine, Section 9-8.204 to Authorize Administrative Approval of Minor Renovation Projects

RECOMMENDED ACTION(S): That the City Council adopt an Ordinance of the City Council of the City of Avalon Amending Avalon Municipal Code Section 9-8.204 'Actions Upon Site Plans' to allow administrative approval of minor renovation projects and amending Section 9-3.613 to add the definition of 'Minor Renovation'

REPORT SUMMARY: In 1991, the Planning Commission established a policy to allow some minor renovation projects to be approved administratively by staff. This ordinance will codify that policy with minor changes. The Planning Commission is recommending that 'Minor Renovation' also include temporary uses as well as the types of projects already administered by the policy.

'Minor Renovation' shall mean any project that is a temporary use of land or structures that is a permitted use in the zone and has a specific duration not to exceed 30 days, or any project that meets all of the following requirements:

- (a) The project only requires approval of a site plan and does not require a variance, conditional use permit, coastal development permit, zoning or general plan amendment, or other permit, entitlement, or approval necessitating Planning Commission or City Council review;
- (b) The project does not create an additional bedroom or kitchen;
- (c) The project does involve the expansion the exterior walls of any structure resulting in an addition of 70 sq. ft. or more;
- (d) The project does not remodel, renovate or reconstruct more than twenty-five percent (25%) of the floor area of any commercial or multi-unit residential structure;
- (e) The project does not remodel, renovate or reconstruct more than fifty percent (50%) of the floor area of any single family residential structure;
- (f) The project does not create a fence that is higher than six feet (6'), higher than forty-two inches (42") on a corner lot along the adjacent street, or inside a setback;
- (g) The project does not create a new structure where none previously existed;
- (h) The project does not alter more than twenty percent (20%) of any side or roof of any structure;

(i) The project does not create a deck, balcony or overhang which requires a variance and/or encroachment permit;

(j) No minor renovation project has been approved or conditionally approved for the site that is the subject of the application within the twelve (12) months immediately preceding the application;

(k) The project either has no potential for resulting in physical change in the environment, directly or indirectly, and is not a project for purposes of the California Environmental Quality Act ("CEQA"), or is otherwise exempt or excepted from CEQA and does not require a negative declaration, mitigated negative declaration, or environmental impact report; and

(l) The project does not create or increase any nonconforming condition or use.

FISCAL IMPACTS: None

GOAL ALIGNMENT: This aligns with the goal of updating the Municipal Code.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The original policy will remain in effect without the ability to manage temporary uses.

FOLLOW UP ACTION: Adopt the Ordinance

ADVERTISING, NOTICE AND PUBLIC CONTACT: Pursuant to the Brown Act

ATTACHMENTS: Proposed Ordinance

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF AVALON
AUTHORIZING ADMINISTRATIVE
APPROVAL OF MINOR RENOVATION PROJECTS**

WHEREAS, the City Council has established certain development standards for development within the City in order to ensure orderly and aesthetic growth and development and to protect the health, safety and welfare of the City; and

WHEREAS, sections 9-8.201, et seq., of the Avalon Municipal Code require that prior to beginning new development, the developer must submit a site plan providing a visual and factual document used to determine and control the physical, layout, design, or use of a lot or parcel, of land, buildings, or structures; and

WHEREAS, the Planning Commission is required to review and act on site plan applications; and

WHEREAS, some site plan applications contain only minor renovations that are consistent with established development standards and do not require additional approvals; and

WHEREAS, the City Council now desires to establish a procedure where such minor renovations will not require Planning Commission review but instead may be approved administratively.

NOW THEREFORE, the City Council of the City of Avalon does hereby ordain as follows:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 9-8.204 of the Avalon Municipal Code is hereby amended to read in its entirety as follows:

Sec. 9-8.204 Action Upon Site Plans.

(a) The Commission or other authorized agent acting upon any site plan offered for review as provided in this chapter shall either:

- (1) Approve; or
- (2) Approve with conditions; or
- (3) Deny the proposed use, development or modification as requested in the application and as indicated in the required site plan.

(b) Any site plan offered for review that contains only minor renovations, as defined by section 9-3.613, may be approved, approved with conditions, or denied administratively by the director of the planning department, or such other planning official as designated by the city manager, provided that the fire chief and the director of public works concur in the approval.

(1) Any administrative action on a site plan for a minor renovation may be appealed to the Planning Commission. Administrative action on a site plan shall become final ten (10) days after notice of the action is given to the applicant.

(2) The director of planning or other official responsible for administrative approval may, in his or her discretion, refer a site plan application to the Planning Commission even if the application meets the definition of a minor renovation.

(3) The Planning Commission may elect to review and take action upon any application for a minor renovation prior to an administrative action on the application becoming final. The Planning Commission may establish procedures for the Planning Commission's review of and action upon minor renovation applications. Unless a different procedure is established, any planning commissioner may request that an application for a minor renovation be reviewed by the Planning Commission, and the Planning Commission as a whole may elect to take action on the application. If the Planning Commission requests to review an application, no administrative action on the application shall become final.

SECTION 3. Section 9-3.613 of the Avalon Municipal Code is amended to include the following definition in alphabetical order:

“Minor renovation” shall mean any project that is a temporary use of land or structures that is a permitted use in the zone and has a specific duration not to exceed 30 days, or any project that meets all of the following requirements:

(a) The project only requires approval of a site plan and does not require a variance, conditional use permit, coastal development permit, zoning or general plan amendment, or other permit, entitlement, or approval necessitating Planning Commission or City Council review;

(b) The project does not create an additional bedroom or kitchen;

(c) The project does not involve the expansion the exterior walls of any structure resulting in an addition of 70 sq. ft. or more;

(d) The project does not remodel, renovate or reconstruct more than twenty-five percent (25%) of the floor area of any commercial or multi-unit residential structure;

(e) The project does not remodel, renovate or reconstruct more than fifty percent (50%) of the floor area of any single family residential structure;

- (f) The project does not create a fence that is higher than six feet (6'), higher than forty-two inches (42") on a corner lot along the adjacent street, or inside a setback;
- (g) The project does not create a new structure where none previously existed;
- (h) The project does not alter more than twenty percent (20%) of any side or roof of any structure;
- (i) The project does not create a deck, balcony or overhang which requires a variance and/or encroachment permit;
- (j) No minor renovation project has been approved or conditionally approved for the site that is the subject of the application within the twelve (12) months immediately preceding the application;
- (k) The project either has no potential for resulting in physical change in the environment, directly or indirectly, and is not a project for purposes of the California Environmental Quality Act ("CEQA"), or is otherwise exempt or excepted from CEQA and does not require a negative declaration, mitigated negative declaration, or environmental impact report; and
- (l) The project does not create or increase any nonconforming condition or use.

SECTION 4. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 410 Avalon Canyon Road, Avalon, CA 90704. The custodian of these records is the City Clerk.

SECTION 6. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Avalon hereby declares that it would have adopted this Ordinance and each section,

sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

SECTION 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Avalon.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Avalon, California, at a regular meeting of the City Council held on the 6th day of December, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

City of Avalon

Ann H. Marshall, Mayor

ATTEST:

Denise A. Radde, City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

Scott H. Campbell, City Attorney

CITY OF AVALON CITY COUNCIL

MEETING DATE: December 6, 2016 AGENDA ITEM: 3
ORIGINATING DEP: Community Services CITY MANAGER: _____
PREPARED BY: Dan Huncke, Community Services Director
SUBJECT: Approval of Park/Facility Monument Signs

RECOMMENDED ACTION(S): City Council approves the design and language for five park/facility monument signs and authorizes staff to purchase and install the signs at there intended locations.

REPORT SUMMARY: With the renaming of Mole Park to Knabe Park At The Mole in honor of Supervisor Don Knabe and his generous contributions over the years, staff would like to take the opportunity to have monument signs placed at each of the park/facility locations. These signs will be entry signs into the park/facilities: outlining the name of the park; highlighting the hours of the park; and indicating whether the park/facility is available for rent, and if so, the City of Avalon's contact information for reservations.

Design of the monument signs are modeled after the "classic Catalina look" (please see attachment) and can be seen throughout the City of Avalon. The font for the lettering, Otis Shepard, is the same font used in the street signs throughout the City. A raised piece of Catalina tile in all four corners along with the City logo raised adds dimension to the sign. The sign itself is mounted on a uniform colored piece of sintra material (heavy duty PVC material for outdoor use) in the color cream. The lettering of each sign is different in color to give some uniqueness to the sign and the location it is being placed.

Two of the parks in the City of Avalon have been referred to by two separate names over the years, staff is requesting at this time that these two parks be named as follows:

- Avalon City Park/Machine Gun Park to ***Avalon City Park***
- Avalon Kid's Park/People's Park to ***Avalon Kid's Park & Avalon Canyon Fit Trail***

Staff is also requesting that the hours of use for Avalon Kid's Park & Avalon Canyon Fit Trail be open at 7:00 am to accommodate earlier use of the Fit Trail exercise equipment. Staff anticipates community use before work or earlier morning hours during the summer months.

Staff has also reached out to representatives of the Veterans group in Avalon regarding the sign proposed for Veterans Park. An opportunity to view the proposed sign for the park and give feedback was completed with the final design approved.

At this current time park/facility signs for Joe Machado Field and the Skate Park are not being addressed. Staff will budget for those signs in the next fiscal budget and will adhere to the look modeled in the signs as proposed for any signs purchased and installed in the future.

GOAL ALIGNMENT: Develop a uniform look for the monument signs utilized for the parks/facilities in the City of Avalon.

FISCAL IMPACTS: Each sign is estimated to cost \$1,000 to fabricate if they were done separately, including material to install the signs. Having all five signs fabricated at the same time is estimated to cost approximately \$3,500 in total.

Staff is proposing to have the funding for the signs come from the General Fund, Recreation – Capital Improvements Account #102-65-6547.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: There will not be monument signs for each of the park/facilities and Mole Park will not be renamed to Knabe Park At The Mole.

FOLLOW UP ACTION:

- Pending approval, staff will have the signs fabricated and installed for each of the park/facility locations.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda pursuant to the Brown Act.

ATTACHMENTS: Park/Facility Monument Sign Designs

32" H at peak X 48"W



REMONT HALL

Open for the Community
since 1928

Reservations Available
310-510-0220



KNABE PARLOR

AT THE MOLE

HOURS: 8:00am to 10:00pm

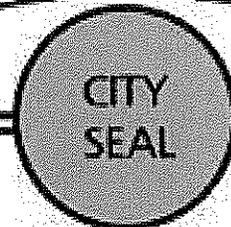


VALON KID'S PARK

&

ELON CANYON HIKING TRAIL

HOURS: 7:00am to 10:00pm
Reservations Available 310-510-0220



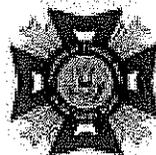
AVALON CITY PARK

HOURS: 8:00am to 10:00pm
Reservations Available 310-510-0220



VETERANS PARK

Island Out Post 4682



CITY OF AVALON CITY COUNCIL

MEETING DATE: December 6, 2016

AGENDA ITEM: 4

ORIGINATING DEPT: ADMINISTRATION

CITY MANAGER: _____

PREPARED BY: David Jinkens

SUBJECT: REQUEST FOR AUTHORIZATION TO SOLICIT A REQUEST FOR QUALIFICATIONS (RFQ) FOR DEVELOPMENT IMPACT FEES**RECOMMENDED ACTION(S):**

1. Authorize the City Manager to solicit proposals from professional firms to prepare a development impact fee study

REPORT SUMMARY:

The Avalon City Council is being asked to authorize the City Manager and staff to solicit proposals from competent and experienced professional firms to prepare a development impact fee study that meets the requirements of the Mitigation Fee Act (California Government Code Section 66000 et. seq., also known as AB 1600). The purpose of this activity is to ensure that new development pays its own way for impacts it creates.

Respondents must demonstrate that they have the necessary licenses and experience to perform the requested work and can do so in an efficient, effective, and timely manner. Only the most qualified firm will be presented to the City Council as the one to negotiate a specific scope of work and contract for services.

The City shall not be obligated, whether expressly or impliedly, to reimburse Respondents for any expenses incurred in preparing proposals in response to this RFQ or attending any meetings, conferences etc. in this regard.

The City intends to engage the most qualified Respondent that demonstrates the ability to meet the objectives of the City. The following criteria shall be used in evaluation of a Respondent's offer of services:

- A. Work Plan and Approach. Respondent's proposed approach to the work and work plan;
- B. Demonstrated Understanding. Respondent's demonstrated understanding of the Project and the unique characteristics of the Avalon community
- C. Experience and Reputation. The qualifications and experience of Respondent's personnel, who will be working on the Project on a regular basis, with respect to similar projects (type, size, and complexity), and Respondent's references and reputation in the industry;

- D. Price. Respondent's estimated pricing for the Project; and
- E. Time: Respondent's ability to complete the Project in a timely manner and without delay.

The respondent needs to demonstrate the ability assist the City to establish interim development impact fees that would be put in place immediately in order to mitigate near-term development impacts. Should the AB 1600 fee adopted be less than the interim fee then a reimbursement to the paying party would be made. Firms making proposals should be skilled in making recommendations in this regard.

In addition, the respondent must be able to do the following:

- A. Work and meet with City staff to refine the Project scope, purpose, uses and goals of the City's Development Impact Fee Study to ensure that the study will be both accurate and appropriate to the City's needs.
- B. Identify and clarify existing City standards (including references to the General Plan, Specific Plans, Municipal Code, and other conceptual frameworks); and interview City staff regarding the acceptable level of service for specific facilities and functions and the related fees for such services including but not necessarily limited to:
 - i. Water and salt water
 - ii. Sewer system treatment plants and collector system and reclaimed water
 - iii. Recreation facilities
 - iv. Traffic circulation, safety infrastructure and traffic control devices
 - v. Public Safety major equipment capital fund
 - vi. Transportation facilities
 - vii. Public facilities including animal shelter, corporation yard, and off street parking fund
 - viii. Workforce housing mitigation fund
- C. Conduct a comprehensive review of the City's existing fees, rates, and charges. Identify major policy issues related to the City's existing fees, rates, and charges.
- D. identify and recommend, based on a review of the City's existing fees, rates, and charges, additional fees, rates, and charges that the City is not currently imposing but may consider imposing in order to maximize potential overall cost recovery, and/or recommend other current city costs that may be recovered, or more fully recovered, through implementation of a new or amended fee, rate, or charge.
- E. Identify any fees, rates, or charges that may be imposed on an interim basis prior to completion of the full fee study, and describe the methodology for determining the interim fee, rate or charge.

- F. Describe assumptions, and bases for assumptions, regarding existing levels of service in the City compared to existing standards, including a description of existing public facilities along with the existing number of equivalent dwelling units (EDU) or residents served.
- G. Identify for the purpose of determining the level of service assumptions, and bases for assumptions, regarding the specific facilities to be constructed and the new development to be served.
- H. Describe assumptions, and bases for assumptions, regarding the type of development projects planned for the City, and the impact the new developments would have upon the level of service for existing facilities. This description would include a description of any varying impacts caused by residential development versus commercial and industrial development.
- I. Describe whether new development in the City will require additional facilities, and if so, include a description of the standards by which it was determined that additional facilities would be required, and a description of the additional facilities required.
- J. Explain how the new development would benefit from the additional facilities.
- K. Discuss the impact upon the level of service for the new development in the City after the additional facilities are constructed.
- L. Identify other potential funding sources (i.e., State and Federal) for certain eligible improvements in order to reduce developer related fees.
- M. Work with City to study list of vested development rights and any mitigation measures that had been conditioned but not constructed and incorporate as needed into new fees.
- N. Work with City to determine appropriate time frames within which it can reasonably be sure that the required improvements will be built and projected development will occur so as to meet AB 1600 requirements. Prepare an estimated cost of providing additional facilities pursuant to Government Code Section 66005(a). Describe the basis upon which the total estimated cost of providing additional facilities would be allocated to each EDU in the City.
- O. Prepare a listing of projects eligible for impact fee funding.
- P. Review and recommend modifications, if necessary, to current fee related municipal code sections to ensure they are clear, current, and defensible.
- Q. Prepare a report of findings which shall include but not be limited to the following:
 - i. A description of the overall methodology
 - ii. Supporting justification

- iii. Recommended Development Impact Fees
 - iv. The calculations that demonstrate the legal nexus between recommended fees and the impact created by the new development
 - v. The relationship between the fee's use and the type of project on which it would be imposed.
 - vi. Identify the purpose of the proposed new fee
 - vii. Identify how the fee would be used
 - viii. Describe the relationship between the need for any additional facilities and the type of development project on which the fee would be imposed
 - ix. Any additional matters that City staff should be made aware of
- R. Prepare a Draft Development Impact Fee Study and participate in various presentations to select City staff and the City Council as deemed necessary by staff to facilitate their understanding of the Development Impact Fee Study and its implications for the City. Collect and document comments and concerns from staff and Council members and incorporate those comments as directed.
- S. Prepare a Final Development Impact Fee study and provide six (6) bound copies, one (1) unbound copy and a digital file copy in PDF and Microsoft Word format to the City. Models, tables and graphs should be provided in Microsoft Excel as deemed appropriate. Any impact fee revisions developed shall also be made available to the City in Microsoft Word and PDF format, providing the ability to add or delete and/or update information as needed.
- T. Consult with City staff should it become necessary to defend the City's Development Impact Fees as a result of any legal or other challenge.

GOAL ALIGNMENT: Ensure that new development pays for impacts it creates, build and maintain critical infrastructure, and identify a revenue source to meet infrastructure needs in the future.

FISCAL IMPACTS: The action will have a positive impact on City revenues needed to pay for the impact of development.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The City will not have sufficient funds to build necessary capital infrastructure needed to serve new and expanding development that will result in whether the infrastructure not being built and/or a drain on the City's General Fund.

FOLLOW UP ACTION: The City Manager with the assistance of Director of Planning and City staff will prepare and solicit the RFQ to professional firms in California.

CITY OF AVALON CITY COUNCIL

MEETING DATE: December 6, 2016 **AGENDA ITEM:** 5
ORIGINATING DEPT: Administration **CITY MANAGER:** _____
PREPARED BY: Denise Radde, Chief Administrative Officer/City Clerk
SUBJECT: Discussion on Possible Code Amendment to Avalon Municipal Code Vehicle Section 4-4.1705(b)(2) - Maximum Length and Width of an Autoette Permit

RECOMMENDED ACTION(S): Discuss and if consensus, provide direction to Staff to make the appropriate amendment to the Vehicle Code Section 4-4.1705(b)(2).

REPORT SUMMARY: The City has been approached by Mercedes Benz of Laguna Niguel/Smart Center to consider amending the current Municipal Code to allow for the newest SmartForTwo (Smart Car). The amendment would need to allow for a five inch increase to the width and the length would remain within the allowed "autoette" requirement of 120".

Currently over a dozen Island residents have a lease with Mercedes Benz of Laguna and their lease will expire in the very near future. A new lease contract is for the newer SmartForTwo technology, which is the wider body style version.

In 2008 the City Council amended the Vehicle Code to allow for the SmartForTwo vehicle on the Island. At that time the code only allowed for an autoette permit to be up to 120" in length and 55" in width and was amended to allow up to 61" for the Smart Car. No change in the length was required.

In 2010 the Vehicle Code was amended again to allow for the Low Speed Vehicle and Neighborhood Electric Vehicle, increasing the length from 120" to 138" inches and the width of up to 61" remained the same.

Several other times Council has considered vehicle code changes as an alternative to a traditional golf cart. In March 2012 Council considered the Toyota Scion iQ Small Vehicle which required an amendment to the length and width. In this discussion Council considered restrictions of parking only at curbside and prohibiting them in the traditional diagonal parking due to the width. No change was made to the code at that time.

In August of 2012 a Vehicle Code amendment was introduced that would address the parking issues from the increasing number of sub-compact vehicle with doors. It was proposed to allow for parking restriction on all oversized "autoettes". A motion was made and seconded to introduce the ordinance and waive all further readings, but did not pass for lack of consensus.

FISCAL IMPACTS: N/A

GOAL ALIGNMENT: Not aligned.

FOLLOW UP ACTION: Implement City Council direction.

ADVERTISING, NOTICE AND PUBLIC CONTACT: This item was properly listed on the posted agenda pursuant to the Brown Act.

ATTACHMENTS:

1. Current Municipal Code Vehicle Section 4-4.1705.
2. Email correspondence from Carson Helton, Mercedes Benz of Laguna Niguel/Smart Center.
3. Staff report, actions and ordinance from February 2008.
4. Staff report, actions and ordinance from May and June 2010.
5. Staff report and actions for March 2012.
6. Staff report, actions and proposed ordinance from August 2012.

Sec. 4-4.1705

Maximum Length and Width.

Except as otherwise set forth below or unless the applicant demonstrates and the Hearing Officer finds that (1) the weight, length, width and nature of the vehicle is necessary for the proposed use, (2) a smaller vehicle cannot satisfy the applicant's transportation requirements and (3) the vehicle will not have a deleterious impact on traffic congestion, traffic safety, parking, and noise, then no vehicle permit authorized by Section 4-4.1703 shall be issued nor shall the transfer pursuant to Section 4-4.1707 of such vehicle permit be approved for:

(a) Any full-sized vehicle which exceeds two hundred (200") inches in length, including front and rear bumpers or eighty (80") inches in width as measured from the widest part of the vehicle, but not including mirrors or door handles;

(b) Except as specified in subsection (1) and (2) below, an autoette permit shall not be issued for any vehicle which exceeds fifty-five (55") inches in width, as measured from the widest part of the autoette.

(1) An autoette permit may be issued to an otherwise qualified person for an electric-powered autoette which meets the definition of "Low-Speed Vehicle/Neighborhood Electric Vehicle" as defined in either California Vehicle Code §385.5 or 49 CFR 571.500 as it existed on January 1, 2010, provided such vehicle is registered with the California Department of Motor Vehicles, has a length of one hundred thirty-eight (138") inches or less, including front and rear bumpers, and a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles;

(2) An autoette permit may be issued to an otherwise qualified person for a Smart Fortwo, provided such vehicle is registered as a motor vehicle with the California Department of Motor Vehicles and has a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles.

The foregoing shall not apply to any full-sized vehicle which exceeds the maximum length or width for which a resident vehicle permit (blue sticker) was issued as of January 1, 1989, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date; nor shall it apply to any full-sized vehicle or autoette which exceeds the maximum width for which a vehicle permit was issued prior to June 1, 1999, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date.

All measurements specified above shall be based on the vehicle as originally equipped by the manufacturer pursuant to the requirements of California Vehicle Code §28001. No vehicle which exceeds the length limitation specified above for which a resident vehicle permit or autoette permit, as applicable, was first issued after April 18, 1989 shall be parked on public streets between the hours of midnight and 6:00 a.m. No vehicle which exceeds the width limitation specified above for which a residence vehicle permit or autoette permit, as applicable,

was first issued after June 5, 1999, shall be parked on public streets between the hours of midnight and 6:00 a.m.

(§2, Ord. 853, eff. January 4, 1990; as amended by §14, Ord. 926-96, eff. March 7, 1996; §4, Ord. 962-99, eff. June 3, 1999; §1, Ord. 983-00 eff. September 14, 2000; §1, Ord. 986-00, eff. October 19, 2000; Ord. 1007-02, eff. October 17, 2002; §1, Ord. 1067-08, eff. April 3, 2008; §1, Ord. 1096-10, eff. July 1, 2010)

Sec. 4-4.1706 Hearings.

Applications for the issuance, renewal, transfers or modification of permits or commercial vehicle credits shall be submitted to a Vehicle Clerk, who shall be designated by the City Manager. Proceedings to review applications for vehicle permits and all other proceedings, except as otherwise provided, shall be conducted by a Hearing Officer appointed by the City Council. The Hearing Officer, and where applicable, the Vehicle Clerk, shall have the authority to act upon the issuance, renewal, transfer, modification and revocation of vehicle permits, commercial vehicle credits and imposition of fines pursuant to the standards and criteria set forth in this article and pursuant to the procedures adopted by resolution of the City Council. Any decision of the Vehicle Clerk may be appealed to the Hearing Officer, and any decision of the Hearing Officer may be appealed to the City Council pursuant to Chapter 4 of Title 1 of the Avalon Municipal Code, except a decision as to whether a hearing is required, which decision may be appealed to the City Manager who may decide such appeal on written statements only.
(§15, Ord. 926-96, eff. March 7, 1996)

Denise Radde

From: David Jinkens
Sent: Monday, November 28, 2016 3:04 PM
To: 'chelton@mblaguna.com'
Cc: Anni Marshall; Denise Radde; Amanda Cook; Dudley Morand
Subject: RE: New Smart Car Body Style Approval

Good Afternoon:

Thank you!

The discussion is to determine whether the City Council wants to instruct the City Attorney to make the appropriate amendment to the Code. City staff will not be presenting a specific code amendment at this time. I believe that there may well be some concerns by some council members about increasing the size of permitted vehicles because this issue has been raised in the past. I do not know nor can I ask the Council their option on the matter in advance of presenting the issue to them. To do so would violate state law.

You make some interesting points and offer below that may generate support for your idea.

We understand your desire to be of service to the community and your customers, and we appreciate your interest in Avalon and your customers who live here.

David

David Jinkens
City Manager

From: Carson Helton [mailto:chelton@mblaguna.com]
Sent: Monday, November 28, 2016 2:01 PM
To: David Jinkens
Cc: Anni Marshall; Denise Radde; Amanda Cook; Dudley Morand
Subject: RE: New Smart Car Body Style Approval

Dear David,

Thank you for scheduling the City Council discussion item on December 6th. I will be present at the meeting to field any questions the Counsel may have on the Program. We are also available to assist the Chief Administrative Officer in the report preparation. My direct line is 949.444.9014.

You mentioned there have been past concerns about the size of currently licensed autolettes. To clarify, the amendment request is limited to a five-inch increase in width only. No length increase is requested. Perhaps this clarification will ease some of the size concern. The current SmartForTwo vehicles comply with the existing Municipal Code, however, the new vehicles are 4.55 inches wider, requiring a Code amendment.

The report may also benefit from the addition of the following information:

Possible Pre-amble: Consistent with City government's desire as expressed in the General Plan to create a sustainable and environmentally friendly community, the idea of providing smart-technology gas and electric vehicles (and removal of older and inefficient gas vehicles) would reduce the City's carbon and noise footprint and forward efforts of transforming Avalon from a gas powered City to an electric powered City.

Additional Items:

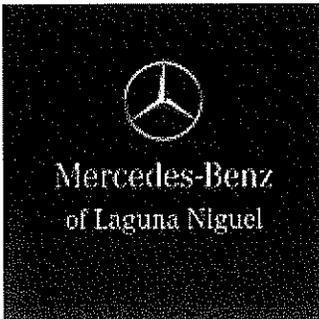
1. Currently, many island residences with current SmartForTwo have leases expired or expiring soon. Approval of the amendment is required to allow current leasees to continue with SmartForTwo technology.
2. To further forward the City's vision, Mercedes Benz is committing to fund green technology on Catalina Island consisting of the following:
 - I. Assistance with and financial support of a City-approved cars for clunkers program to incentivize the conversion to smart-technology,
 - II. Infrastructure support at no cost to the City for:
 - a. Provision of several logical SmartForTwo charging station locations (such as Von's).
 - b. Provision of on-island SmartForTwo vehicle servicing at Pebbly Beach.
 - c. Provision of recycled water car wash at the Pebble Beach service facility for SmartForTwo vehicles (will be in compliance with current City water conservation requirements).

Please let me know if any additional information would be helpful in presenting the Program.

Furthermore, we understand additional City approval and/or permits may be required. If I can be of further assistance or if you need additional information please advise.

Respectfully,

Carson Helton
Mercedes Benz of Laguna Niguel / Smart Center
1 Star Drive
Laguna Niguel, CA 92677
949-347-3700 Facility Main
949-347-3731 Office Direct
949-444-9014 Cell
chelton@mblaguna.com



From: David Jinkens [<mailto:djinkens@cityofavalon.com>]
Sent: Friday, November 25, 2016 3:10 PM
To: 'chelton@mblaguna.com' <chelton@mblaguna.com>
Cc: Anni Marshall <amarshall@cityofavalon.com>; Denise Radde <dradde@cityofavalon.com>; Amanda Cook <acook@cityofavalon.com>; Dudley Morand <dmorand@cityofavalon.com>
Subject: RE: New Smart Car Body Style Approval



Good Afternoon:

Thank you for your follow-up.

Based on the interest by two council members in hearing the proposal, I will be scheduling this matter for a City Council discussion on December 6th. I will ask the Chief Administrative Officer to prepare a report discussing your request and any issues that are associated with making the amendment to the code you seek. She manages the vehicle registration program for the City and the implementation of the ordinance that regulates registration. I do not know what the outcome will be on this matter. I do know that there have been concerns expressed in the past about the size of currently licensed vehicles.

City Council meetings are held on the first and third Tuesday of each month beginning at 6 PM at City Hall. You are of course welcome to attend these meetings that are open to the public and address the city Council should you wish to do so.

Sincerely,

David

David Jinkens
City Manager

From: Carson Helton [<mailto:chelton@mblaguna.com>]
Sent: Monday, November 21, 2016 1:28 PM
To: Amanda Cook; David Jinkens
Cc: Anni Marshall; Dudley Morand; Denise Radde; Robert Mescher
Subject: New Smart Car Body Style Approval

Good Morning...

Just a quick note to follow up again on the Smart Car Body Approval. We now have over a dozen people interested in lease renewal of the new Smart Car plus we have another 15 cars that will be coming up for renewal within the next 30-75 days. We are only asking again because of the lease renewals that are pressing for completion and the sales and service center application approval.

The difference between the old and new body style width is 4.55" ...following please find the recent data sent for your review and authorization.

Please find below the suggested Municipal Code provisions update:

(b) Except as specified in subsection (1) and (2) below, an **autoette** permit shall not be issued for any vehicle which exceeds fifty-five (55") inches in width, as measured from the widest part of the **autoette**.

(1) An **autoette** permit may be issued to an otherwise qualified person for an electric-powered **autoette** which meets the definition of "Low-Speed Vehicle/Neighborhood Electric Vehicle" as defined in either California Vehicle Code §385.5 or 49 CFR 571.500 as it existed on January 1, 2010, provided such vehicle is registered with the California Department of Motor Vehicles, has a length of one hundred thirty-eight (138") inches or less, including front and rear bumpers, and a width of sixty-six (66") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles;

(2) An **autoette** permit may be issued to an otherwise qualified person for a Smart Fortwo, provided such vehicle is registered as a motor vehicle with the California Department of Motor Vehicles and has a width of sixty-six (66") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles.

In conclusion...the window of opportunity is closing upon us. A deadline has been applied to our program for approval. Mercedes-Benz / Daimler Corporation will not authorize us to move forward unless we obtain approval for the new body style. If not approved we will be forfeiting the following efforts...they will simply use the sales and marketing efforts for other venues.

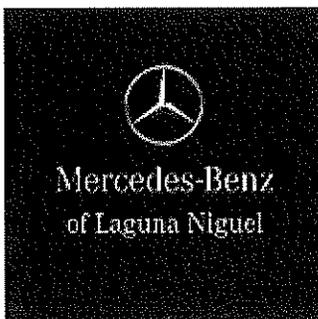
- New Electric-Gas Smart Sales / Service Center
- New Electric Car Charging Stations (2)
- Lease Re-Newels for Island Residents

Thanks again for everyone's assistance with this program. I have to respond to Mercedes Benz Corporate directly with the status. It has been almost a year since this request was proposed and they have applied the deadline. In conclusion, We would hate to see the Santa Catalina Island Residents and the City of Avalon loose this program. I am confident the Smart Car Electric Program and Smart Car in general is a good fit for Catalina Island residents and guests.

Your time is greatly appreciated. If I can be of further assist please call or email at your convenience.

Happy Thanksgiving to you and Your Families.

Carson Helton
Mercedes Benz of Laguna Niguel / Smart Center
1 Star Drive
Laguna Niguel, CA 92677
949-347-3700 Facility Main
949-347-3731 Office Direct
949-444-9014 Cell
chelton@mblaguna.com



CITY COUNCIL ACTIONS
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PAGE 3

GENERAL BUSINESS

4. Transportation Permit for "The Barge Electric Bike Rentals LLC" - (Michael Ponce, as an employee of Brown's Bikes, abstained) This item, regarding a transportation permit application by the Barge Electric Bike Rentals for a permit to rent 12 electrically assisted bicycles, was continued from the February 5, 2008 meeting. Councilmembers had requested an opportunity to test drive a bicycle before making a decision. Councilmember Winslow stated he was still not in favor due to safety reasons, additional traffic, and setting a precedent. Councilmember Nelson and Mayor Kennedy had both test ridden one of the bikes and were impressed with its limitations and what the bike could do. Motion to approve the transportation permit on a 12 month trial period by Scott Nelson and seconded by Bob Kennedy. (2 Ayes, 1 No- Winslow, 1 Abstained-Ponce, and 1 Absent-O'Connor)

5. Temporary Vehicle Permits for Businesses in Pebbly Beach Area - A request was made by Kim Hall, owner of a business which produces and distributes flyers, rack cards and similar types of advertising material, to be issued a temporary commercial vehicle permit. Her materials are stored at her home, #6 Pebbly Beach Road. Ms. Hall stated that the closure of Pebbly Beach Road is causing a financial impact to her business because of the wear and tear on her golf cart by having to go up over the hill. Pete Woolson summarized the purpose of the existing ordinance that was approved by this Council in February of 2007. Council believed the request was warranted and requested that the City Attorney draft changes to the ordinance to broaden the definition of "financial or other hardship" and the proposed use of the vehicle. The ordinance will continue to provide that the permit be temporary and expire once the restrictions for Pebbly Beach Road are removed. In addition, the vehicle use can only be for commercial proposes and has to be removed from the Island once restrictions on the road are lifted.

6. Proposed Ordinance Revising Width to Accommodate "Smart Cars" - Staff proposed that a change to the Vehicle Ordinance be made to allow for the "Smart Car" to qualify as autoettes. The current ordinance would prohibit its use because it exceeds the current width requirement by 6 inches. Council determined that a minor change to this ordinance would be appropriate. The City Attorney was directed to alter the proposed ordinance to include the specified width and to also insure that other vehicles are not allowed to fall under this ordinance until the impact of allowing vehicles with this width on City streets can be assessed. Motion to introduce, as modified, and pass to a second reading with modifications by Michael Ponce, seconded by Tim Winslow. (4 Ayes, 1 Absent-O'Connor)

CITY MANAGER'S REPORT - None

AVALON CITY COUNCIL

MEETING DATE: ^{February} January 19, 2008

AGENDA ITEM: 6

ORIGINATING DEPARTMENT: Legal

CITY MANAGER: [Signature]

PREPARED BY: Pam Albers, City Attorney [Signature]

SUBJECT: **Proposed Ordinance Revising Autoette Width to Accommodate "Smart Cars"**

RECOMMENDED ACTION: Introduce the ordinance and pass to second reading.

Vehicle Clerk Dudley Morand has received many inquiries regarding Daimler-Benz's "Smart Car." The Smart Car was introduced in Europe about ten years ago. The current, completely reconfigured models provide a very unusual, if not ingenious, use of a very small amount of space. The Smart Car is only 106" in length and boasts a miles per gallon rating of 40 plus. It also meets all U.S. legal safety standards, scores high on the Euro-NCAP crash test, and comes with ESP and four airbags.

However, the current Avalon Municipal code section regarding autoette width provides for a 55" width limitation. The width limit can only be extended by either the Vehicle Hearing Officer or if the vehicle is electric powered (current code only provides then for 57"). The proposed ordinance would allow a width of up to 61" for both electric and alternative fueled vehicles and for fully enclosed vehicles such as the Smart Car. Staff believes that the municipal code should be changed to allow for these shorter and more fuel efficient vehicles.

FISCAL CONSEQUENCES: None

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Permits will only be issued for Smart Cars if the Vehicle Hearing Officer determines there is a need after holding individual hearings.

FOLLOW UP ACTIONS: Second reading of ordinance and adoption.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Item listed on posted agenda.

Attachments:

1. Proposed Ordinance
2. Article regarding Smart Car "Fortwo"



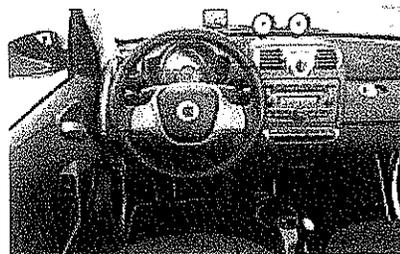
Newcomers: 2008 Smart Fortwo

Get Smart: Your curbsided parking troubles are just about over

By Paul Horrell

Don't laugh. It took all Mercedes' cleverness to make a car 106 inches long work properly. But as the antidote to city traffic, to spiraling oil prices, to parking woes, to the supersize high-horsepower excess-all-areas mentality of too much modern driving, the Smart shines like a beacon of carefree minimalism.

This is actually the second-gen Smart; the 1998 model sold in Europe (700,000 copies) and Canada. This will be sold in the U.S. by United Auto Dealers from 2008. It's vastly better to drive than its predecessor was.



[VIEW LARGER IMAGE](#)

It shares almost nothing with other DCX vehicles. The structure is a steel safety shell, colored black or silver. The remaining panels are nonstructural plastic clip-on replaceable items. The engine is a 1.0-liter unit from Mitsubishi. It sits under the trunk, together with a five-

speed manual trans, driving the rear wheels. In front of that, two seats in a spacious, glassy cabin. In front of that, hardly anything.

It meets all U.S. legal safety standards, scores high on the Euro-NCAP crash test, and comes with ESP and four airbags. When hit by bigger vehicles, its sandwich floor absorbs energy, and occupants sit high above the likely impact zone.

Now imagine being able to park in a 10-foot, half-a-vehicle space. Imagine 40-plus-mpg city economy. The penalty is a sluggish 91-mph top speed and approximately 12-second 0-to-60 time. Even when it has just 1650 pounds to propel, you can't expect miracles from 71 horsepower. But the Smart's quick reflexes make you forget those figures.

Through curves, the standard 155/60R15 front tires soon lose you in Understeer City, so best opt for 175-section rubber. It's a car you can have fun in, while the subtle ESP will catch any foolishness. Inevitably, the ride is beset with pitch and lateral rock, but it's seldom harsh or disturbing. The seats and driving position are supportive and spacious, and the trunk will swallow at least four airline carry-ons. The rest of the cabin is far better finished than other sub-\$10K city cars.

In the end, a Korean five-door is more logical for the money. A Smart is fun, but more than that, it'll be bought, like the Prius, on both U.S. coasts, as a statement car.

2008 Smart Fortwo	
Base Price	\$11,000 - \$14,000 (est.)
Vehicle Layout	Rear engine, RWD, 2-pass, 2-door, hatchback
Engine	1.0L/70-hp/68-lb-ft DOHC 12-valve, I-3
Transmission	5-speed auto-clutch manual
Curb Weight	1650 lb (mfr)
Wheelbase	73.5 in
Length x Width x Height	106.1 x 61.4 x 60.7 in
0-60 MPH	12.0 sec (MT est)

EPA City/HWY Econ	40/60 11.1pg (est)
On Sale In U.S.	Mar-08

Find this article at:

http://www.motortrend.com/roadtests/112_0705_2008_smart_fortwo

Check the box to include the list of links referenced in the article.

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ORDINANCE NO. 1067-08

**AN ORDINANCE OF THE CITY OF AVALON REGARDING
WIDTH RESTRICTIONS FOR CERTAIN VEHICLES TO
ALLOW PERMITTING AS AUTOETTES AND AMENDING
THE AVALON MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS
FOLLOWS:**

Section 1. Section 4-4.1705 of Title 4, Chapter 4, Article 17 is hereby amended to read as follows:

Sec. 4-4.1705 Maximum Length and Width.

Except as otherwise set forth below or unless the applicant demonstrates and the Hearing Officer finds that (1) the weight, length, width and nature of the vehicle is necessary for the proposed use, (2) a smaller vehicle cannot satisfy the applicant's transportation requirements and (3) the vehicle will not have a deleterious impact on traffic congestion, traffic safety, parking, and noise, then no vehicle permit authorized by Section 4-4.1703 shall be issued nor shall the transfer pursuant to Section 4-4.1707 of such vehicle permit be approved for:

(a) Any full-sized vehicle which exceeds two hundred (200") inches in length, including front and rear bumpers or eighty (80") inches in width as measured from the widest part of the vehicle, but not including mirrors or door handles.

(b) Except as specified in subsection (1) and (2) below, an autoette permit shall not be issued for any vehicle which exceeds fifty-five (55") inches in width, as measured from the widest part of the autoette.

(1) An autoette permit may be issued to an otherwise qualified person for an electric-powered autoette which meets the definition of "Low-Speed Vehicle/ Neighborhood Electric Vehicle" as defined in either California Vehicle Code §385.5 or 49 CFR 571.500 as it existed on July 1, 2000, for vehicles with a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles;

(2) An autoette permit may be issued to an otherwise qualified person for a Smart Fortwo, provided such vehicle is registered as a motor vehicle with the California Department of Motor Vehicles and has a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles.

The foregoing shall not apply to any full-sized vehicle which exceeds the maximum length or width for which a resident vehicle permit (blue sticker) was issued as of January 1, 1989, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date; nor shall it apply to any full-sized vehicle or autoette which exceeds the maximum width for which a vehicle permit was issued prior to June 1, 1999, and shall not prevent renewal of such permits provided that the vehicle remains in the ownership and possession of the permit holder of record as of that date.

All measurements specified above shall be based on the vehicle as originally equipped by the manufacturer pursuant to the requirements of California Vehicle Code §28001. No vehicle which exceeds the length limitation specified above for which a resident vehicle permit or autoette permit, as applicable, was first issued after April 18, 1989 shall be parked on public streets between the hours of midnight and 6:00 a.m. No vehicle which exceeds the width limitation specified above for which a residential vehicle permit or autoette permit, as applicable, was first issued after June 5, 1999, shall be parked on public streets between the hours of midnight and 6:00 a.m.

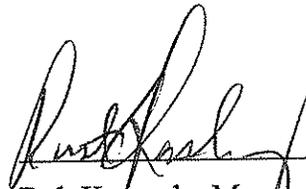
PASSED, APPROVED and ADOPTED this 4th day of March, 2008.

AYES: Mayor Kennedy, Councilmembers Winslow, Nelson, and O'Connor

NOES: Councilmember Ponce

ABSTAIN: NONE

ABSENT: NONE



Bob Kennedy, Mayor

ATTEST:



Denise Radde, City Clerk

CITY COUNCIL ACTIONS
MARCH 6, 2012
PAGE 3

8. Toyota Scion iQ Small Vehicle – Dudley Morand, Vehicle Clerk, addressed Council stating that this vehicle fit within the golf cart requirements set forth in our City Code but the width of the vehicle was the issue. Mayor Kennedy suggested that perhaps a new class of vehicle could be added to our current code. After some discussion consensus was to have Staff come back with some revisions to the vehicle code, and not just addressing this but to look at the entire vehicle code.

Mayor Kennedy stated that he would like to pull the next three Transportation Permits, Items 9, 10 and 11 (William Sidebotham's Pedicab Transportation Permit, Catalina Auto & Bike Rental-Amendment to Transportation Permit-Add Electric Bicycles, and Hermosa Hotel-Amendment to Transportation Permit-Add Segways and Electric Bicycles) from the agenda for discussion at a future date in a public study session. He felt that they coincided with the General Plan's Transportation Element.

12. Amendment to Street Performers Ordinance – After discussion, two items in the ordinance need to be addressed, amplification and length of time a performer is permitted to stay in one spot. Staff was directed to bring the item back with revision to the ordinance addressing the aforementioned things.

13. Recommendations to the County of Los Angeles for the County's Appointments to the Oversight Board to the Successor Agency of the Dissolved Avalon Community Improvement Agency – The following names were suggested to recommend to LA County for consideration: Jon Council, Mike Segrest, Scott Nelson, Bruce Fertig, Cliff Hague, Chris Blehm, and Dudley Morand.

CLOSED SESSION 10:00 – 10:06 P.M.

Following the appropriate announcement of the Closed Session item the City Council went into Closed Session to discuss the following:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Subdivision (a), Section 54956.9
Title: Catalina Fire Case – case #NC042357

Following Closed Session the City Attorney reported that the City Attorney was directed to work with fire counsel to complete the settlement agreement.

CITY COUNCIL

MEETING DATE: March 6, 2012

AGENDA ITEM

8

ORIGINATING DEP: City Clerk

CITY MANAGER: _____

PREPARED BY: Dudley Morand, Vehicle Clerk

SUBJECT: Toyota Scion iQ Small Vehicle

RECOMMENDED ACTION(S):

Hear public input. Discuss, consider amending ordinance and give direction to Staff.

REPORT SUMMARY:

Jerry Dunn came before Council on January 17, 2012, presenting limited information on a new Toyota car product called the Scion iQ. Due to its overall width the vehicle would not be permitted in the City of Avalon. The current vehicle ordinance allows for an "autoette" length of 120 inches and width of 55 inches, and the newly permitted Low Speed Vehicle/Neighborhood Electric Vehicles with a length of 138 inches and a width of 61 inches. Mr. Dunn asked if Council would consider at a future meeting more information on the vehicle and consider changing the current vehicle code to permit the Toyota, much like the Smart car, as an alternative to a traditional golf cart. Staff was instructed to bring the item back at a future meeting.

The City recently received additional information on the Toyota Scion iQ from Jerry Dunn. Attachments explain size specifications.

Due to width of vehicles, possible restrictions of parking to curbsides only, and prohibit traditional golf cart diagonal parking should be considered.

Municipal Code:

Sec. 4-4.1705

Maximum Length and Width.

Except as otherwise set forth below or unless the applicant demonstrates and the Hearing Officer finds that (1) the weight, length, width and nature of the vehicle is necessary for the proposed use, (2) a smaller vehicle cannot satisfy the applicant's transportation requirements and (3) the vehicle will not have a deleterious impact on traffic congestion, traffic safety, parking, and noise, then no vehicle permit authorized by Section 4-4.1703 shall be issued nor shall the transfer pursuant to Section 4-4.1707 of such vehicle permit be approved for:

(a) Any full-sized vehicle which exceeds two hundred (200") inches in length, including front and rear bumpers or eighty (80") inches in width as measured from the widest part of the vehicle, but not including mirrors or door handles;

(b) Except as specified in subsection (1) and (2) below, an autoette permit shall not be issued for any vehicle which exceeds fifty-five (55") inches in width, as measured from the widest part of the autoette.

(1) An autoette permit may be issued to an otherwise qualified person for an electric-powered autoette which meets the definition of "Low-Speed Vehicle/Neighborhood Electric Vehicle" as defined in either California Vehicle Code

§385.5 or 49 CFR 571.500 as it existed on January 1, 2010, provided such vehicle is registered with the California Department of Motor Vehicles, has a length of one hundred thirty-eight (138") inches or less, including front and rear bumpers, and a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles;

(2) An autoette permit may be issued to an otherwise qualified person for a Smart Fortwo, provided such vehicle is registered as a motor vehicle with the California Department of Motor Vehicles and has a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles.

Section 2. Section 4-4.1714(a) is hereby amended to read as follows:

(a) "Autoette" shall mean any of the following: (1) a motor vehicle having three (3) or more wheels in contact with the ground, an unladen weight of no more than one thousand eight hundred (1,800) pounds and an overall length of no greater than one hundred and twenty inches (120") including the front and back bumpers, without regard to classification or designation of such vehicle by the Department of Motor Vehicles, ...

FISCAL IMPACTS: N/A.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: N/A

FOLLOW UP ACTION:

Implement City Council direction.

ADVERTISING, NOTICE AND PUBLIC CONTACT:

The agenda for this meeting was properly posted.

ATTACHMENTS:

-Information from Jerry Dunn detailing car specs.

CITY COUNCIL ACTIONS
AUGUST 7, 2012
PAGE 2

- 2) Resolution 12-19 of the City Council of the City of Avalon adopting the report of the Annual Saltwater Standby Charges and directing the City Clerk of the City to file said report with the Los Angeles County Auditor and request the auditor place the Fiscal Year 2012-2013 Saltwater Standby Charges on the Tax Roll.
- 3) Resolution 12-20 of the City Council of the City of Avalon adopting the report of the Annual Trash Collection Service Fees and directing the City Clerk of the City to file said report with the Los Angeles County Auditor and request the auditor place the Fiscal Year 2012-2013 Trash Collection Service Fees on the Tax Roll.
- 4) Resolution 12-21 of the City Council of the City of Avalon adopting the report of the Annual Grease Collection Service Fees and directing the City Clerk of the City to file said report with the Los Angeles County Auditor and request the auditor place the Fiscal Year 2012-2013 Grease Collection Service Fees on the Tax Roll.

GENERAL BUSINESS

5. One Percent Transfer Fee Exemption for Island Express Helicopter

Approved a request from Island Express Helicopter Service for an exemption from the obligation to pay a one percent transfer fee following the execution of a Stock Purchase Contract. Motion made by Ralph Morrow, seconded by Oley Olsen. (All Ayes)

6. Consider Amending Title 4, Chapter 4 of the Avalon Municipal Code to Create an Authorized Category and Parking Guidelines for Oversized Autoettes

Motion to introduce and waive further readings of an ordinance of the City Council of the City of Avalon California amending Title 4, Chapter 4 of the Municipal Code to create an authorized category of parking guidelines for oversized autoettes. Motion made by Michael Ponce, seconded by Bob Kennedy. (2 Ayes-Kennedy and Ponce 3 Noes-Hernandez, Morrow and Olsen) Motion died for lack of consensus. Councilmember Olsen requested that Staff look into parking decals.

Item number 7 was taken out of order.

7. Consideration of a Moratorium on Issuing Conditional Use Permits (CUPS) to Transient Rentals

Mark Malan gave a detailed presentation to City Council outlining his appeal to provide more year round housing for the citizens of Avalon. He touched upon the issuance of CUPS, the General Plan, and fees charged for an appeal.

8. Consideration of Going Out to Bid-Solid Waste / Trash Contract

Charlie Wagner explained the information in the Staff report and outlined the three choices before Council. Two Councilmembers expressed they would like to see the Seagull Sanitation and Eddie Vega Contract go out to bid separately, and possibly consider just extending Mr. Vega's contract for the pick up of public trash receptacles. Also give all bidders in the RFP process the option to bid on both, solid waste pick up/disposal and pick up of public trash receptacles. Direction was for Staff to prepare the initial schedules and documents and also

AVALON CITY COUNCIL

MEETING DATE: August 7, 2012

AGENDA ITEM: 6

ORIGINATING DEP: City Attorney

CITY MANAGER: SH

PREPARED BY: City Attorney

SUBJECT: Consideration of Adoption of an Ordinance of the City Council of the City of Avalon, California Amending Title 4, Chapter 4 of the Municipal Code to Create an Authorized Category and Parking Guidelines for Oversized Autoettes

RECOMMENDED ACTION:

That the City Council introduce and waive the first and all subsequent readings of the ordinance amending the municipal code to allow autoette permits to be issued for certain oversized autoettes.

REPORT SUMMARY:

The Avalon Municipal Code ("Code") currently allows residents to obtain, as a matter of right, autoette permits for specific models of sub-compact vehicles. However, as sub-compact vehicles gain popularity and a greater variety of makes and models become available, City Staff feel that having a uniform Code provision that allows all subcompact vehicles meeting certain size requirements to be eligible for an autoette permit is more efficient than requiring specific City Council approval for each individual model.

The proposed amendment to the Code creates a class of autoettes referred to as "oversized autoettes." An oversized autoette is a vehicle with a width measuring eighty inches (80") or less, excluding mirrors and door handles, and a length measuring less than one hundred and twenty inches (120"), including the front and rear bumpers. Vehicles such as the Scion IQ and the Smart ForTwo fit into this category.

To prevent parking issues that may arise as more residents obtain sub-compact vehicles with doors rather than golf carts, the ordinance proposes the following parking restrictions, applicable to all oversized autoettes:

- (1) Oversized autoettes may not park in spaces designated solely for golf carts and fifty-five inch (55") wide autoettes;

(2) Oversized autoettes may not park in the diagonal spaces along Metropole Avenue; and

(3) Going forward, persons and businesses who are required to have off street parking and are seeking an autoette permit for an oversized autoette must demonstrate that they have off-street parking wide enough to accommodate the oversized autoette that allows for the vehicle's doors to be opened and closed.

FISCAL IMPACTS: None.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Residents will not be able to receive autoette permits as a matter of right for oversized autoettes.

FOLLOW UP ACTION: Adoption of Ordinance.

ADVERTISING, NOTICE AND PUBLIC CONTACT: Noticed pursuant to the Brown Act.

ATTACHMENTS: The Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVALON, CALIFORNIA AMENDING TITLE 4, CHAPTER 4 OF THE MUNICIPAL CODE TO CREATE AN AUTHORIZED CATEGORY AND PARKING GUIDELINES FOR OVERSIZED AUTOETTES

WHEREAS, the Title 4, Chapter 4 of the City of Avalon's ("City") Municipal Code ("Code") governs the issuance of autoette permits; and

WHEREAS, California Vehicle Code Section 21100.5 proves that the City may adopt rules and regulations by ordinance regulating the size of vehicles; and

WHEREAS, the City has traditionally restricted most permitted vehicles to "autoettes" which must be less than fifty-five inches (55") in width; and

WHEREAS, City staff have found that certain commercially available sub-compact vehicles are being manufactured with lengths and widths only slightly exceeding the measurement limits traditionally placed on autoettes, and

WHEREAS, the Code already allows residents to receive autoette permits for Smart Fortwo vehicles, which are sixty-one inches (61") wide and certain low speed/neighborhood electric vehicles which may be up to one hundred and thirty-eight inches (138") long; and

WHEREAS, City staff have found that all vehicles which measure up to and including eighty inches (80") wide and which measure less than one hundred and twenty inches (120") long are appropriately sized for use in the City, with certain parking restrictions; and

WHEREAS, such parking restrictions are necessary to ensure that all residents parking authorized vehicles of any size have sufficient space for ingress and egress; and

WHEREAS, oversized autoettes may not park in (i) parking spaces reserved for traditionally-sized autoettes of fifty-five inches (55") in width or narrower, or (ii) the diagonal parking spaces on Metropole, and (iii) due to the width of the oversized autoettes, before being issued a permit for an oversized autoette, residents and businesses that are required to have off street parking, must demonstrate that they have a parking space sufficiently wide to allow their vehicle to be parked, the doors to be opened and closed, and that persons can enter and exit the oversized autoette from the off street parking space; and

WHEREAS, residents applying for a residential autoette permit may therefore be granted a permit for an oversized autoette vehicle as a matter of right without the need for a public hearing; and

WHEREAS, based upon the entire record before the City Council, all written and oral evidence presented to the City Council, the City Council believes that amending the Municipal Code is warranted.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. That the above recitals are hereby incorporated by reference.

Section 2. That the City of Avalon City Council amends the following Sections of the Avalon Municipal Code to read as follows:

“Sec. 4-4.1705

...
(b) Except as specified in subsection (1) and (2) below, an autoette permit shall not be issued for any vehicle which exceeds fifty-five (55") inches in width, as measured from the widest part of the autoette.

...
(2) An autoette permit may be issued to an otherwise qualified person for any vehicle with a width of eighty inches (80") or less, as measured from the widest part of the vehicle, but not including mirrors or door handles, and a length less than one hundred and twenty inches (120"), as measured from the longest part of the vehicle, including front and rear bumpers. Such vehicles shall be referred to as “oversized autoettes” and must be registered with the California Department of Motor Vehicles.

(i) No oversized autoette shall park in an autoette parking space which is intended for autoettes fifty-five inches (55") and narrower.

(ii) No oversized autoette shall park in the diagonal parking spaces on Metropole, which are intended for autoettes fifty-five (55") and narrower.

(iii) Before being issued a permit for an oversized autoette, residents or businesses that are required to have off street parking and desire a permit for an oversized autoette must be able to demonstrate that they have an off-street parking space wide enough to accommodate the oversized autoette, sufficient space to open and close the oversized autoette’s doors and can show that persons can enter and exit the oversized autoette from the off street parking space.

...”

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the _____ day of _____, 2012, by the following vote

AYES:
NAYS:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Avalon on this _____ day of _____, 2012, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

Mayor

ATTEST:

Denise Radde, City Clerk

APPROVED AS TO FORM:

Scott Campbell
Best Best & Krieger, LLP

ORDINANCE NO. 1096-10

**AN ORDINANCE OF THE CITY OF AVALON REGARDING THE
MAXIMUM LENGTH FOR LOW SPEED
VEHICLES/NEIGHBORHOOD ELECTRIC VEHICLES ("NEV'S")**

WHEREAS, the City of Avalon's ("City") Municipal Code currently imposes certain size restrictions for "autoettes" and other vehicles under the City's vehicle permitting system;

WHEREAS, the City has recently received several permit applications to own and operate Low Speed Vehicles/Neighborhood Electric Vehicles ("NEV's") in lieu of "autoettes" and similar gasoline-powered vehicles;

WHEREAS, said applications concerned NEV's that are longer than "autoettes" which are currently permitted under the City's Municipal Code;

WHEREAS, the City's Municipal Code does not currently provide clear guidance to City staff as to the length limitations for NEV's; and

WHEREAS, the City Council desires to encourage the use of environmentally friendly vehicles, such as NEV's.

Based upon the recitals above, the information presented at the City Council meeting and the staff report,

THE CITY COUNCIL OF THE CITY OF AVALON DOES ORDAIN AS FOLLOWS:

Section 1. Section 4-4.1705 (a)(1) is hereby amended to read as follows:

(1) An autoette permit may be issued to an otherwise qualified person for an electric-powered vehicle which meets the definition of "Low-Speed Vehicle/Neighborhood Electric Vehicle" as defined in either California Vehicle Code §385.5 or 49 CFR 571.500 as it existed on January 1, 2010, provided such vehicle is registered with the California Department of Motor Vehicles, has a length of one hundred thirty-eight (138") inches or less, including front and rear bumpers, and a width of sixty-one (61") inches or less, as measured from the widest part of the vehicle, but not including mirrors or door handles;

Section 2. Section 4-4.1714(a) is hereby amended to read as follows:

(a) "Autoette" shall mean any of the following: (1) a motor vehicle having three (3) or more wheels in contact with the ground, an unladen weight of no more than one thousand eight hundred (1,800) pounds and an overall length of no greater than one hundred and twenty inches (120") including the front and

back bumpers, without regard to classification or designation of such vehicle by the Department of Motor Vehicles, but shall not include any motor vehicle that is an "all-terrain vehicle" as defined in California Vehicle Code § 111 or (2) a vehicle that qualifies for an autoette permit pursuant to the exceptions set forth in 4-4.1705. Holders as of February 1, 2007 of a residential autoette permit issued for use of a motor vehicle which falls within the definition of "all-terrain vehicle" as set forth in California Vehicle Code § 111 shall be entitled to renew the permit provided such vehicle is and continues to be registered with the Department of Motor Vehicles for use on public streets; however, these permits shall not be transferable, and purchasers or assignees of the vehicle shall have not right or entitlement to a residential autoette permit for the all-terrain vehicle. The method of measurement of autoettes shall be performed by the Vehicle Clerk in accordance with policies adopted by the City Council. The provisions of Section 4-4.1705 regulating the width of autoettes shall also apply. Autoettes which exceed the length limitation specified herein that were permitted by the City prior to November 7, 1995 shall be exempt from the length limitations set forth herein. The exemptions shall apply to the autoette, regardless of ownership transfers. Vehicles classified as motorcycles by the Department of Motor Vehicles which would be classified as "autoettes" hereunder but were issued a permit by the City prior to February 1, 2000, including a temporary permit pursuant to Section 4-4.1703(d), shall be subject to the definitions and rules for "autoettes" upon transfer of ownership of the vehicle.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

Section 4. The City Clerk of the City of Avalon shall certify the passage and adoption of this ordinance and shall cause the same or a summary thereof to be published and/or posted in the manner required by law.

INTRODUCED at a regular meeting of the City Council of the City of Avalon on the 18th day of May, 2010, by the following vote

AYES: Mayor Kennedy, Council Members Ponce, Morrow, Rikalo
NAYS: None
ABSENT: None
ABSTAIN: None
and Winslow

CITY COUNCIL ACTIONS
MAY 18, 2010
PAGE 2

5. Approved the purchase of an ASP software package from Sungard Technologies. The cost of the software will be shared with the City at 60% and ACIA at 40%. The program will be implemented in September 2010, with two enhancements to follow in the next twelve months.

6. (See above)

GENERAL BUSINESS

7. Options for the Potential Demolition and Replacement of the Catalina Kid Ventures (CKV) Facility – Following discussion of the future of CKV consensus was to direct staff to proceed with the demolition of CKV. Staff will come back with more ideas on the future of CKV after the budget process.

8. New ATM Location – Motion by Michael Ponce, seconded by Tim Winslow to approve request by US Bank to place a new ATM in requested location. Plans are to be submitted to the Planning Commission and staff was authorized to execute a lease with US Bank. Consensus was not to allow them to place a City logo on the side on the machine. (All Ayes)

9. This item was moved to Consent Calendar as Item 5.

10. Changes to Transient Rental Ordinance – After some discussion the ordinance amending the Avalon Municipal Code to provide additional rules and regulations regarding Conditional Use Permits for Transient Rental Use was introduced and the first and further reading was waived. Motion by Michael Ponce, seconded by Tim Winslow. (3 Ayes- Kennedy, Winslow, and Ponce, 2 Noes- Morrow and Rikalo)

11. Amendment of Vehicle Permit Ordinance – Introduced and waived first and further reading of the ordinance regarding the maximum length for low speed vehicles/neighborhood electric vehicles. Motion by Michael Ponce, seconded by Tim Winslow. (All Ayes)

12. Appraisal of Real Property – Councilmember Morrow recused himself due to a conflict of interest, living within 300 feet. Authorized the Mayor to enter into a Professional Service Agreement with Robert M. Lea, MAI, Lea Associates, using Option #1: Range of value to be provided without on-site inspection of property and comparable properties. Report to be provided within four weeks of receipt of notice to proceed. Cost will be \$1,800; inclusive of a retainer of \$900. (4 Ayes, 1 Abstain- Morrow)

CITY COUNCIL

MEETING DATE: May 18, 2010

AGENDA ITEM: # 11

ORIGINATING DEP: City Attorney

CITY MANAGER: _____

PREPARED BY: City Attorney

SUBJECT: Amendment of Vehicle Permit Ordinance

RECOMMENDED ACTION(S):

That the City Council introduce and waive the first reading of an ordinance regarding the maximum length for low speed vehicles/neighborhood electric vehicles and waive further reading of the ordinance.

REPORT SUMMARY:

The City Council directed the City Attorney and Staff to research possible revisions to the Municipal Code pertaining to the City's vehicle permits for "environmentally" friendly vehicles. This request arose from the request of Dan Hirst for a vehicle permit for an electronic vehicle that was 134 inches, 14 inches longer than allowed in the Municipal Code. (The definition of an "autoette" in the Municipal Code imposes a maximum length of 120 inches).

Staff's research has discovered that there are a variety of electric vehicles available with lengths less than 134 inches. (The Ordinance proposes setting the length at 138 to allow some leeway for future vehicles of slightly longer length) If the City Council desires to allow residents the option of electric vans or trucks, the allowable length should be increased to 150 inches. A chart that discusses current electric vehicle sizes is attached.

FISCAL IMPACTS: None.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The status quo would continue to exist.

FOLLOW UP ACTION: Adoption of the ordinance at a subsequent City Council meeting.

ADVERTISING, NOTICE AND PUBLIC CONTACT: None

ATTACHMENTS: Proposed Ordinance

CITY COUNCIL ACTIONS
JUNE 1, 2010
PAGE 2

Child Care Fund has a major shortage. Projected revenues are \$185,000 and projected expenditures are \$392,000, leaving a short fall of \$206,000. Staff is recommending funding the shortfall for six months and direct staff to return to Council within 90 days with long term solutions.

Each fund was covered by Mr. Wagner.
BREAK 6:23 – 6:35

PRESENTATION

Melinda Session representing the US Census 2010 presented the City of Avalon with an appreciation certificate for our participation in the census.

CONSENT CALENDAR

There were six items on the consent calendar; Item 1 was removed. Motion to approve items 2-6 by Michael Ponce, seconded by Tim Winslow. (All Ayes)

2. Approved warrants in the amount of \$281,310.27 and payroll in the amount of \$189,540.87 for a total expenditure amount of \$470,851.14.
3. Adopted Ordinance 1096-10 regarding the maximum length for low speed vehicle/neighborhood electric vehicles (NEV's).
4. Adopted Ordinance 1097-10 amending Section 9-8.404 of the Avalon Municipal Code to provide additional rules and regulations regarding conditional use permits for Transient Rental use.
5. Awarded the Joe Machado Field Renovation Project to Jordahl Construction in the amount of \$340,000.
6. Approved the purchase of the lighting system for upgrades to the Joe Machado Field Renovation Project be sole source from Musco in an amount not to exceed \$85,000.

GENERAL BUSINESS

7. Middle Income Down Payment Assistance Program – Chief Administrative Officer Charlie Wagner gave a brief update on the progress of the program. Five applicants will receive full requested funding and the sixth applicant will receive half of their request. The City hired a professional firm to process the applications. Two applicants have turned in their full completed application, which is the second step. Two issues have arisen in the process pertaining to whether applicants who meet the FHA guidelines regarding debt to finance ratios and contribution of down

CITY COUNCIL

MEETING DATE: June 1, 2010

AGENDA ITEM: #3

ORIGINATING DEP: City Attorney

CITY MANAGER: _____

PREPARED BY: City Attorney

SUBJECT: Amendment of Vehicle Permit Ordinance

RECOMMENDED ACTION(S):

Adopt ordinance regarding the maximum length for low speed vehicles/neighborhood electric vehicles.

REPORT SUMMARY:

This ordinance was introduced and further reading waived at the last City Council meeting. The City Council directed the City Attorney and Staff to research possible revisions to the Municipal Code pertaining to the City's vehicle permits for "environmentally" friendly vehicles. This request arose from the request of Dan Hirst for a vehicle permit for an electronic vehicle that was 134 inches, 14 inches longer than allowed in the Municipal Code. (The definition of an "autoette" in the Municipal Code imposes a maximum length of 120 inches).

Staff's research has discovered that there are a variety of electric vehicles available with lengths less than 134 inches. (The Ordinance proposes setting the length at 138 to allow some leeway for future vehicles of slightly longer length) If the City Council desires to allow residents the option of electric vans or trucks, the allowable length should be increased to 150 inches.

FISCAL IMPACTS: None.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The status quo would continue to exist.

FOLLOW UP ACTION: Publication by the City Clerk as required by law.

ADVERTISING, NOTICE AND PUBLIC CONTACT: None

ATTACHMENTS: Proposed Ordinance

CITY OF AVALON HOUSING AUTHORITY

MEETING DATE: December 6, 2016 **AGENDA ITEM:** 6
ORIGINATING DEPT: Housing Authority **CITY MANAGER:** _____
PREPARED BY: Suzy Kim, Consultant, RSG Inc.
SUBJECT: Housing Successor Agency Annual Report for Fiscal Year 2015-16

RECOMMENDED ACTION

That the Housing Authority adopt a resolution approving a Housing Authority Successor Agency Annual Report for Fiscal Year 2015-16

BACKGROUND AND ANALYSIS

Housing Successor Agency Annual Report

Health and Safety Code Section 34176.1 (enacted by Senate Bill 341 and Assembly Bill 1793) requires successor housing entities to prepare an annual report documenting compliance with expenditure proportionality and other requirements. The report is due to the California Department of Housing and Community Development by December 31.

The Annual Report includes the following information required by law:

- Amounts deposited into the Housing Asset Fund;
- Statement of the balance of the Housing Asset Fund;
- Description of expenditures by category;
- Statutory value of real property;
- Description of transfers from the former Avalon Community Improvement Agency;
- Description of projects that receive funding through the Successor Agency's Recognized Obligation Payment Schedule;
- Status of property disposition efforts;
- Update on inclusionary and replacement housing obligations;
- Compliance with five-year expenditure obligations;
- Percentage of senior deed-restricted units;
- Amount of excess surplus; and
- An inventory of homeownership units with affordability restrictions.

Low and Moderate Income Housing Asset Fund

The Housing Asset Fund includes all of the assets that were transferred from the Avalon Community Improvement Agency ("ACIA") to the Housing Authority upon dissolution of the ACIA. The assets include:

- Real properties,
- Affordable housing covenants,
- Loan receivables,
- Income from ground leases and rental properties, and
- Supplemental Educational Revenue Augmentation Fund Loan.

A total of \$15,950 was deposited into the Housing Asset Fund during the fiscal year. At the close of Fiscal Year 2015-16, the ending asset balance in the Housing Asset Fund was nearly \$5.7 million. Land held for resale and loan receivables constitute most this amount. The Housing Asset Fund had a cash balance of approximately \$450,000 at the close of the fiscal year.

The only expenditures from the Housing Asset Fund in Fiscal Year 2015-16 were for administrative activities in the amount of \$4,190, which is below the permissible amount of \$200,000. The statutory value of the properties and loans transferred to the Housing Authority totals nearly \$5.3 million.

Property and Project Descriptions

The ACIA transferred seven real properties to the Housing Authority:

- 309 Beacon Street
- 313 Beacon Street
- 206 Descanso Avenue
- 238 Descanso Avenue
- 311 Descanso Avenue
- 320 Sumner Avenue
- 206 E. Whittley Avenue

All of the properties with the exception of 206 E. Whittley Avenue have been developed for affordable housing purposes and are in compliance with property disposition requirements. A multi-family property at 206 E. Whittley Avenue was purchased by the ACIA in 2008 with the intent to develop new affordable housing units. However, the ACIA was unable to pursue development due to the dissolution of redevelopment. The Authority will ensure this property is developed for affordable housing purposes or disposed of by August 30, 2017 as required by Senate Bill ("SB") 341. A five-year extension may be granted by adoption of a resolution by the Authority Board.

Outstanding Inclusionary and Replacement Housing Obligations

The former ACIA had a 52-unit surplus of affordable housing units as of February 1, 2012. Therefore, there are no outstanding affordable unit production obligations to fulfill.

Income & Age Proportionality

If housing successors expend money on projects, SB 341 requires at least 30 percent to be spent on extremely low-income rental housing, among other restrictions. The Housing Authority has only expended funds on administrative costs since becoming the housing successor. As such, the Housing Authority is in compliance with expenditure proportionality requirements.

SB 341 also sets a limit on the portion of publicly assisted deed-restricted rental housing that may be restricted to seniors. There have been no deed-restricted rental units assisted by the Housing Authority or City in the past 10 years, therefore the Housing Authority is in compliance with this requirement.

Excess Surplus

SB 341 reinstated a requirement to prevent housing successors from accumulating an excess surplus, which is generally defined as unencumbered cash that exceeds the greater of \$1 million or the aggregate amount deposited into the Housing Asset Fund in the preceding four years. Since the housing successor did not exist until 2012, this calculation cannot be performed until Fiscal Year 2016-17. The purpose of this requirement is to ensure that housing successors actually spend Housing Asset Fund monies. The Housing Authority will encumber or expend cash so it does not accumulate an excess surplus.

Homeownership Unit Inventory

The Housing Authority oversees five homeownership units with affordability restrictions. All units are moderate-income households assisted through the First-Time Homebuyer Program.

ENVIRONMENTAL REVIEW

The action taken by the Housing Authority to approve the Housing Successor Agency Annual Report does not commit the Housing Authority to any actions that may have a significant effect on the environment. As a result, such actions do not constitute projects subject to the requirements of the California Environmental Quality Act.

FISCAL IMPACT

The Housing Successor Agency Annual Report provides information on Fiscal Year 2015-16 activities and does not have any fiscal impact.

Attachment:

- A. Housing Authority Resolution Approving a Housing Successor Agency Annual Report for Fiscal Year 2015-16.

HOUSING AUTHORITY RESOLUTION NO. _____

**A RESOLUTION OF THE HOUSING AUTHORITY OF THE CITY OF AVALON
APPROVING A HOUSING SUCCESSOR AGENCY ANNUAL REPORT FOR
FISCAL YEAR 2015-16**

WHEREAS, City records reveal that the City adopted a resolution on or about February 2, 1983 creating the Housing Authority of the City of Avalon ("Housing Authority"), however it is unclear whether the Housing Authority continued to remain active; and

WHEREAS, the City Council adopted Resolution No. 12-02 on January 30, 2012 declaring the need for the Housing Authority and reauthorizing it to transact business and exercise powers; and

WHEREAS, pursuant to Health and Safety Code section 34176, the City of Avalon ("City"), as the entity that authorized the creation of the dissolved Avalon Community Improvement Agency ("Agency"), elected not to retain the housing assets and functions previously performed by the Agency, and instead elected to transfer all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the Agency, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, to the Housing Authority, as provided in Resolution No. 12-01 adopted on January 30, 2012; and

WHEREAS, Section 34176.1 of the Health and Safety Code (H&SC) requires housing authorities to prepare an annual report describing its activities in the Low and Moderate Income Housing Asset Fund ("Housing Asset Fund") for the preceding fiscal year and submit it to the California Department of Housing and Community Development ("HCD") by December 31st of each year; and

WHEREAS, Housing Authority staff has prepared a Housing Successor Agency Annual Report for Fiscal Year 2015-16 ("Report"), attached hereto as Exhibit "A"; and

WHEREAS, the Housing Authority desires to approve the Report and transmit it to HCD and post on its website.

NOW, THEREFORE, THE HOUSING AUTHORITY OF THE CITY OF AVALON DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Approval of Housing Successor Agency Annual Report. The Housing Authority of the City of Avalon hereby approves the Housing Successor Agency Annual Report for Fiscal Year 2015-16, attached hereto as Exhibit "A," as required by the H&SC.

Section 3. Transmittal to Appropriate Agencies. The City Manager is hereby authorized and directed to transmit, by mail or electronic means, a copy of the Housing Successor Agency Annual Report to the California Department of Housing and Community Development, file a copy with the City Clerk, and post on the Housing Authority website.

Section 4. Technical Revisions. The City Manager is hereby authorized and directed to use his discretion to make any necessary technical revisions to the Housing Successor Agency Annual Report prior to submittal to the appropriate reviewing bodies.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Housing Authority of the City of Avalon, on the 6th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Ann H. Marshall, Chair

ATTEST:

Denise A. Radde, Secretary

EXHIBIT A

HOUSING AUTHORITY OF THE CITY OF AVALON
HOUSING SUCCESSOR AGENCY ANNUAL REPORT
FISCAL YEAR 2015-16

**HOUSING SUCCESSOR AGENCY
ANNUAL REPORT**
City of Avalon Housing Authority

FY 2015-16



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INTRODUCTION

AVALON HOUSING SUCCESSOR AGENCY

The City Council of the City of Avalon (“City Council”) adopted a resolution establishing the Avalon Housing Authority (“Authority”) on or about February 2, 1983. The City Council further affirmed the need for the Authority and reauthorized its powers by adopting Resolution No. 12-02 on January 30, 2012.

The Authority serves as the housing successor entity to the former Avalon Community Improvement Agency (“ACIA”). All California redevelopment agencies were dissolved effective February 1, 2012 by Assembly Bills x1 26 and 1484 (Parts 1.8 and 1.85 of the Health and Safety Code or “HSC”). The City Council elected not to retain the housing assets and functions of the former ACIA, and designated the Authority as the housing successor entity. The Authority thereby inherited all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the former ACIA, excluding any amounts in the Low and Moderate Income Housing Fund (“LMIHF”). All former ACIA housing assets and liabilities were transferred to Authority through the Housing Asset Transfer Form and approved by the Department of Finance (“DOF”) in August 2012 and updated in September 2014.

It is important to note that although the Authority inherited the ACIA’s assets and functions, it does not have an ongoing financing mechanism to maintain them like the ACIA. The former ACIA primarily funded projects with LMIHF generated by redevelopment tax increment; this tool was abolished with the dissolution of redevelopment.

ASSET TRANSFERS TO THE HOUSING SUCCESSOR

Per HSC Section 34176(e), housing assets may include the following.

- Real property;
- Restrictions on the use of property;
- Personal property in a residence;
- Housing-related files;
- Office supplies and software programs acquired for low-and moderate-income purposes;

- Funds encumbered by an enforceable obligation;
- Loan or grants receivable funded from the former LMIHF;
- Funds derived from rents or operation of properties acquired for low-and moderate-income housing purposes;
- Rents or payments from housing tenants or operators of low-and moderate-income housing; and
- Repayment of Supplemental Educational Revenue Augmentation Fund loans.

The vast majority of assets transferred to the Authority were real properties and affordable housing covenants.

REPORTING REQUIREMENTS OF HOUSING SUCCESSORS

Senate Bill (“SB”) 341, Assembly Bill (“AB”) 1793, and SB 107 amended certain sections of the HSC that pertain largely to the entities that accepted the housing assets and liabilities of former redevelopment agencies. SB 341 clarified that all former redevelopment agency housing assets, regardless of their originating redevelopment agency, must be maintained in a separate fund, known as the Low and Moderate Income Housing Asset Fund (“Housing Asset Fund”).

In accordance with HSC Section 34176.1(f), the following data must be reported annually for the Housing Asset Fund. Please note, while annual reporting is required, compliance periods may be longer, as described below. Not all items are applicable to all housing successors.

1. Total amount deposited in the Housing Asset Fund for the Fiscal Year.
2. Statement of balance at the close of the Fiscal Year.
3. Description of expenditures for Fiscal Year broken out as follows:
 - a. Rapid rehousing for homelessness prevention (maximum of \$250,000 per year),
 - b. Administrative expenses (greater of \$200,000 or 5 percent of “portfolio”),
 - c. Monitoring expenses (included as an administrative expense), and
 - d. All other expenditures must be reported as spent for each income group (extremely low-, very low-, and low income).

4. Other "Portfolio" balances
 - a. Statutory value of any real property either transferred from the former ACIA or purchased by the Housing Asset Fund. Note that the Housing Successor may only hold property for five years.
 - b. Value of loans and grants receivable.
5. Descriptions of any transfers to another housing successor for a joint project.
6. Description of any project still funded through the Recognized Obligation Payment Schedule ("ROPS").
7. Update on property disposition for any property owned more than 5 years or plans for property owned less than 5 years.
8. Description of any outstanding production obligations of the former redevelopment agency that are inherited by the Housing Successor.
9. Compliance with proportionality requirements (income group targets). Compliance must be upheld on a five-year cycle.
10. Percentage of deed-restricted rental housing restricted to seniors and assisted by the entity assuming housing functions, the former ACIA, or the County within the past 10 years compared to the total number of units assisted by any of those three agencies.
11. Amount of excess surplus, and if any, the plan for eliminating it.
12. An inventory of homeownership units assisted by the former ACIA or its housing successor subject to covenants or restrictions.

LOW AND MODERATE INCOME HOUSING ASSET FUND

The Housing Asset Fund¹ replaced the former ACIA's LMIHF. The Housing Asset Fund includes all the assets that were transferred from the ACIA to the Authority via the Housing Asset Transfer Form which included:

1. Real properties,
2. Affordable housing covenants,
3. Loan receivables,
4. Income from ground leases and rental properties, and

¹ City of Avalon Fund 153

5. Supplemental Educational Revenue Augmentation Fund Loan ("SERAF").

HOUSING ASSET FUND DEPOSITS AND ENDING BALANCE

SB 341 requires that the Authority annually report the amount of funds that were deposited into the Housing Asset Fund during the fiscal year. The Authority deposited \$15,950 into the Housing Asset Fund during fiscal year 2015-16. The sources of the deposits are detailed below in Table 1. There were no deposits into the Housing Asset Fund related to the Recognized Obligation Payment Schedule.

Fiscal Year 2015-16 Housing Asset Fund Deposits **Table 1**

Avalon Housing Authority	
Revenue Source	Amount
Rental Income - 206 E. Whittley	\$15,650
Ground Leases - 238 & 311 Descanso	\$300
Total Revenues	\$15,950

At the close of fiscal year 2015-16, the ending balance in the Housing Asset Fund was \$5,697,797 as shown in Table 2.

Fiscal Year 2015-16 Housing Asset Fund Ending Balance **Table 2**

Avalon Housing Authority	
Balance Type	Amount
Cash	\$ 454,222
Due From	248,627
Accounts Receivable	150
Accounts Payable	(1)
Land Held For Resale	3,951,426
FTHB Loans Receivable	292,000
SERAF Loan Receivable	751,373
FUND BALANCE	\$ 5,697,797

EXPENDITURES

SB 341 provides the following guidelines for expenditures from the Housing Asset Fund:

1. Administrative costs, which include housing monitoring, are capped at \$200,000 or 5% of the Housing Asset Fund's "portfolio", whichever is greater. The portfolio includes outstanding loans or other receivables, and the statutory value of any land owned.
2. A housing successor is authorized to spend up to \$250,000 per year on rapid rehousing solutions for homelessness prevention if the former ACIA did not have any outstanding housing production requirements. The former ACIA had a surplus of affordable housing production units, and therefore the Authority as Housing Successor can make this expenditure if it chooses and funding is available for such expenditures.
3. Remaining allowable expenditures must be spent to improve housing options affordable to households earning 80% or less of the area median income ("AMI"). This means that no funding may be spent on moderate-income households, as was previously authorized by redevelopment law. Of the money expended, a minimum of 30% must go towards households earning 30% or less of the AMI, and a maximum of 20% may go towards households earning between 60% and 80% of the AMI.

Note that housing successors must report expenditures by category each year, but compliance is measured every five years. For example, a housing successor could spend all of its funds in a single year on households earning between 60% and 80% AMI, as long as it was 20% or less of the total expenditures during the five-year compliance period. The first five-year compliance period will be evaluated at the end of Fiscal Year 2018-19.

Table 3 summarizes the Housing Asset Fund expenditures by category. All expenditures in FY 2015-16 were administrative expenses.

Avalon Housing Authority

Annual Expenditures	Admin/ Monitoring	Rapid Rehousing	Ext. Low Rental Units	Other Units	Ext. Low <30% AMI	Very Low 30-60% AMI	Low 60-80% AMI
Administration	\$4,190	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$4,190	\$0	\$0	\$0	\$0	\$0	\$0

Compliance Period Expenditures

	Annual Limits ¹		Five-Year Limits (2013-14 through 2018-19)					
Total Expenditures	\$4,190	\$0	\$0	\$0	\$0	\$0	\$0	\$0
SB 341 Limitation	\$268,183	\$250,000	>30%	<70%	>30%	<70%	<20%	<20%
Compliant (Yes/No)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

¹ Admin/monitoring and rapid rehousing expenditures have been within their maximum annual limits since FY 2013-14

STATUTORY VALUE OF REAL PROPERTIES AND LOAN RECEIVABLES

The Authority must report on the statutory value of real properties formerly owned by the ACIA and loans and/or grant receivables listed on the Housing Asset Transfer Form, shown in Table 4.

Fiscal Year 2015-16 Real Properties and Receivables**Table 4****Avalon Housing Authority**

Asset	Amount
<i>Real Properties</i>	
309 Beacon Street	\$862,511
313 Beacon Street	\$236,315
238 Descanso Avenue ¹	\$150,000
311 Descanso Avenue ¹	\$150,000
206 East Whittley Avenue	\$2,852,600
<i>Subtotal</i>	<i>\$4,251,426</i>
<i>Loan Receivables</i>	
Homebuyer Downpayment Assistance Loans	\$292,000
SERAF Loan Advance	\$820,234
<i>Subtotal</i>	<i>\$1,112,234</i>
Total	\$5,363,660

¹ The Authority issued first-time homebuyer loans with these property owners and holds interest in the land underneath the homes as security in the event of default. The value of these properties are not included in the Housing Asset Fund balance in Table 2.

PROPERTY AND PROJECT DESCRIPTIONS

The ACIA previously transferred seven real properties to the Authority that were approved by DOF on the Housing Asset Transfer Form in 2012. The Authority sold two of the properties in FY 2013-14. The following is a description of each of the remaining properties:

- 309 & 313 Beacon Street: This 13-unit senior housing complex is affordable to very low income residents. Income restrictions are held in place by a Ground Lease and related Regulatory Agreement. The project was constructed in 2002 with a combination of USDA Section 515 funds, Low Income Housing Tax Credit ("LIHTC") financing, HOME funds, ACIA funds (for land purchase) and Federal Home Loan Bank funds. The affordability covenant runs for 55 years and expires in 2047. The ACIA transferred ownership of the land under the property to the Authority.
- 206 E. Whittley Avenue: This property contains a five-unit apartment complex, of which one unit currently pays rent. It is not income-restricted. The ACIA purchased the property in 2008 and had planned to build new affordable housing units, however was

unable to pursue development due to the dissolution of redevelopment. The City recently selected a workforce housing developer to develop workforce and affordable housing options for Avalon. The Authority will ensure this site is developed or disposed of as required by law.

- 238 & 311 Descanso Avenue: These two single-family homes have 55-year restrictive covenants that expire in 2051. The ACIA owned the land under the homes regulated by Ground Leases, which were transferred to the Authority. They are both affordable to moderate income households that received assistance from ACIA through its First-Time Homebuyer Down Payment Assistance Program.

PROPERTY DISPOSITION COMPLIANCE

HSC Code Section 34176(e) requires that all real properties acquired by the ACIA prior to February 1, 2012 and transferred to the Authority be developed pursuant to the requirements detailed in HSC Section 33334.16. Thus, all property that falls within these parameters must be developed for affordable housing purposes within 5 years from the date DOF approved the Housing Asset Transfer Form. Avalon's original Housing Asset Transfer Form was approved by DOF on August 30, 2012. DOF later asked the Successor Agency to revise the form to reflect ownership of 309 Beacon Street. The revised Housing Asset Transfer Form was approved by DOF on December 15, 2014. Therefore, the 5-year deadline will end on August 30, 2017 for most properties, and December 15, 2019 for 309 Beacon Street, which is already developed as affordable housing.

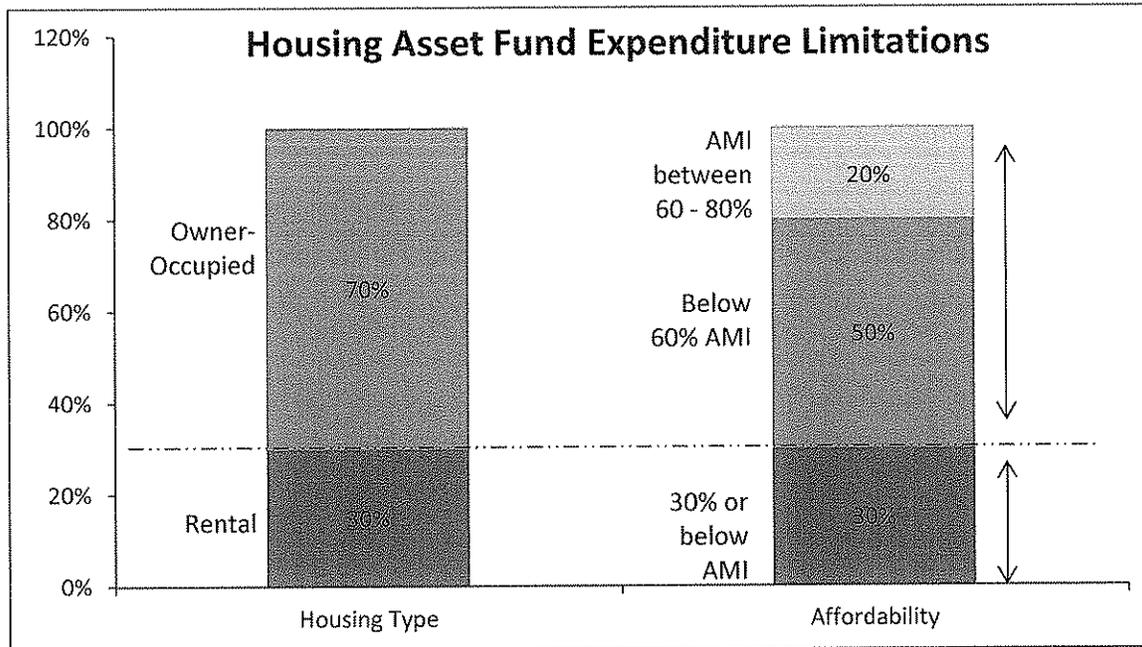
The only Authority property that still needs to be developed or disposed of pursuant to this provision is 206 E. Whittley Avenue, which is currently being marketed for sale. If the Authority is unable to develop or dispose of this property by August 30, 2017, the law allows for a 5-year extension via adoption of a resolution.

OUTSTANDING INCLUSIONARY AND REPLACEMENT HOUSING OBLIGATIONS

The former ACIA had a surplus of 52 affordable housing units as of February 1, 2012. There are no outstanding inclusionary or replacement housing obligations to be fulfilled by the Authority.

EXTREMELY LOW INCOME EXPENDITURE PROPORTIONALITY

Expenditures from the Housing Asset Fund shall be limited to lower income households earning 80% or less of the AMI, with at least (not less than) 30% of expenditures for rental housing for households earning 30% or less of the AMI and not more than 20% of the expenditures for household earning between 60% and 80% of the AMI.



Failure to comply with the extremely low income requirement in any five-year report will result in the Authority having to ensure that 50% of remaining funds be spent on extremely low income rental units until in compliance. Exceeding the expenditure limit for households earning between 60% and 80% of the AMI in any five-year reporting period will result in the Authority not being to expend any funds on these income categories until in compliance.

As depicted in Table 3, the Authority only had administrative expenditures in FY 2015-16 and is therefore in compliance with extremely low income 30% expenditure requirement. The Authority will ensure that it adheres to extremely low income expenditure limitations by the end of the five-year compliance period.

SENIOR HOUSING EXPENDITURE PROPORTIONALITY

This report must include an accounting of deed-restricted senior rental units that were produced over the last ten years. The Authority must expend no more than 50% of the

aggregate total number of senior housing units produced by the City, Authority or former ACIA during the past 10 years. Exceeding this limitation will prohibit the use of Housing Asset Funds to subsidize any senior rental units.

There have been no deed-restricted affordable rental units developed in the past 10-years.

EXCESS SURPLUS

Excess surplus calculations were once performed by redevelopment agencies on an annual basis, and are intended to ensure that funds are expended to benefit low-income households in an expeditious manner. Generally speaking, funds should be encumbered within four years of receipt. SB 341 reinstates this calculation for housing successors. Excess surplus is defined by HSC Section 34176.1(d) as “an unencumbered amount in the account that exceeds the greater of one million dollars, or the aggregate amount deposited into the account during the housing successor’s preceding four fiscal years, whichever is greater.”

The first meaningful calculation of this total cannot be performed until the close of the fifth fiscal year. Once four years of deposits have been established, at the close of the fifth year, (FY 2016-17) the Authority can perform a true excess surplus calculation, comparing the unencumbered fund balance to the prior four years of deposits. It is anticipated that the Authority will not have an excess surplus at the end of FY 2016-17 because the cash balance at the end of FY 2015-16 (\$454,222) was well under \$1 million.

As the general purpose of the excess surplus calculation is to ensure that money is expended for affordable housing purposes, the best action for the Authority is to encumber or expend money currently on deposit to ensure it does not accumulate over \$1 million of unencumbered funds. This will be especially important if the Authority sells property in FY 2016-17 and deposits enough money to bring the cash balance over \$1 million.

INVENTORY OF HOMEOWNERSHIP UNITS

AB 1793 requires this report to include an inventory of homeownership units assisted by the former Agency or the housing successor that are subject to covenants or restrictions or to an adopted program that protects the former Agency’s investment of monies from the LMIHF. The inventory is shown in Table 5.

Homeownership Units with Affordability Restrictions

Table 5

Avalon Housing Authority

Address	Income Level	Restriction		Program	Funding Source
		Start Date	End Date		
238 Descanso Ave	Moderate	5/17/1996	5/17/2051	FTHB	LMIHF
311 Descanso Ave	Moderate	5/23/1995	5/23/2951	FTHB	LMIHF
336 Triana Lane	Moderate	9/21/2010	9/21/2055	FTHB	LMIHF
342 Triana Lane	Moderate	12/23/2014	12/23/2059	FTHB	Housing Bonds
338 Triana Lane	Moderate	6/23/2014	6/23/2059	FTHB	Housing Bonds

There are two additional units that were assisted by the former ACIA, located at 206 Descanso Avenue and 320 Sumner Avenue, that were lost to the portfolio due to foreclosure after the ACIA dissolved on February 1, 2012. The Ground Leases restricting the affordability of these properties were terminated and the Authority sold the land underneath the properties in January 2014. The proceeds of the sale amounted to \$374,131 (\$176,000 and \$198,131 per property). The sales proceeds will be spent as required by SB 341.

The Authority has a contract with RSG, Inc. to help manage homebuyer loans if the properties are sold.

CITY OF AVALON HOUSING AUTHORITY**MEETING DATE:** December 6, 2016**AGENDA ITEM:** 1**ORIGINATING DEPT:** ADMINISTRATION**EXECUTIVE DIRECTOR** _____**PREPARED BY:** David Jinkens
Elizabeth Hull, Legal Counsel**SUBJECT: APPROVAL OF EXCLUSIVE NEGOTIATING AGREEMENT WITH C&C DEVELOPMENT**

RECOMMENDED ACTION(S):

1. Approve Exclusive Negotiation Agreement and authorize the Executive Director to Sign Same

REPORT SUMMARY:

On October 18, 2016 the Housing Authority Board of Directors (HA) authorized staff to negotiate an Exclusive Negotiating Agreement (ENA) with C& C Development Company, LLC, a California limited liability company. Orange Housing Development Corporation, a California nonprofit public benefit corporation will be a partner with C&C and subject to this agreement.

The HA Board wishes to explore the possibility of developing one or more affordable housing projects in the City of Avalon for the benefit of existing residents who are in need of quality safe, sanitary and affordable housing. The HA Board and staff are looking for comprehensive affordable housing solutions that can be implemented to address a pressing affordable housing need, and this is one step of many that will be proposed for Avalon.

The terms and conditions of the ENA are contained in the attached report and include but are not limited to the following:

1. Duration – 360 calendar days from the time the agreement is signed by both parties;
2. Extension – Up to two 60 day periods if the developer is performing under the Agreement.
3. Developer shall undertake a market analysis of housing needs within 60 days of the effective date of the Agreement.
4. Developer to evaluate potential affordable housing development sites including the use of SMART GROWTH principles.
5. Developer shall undertake an ongoing public outreach and participate in Board workshops in coordination with HA staff.
6. Developer and HA staff shall cooperate to further the objectives defined herein by the HA Board.
7. Developer may only assign Developer's rights under the Agreement if it is reasonably satisfactory to the HA Board.

8. Developer shall keep HA and staff updated on their work program at least on a monthly basis.
9. Developer to pay all costs and expenses in undertaking their analysis and review.
10. HA shall not negotiate with any other person on entity regarding the use of HA funds during the term of this Agreement.
11. Developer and HA may agree to an Affordable Housing Agreement to develop housing which would then be brought back to the HA Board for review and approval.

GOAL ALIGNMENT: Ensure the availability of quality, safe, sanitary and affordable housing for Avalon residents and remove barriers that may exist to deliver same to the community. Providing affordable housing is consistent with goals in the City's General Plan and requirements in State law.

FISCAL IMPACTS: This Agreement alone does not create a fiscal impact on the City or HA.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: The City and HA will miss an important opportunity to encourage and support the development of affordable housing in the City limits to meet the needs of the people of Avalon.

FOLLOW UP ACTION: The Executive Director, HA staff and legal counsel will work cooperatively with C&C to effectuate the outcomes outlined in the Agreement.

**EXCLUSIVE NEGOTIATION AGREEMENT
(C&C DEVELOPMENT)**

THIS EXCLUSIVE NEGOTIATION AGREEMENT (C&C Development), is dated as of November __, 2016, for reference purposes only (this “**Agreement**”), and is entered into by and between the HOUSING AUTHORITY OF THE CITY OF AVALON, a public body, corporate and politic (“**HA**”), and C & C Development Co., LLC, a California limited liability company (“**Developer**”), to provide a specified period of time to attempt to identify an appropriate site for development of an affordable housing project and negotiate an Affordable Housing Agreement. HA and Developer are sometimes referred to in this Agreement, individually, as a “**Party**” and, collectively, as the “**Parties**.” This Agreement is entered into by the Parties with reference to the following recited facts (each, a “**Recital**”):

RECITALS

- A. Following the demise of redevelopment, the HA Board held a series of informational meetings and workshops to discuss strategic housing positioning which led to the HA Board approving a Notice of Funding Availability (“**NOFA**”) on April 15, 2016; and
- B. The HA Board directed staff to solicit responses from qualified developers to work with the HA to develop one or more affordable housing projects in the City of Avalon (“**City**”). The NOFA sought statements of qualification from qualified nonprofit and for-profit developers with a desire to partner with the HA to carry out the City’s community development, land use, and housing goals; and
- C. On October 18, 2016, the HA selected Developer to partner with the HA in the potential development of affordable housing.
- D. Pursuant to Health and Safety Code section 34172, the Avalon Community Improvement Agency was dissolved as of February 1, 2012 and the HA became the Housing Successor Agency to the Avalon Community Improvement Agency; and
- E. As the Housing Successor Agency, the HA may utilize certain funds held by it for the development of affordable housing; and
- F. HA may have up to Four Million Four Hundred Thousand Dollars (\$4,400,000) available for the development of one or more affordable housing projects. (“**HA Funds**”); and
- G. The intent of both HA and Developer in entering into this Agreement is to establish a specific, limited period of time for Developer to work with HA regarding the selection of a site for a project and the negotiation of an Affordable Housing Agreement for the development and use of HA Funds, and possibly additional funds or real property that may become available to the HA, subject to mutually agreeable terms, conditions, covenants, restrictions and agreements to be negotiated and documented in the future, in the respective sole and absolute discretion of Developer and HA (this future agreement is referred to in this Agreement as an “**Affordable Housing Agreement**”).
- H. HA acknowledges that Developer intends to include Orange Housing Development Corporation, a California nonprofit public benefit corporation, as its nonprofit

partner in the affordable housing project which will be the subject of the Affordable Housing Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, restrictions and conditions contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS

1. **Incorporation of Recitals.** The Recitals of fact set forth above are true and correct and are incorporated into this Agreement, in their entirety, by this reference.

2. **Term of Agreement.**

(a) Effective Date. The rights and duties of HA and Developer established by this Agreement shall commence on the first date on which all of the following have occurred ("**Effective Date**"): (i) the authorized representative(s) of Developer have signed three (3) originals of this Agreement and delivered such signed originals of this Agreement to HA, which shall occur no later than seven (7) calendar days from the date first written above; (ii) the HA governing board has approved this Agreement; and (iii) the authorized representatives(s) of HA have signed this Agreement and delivered one (1) signed original of this Agreement to Developer; This Agreement shall continue in effect for a period of Three Hundred Sixty (360) calendar days beginning on the Effective Date ("**Negotiation Period**"), subject to the provisions of Section 2(b).

(b) Extension of Negotiation Period. The Negotiation Period may be extended for two additional periods of sixty (60) days each upon the mutual written agreement of the HA's executive director or his or her designee and Developer, provided that Developer submits a written request for said extension no later than thirty (30) calendar days prior to the expiration of the Negotiation Period. If the Negotiation Period is extended pursuant to this Section 2(b), the HA's executive director may also modify the deadlines for any remaining actions to be taken by either HA or Developer, within such extended Negotiation Period. The HA's executive director may also extend the Negotiation Period by the period of time between the date one hundred eighty (180) days after the Effective Date until the date the City determines an appropriate source of water supply for the project ("**Water Supply Extension**"). If the Negotiation Period is extended by a Water Supply Extension pursuant to this Section 2(b), the deadlines for any remaining actions to be taken by either HA or Developer shall be extended by the same time period as the Water Supply Extension. Notwithstanding the immediately preceding sentence, Section 7 or any other part of this Agreement, in no event (including any Unavoidable Delay(s)), shall the Negotiation Period exceed Four Hundred Eighty (480) consecutive calendar days.

(c) Expiration or Termination. Notwithstanding any other term, condition, covenant, restriction or agreement contained in this Agreement, this Agreement shall automatically expire and be of no further force or effect on the earlier to occur of any of the following: (i) the expiration or earlier termination of the Negotiation Period; (ii) entry into a separate Affordable Housing Agreement by both HA and Developer, in their respective sole and absolute discretion; (iii) the determination of HA's legal counsel, in their sole and exclusive discretion, that any litigation or statute prohibits HA from proceeding; or (iv) either party

reasonably determines that the identification of a site or the development of the of an affordable housing project is infeasible under the then existing circumstances..

3. **Obligations of Developer.** During the Negotiation Period, Developer shall proceed diligently and in good faith to do all of the following:

(a) Needs Assessment. Within sixty (60) days following the Effective Date, Developer shall submit a market demand analysis to the HA that determines whether, based on reliable data sources (e.g., US Census), including current average household sizes and income levels, what the demand for affordable multifamily housing in the corporate limits of the City. The market analysis shall include, but is not limited to, the need for housing at specific levels of affordability and unit sizes. The market study shall include at least one public meeting coordinated by HA staff to involve community stakeholders in the process of identifying housing needs. An essential part of this analysis is to evaluate the housing market to develop housing proposals focused on workforce housing.

(b) Site Analysis. Within ninety (90) days of the Effective Date, the Developer shall submit, based on its consultations with HA staff, an analysis of potential affordable housing development sites including new construction sites and acquisition and rehabilitation sites.

(c) Preliminary Site Selection. Within one hundred twenty (120) days of the Effective Date, the Developer and HA staff shall jointly select a site for further analysis as set forth in subsection (d).

(d) Submittals to HA. Within ninety (90) calendar days after the preliminary site selection pursuant to subsection (c), Developer shall develop and present to HA staff, for review, all of the following:

(i) *Site Plan.* A conceptual development site plan or plans for a proposed project or projects that describes and depicts: (1) the location and orientation of proposed buildings; and (2) the architecture and elevations of the proposed buildings; and (3) the floor plans, including unit sizes;

(ii) *Financial Pro Forma.* A preliminary financial pro forma that includes cost financing and a cash flow analysis, including anticipated rents for affordable units, unit size distribution, and anticipated onsite and off-site improvement;

(iii) *Project Schedule.* A proposed time schedule for commencement and completion of the Project;

(iv) *Any Other Information Required.* Any other information or data required by the HA or its negotiating representatives.

(e) HA Board Workshop. As part of the ongoing public outreach for the development of affordable housing, participate in a HA Board workshop to present to the Board the results of the market analysis, site surveys, and conceptual development plan.

(f) Project Development Application. Submit a complete Development Application or Applications for the Project to the City Planning Department.

4. **Negotiation of Affordable Housing Agreement.** During the Negotiation Period, Developer shall proceed diligently and in good faith to develop and submit to HA all of the documents and information set forth in Section 3(a) and both HA and Developer shall proceed diligently and in good faith to negotiate and document the potential terms, conditions, covenants, restrictions and agreements of an Affordable Housing Agreement between them. HA and Developer shall generally cooperate with each other and supply such documents and information as may be reasonably requested by the other to facilitate the conduct of the negotiations. Both HA and Developer shall exercise reasonable efforts to complete discussions relating to the terms, conditions, covenants, restrictions or agreements of an Affordable Housing Agreement as may be mutually acceptable to both HA and Developer, in their respective sole and absolute discretion. The exact terms and conditions of an Affordable Housing Agreement, if any, shall be determined during the course of these negotiations. Nothing in this Agreement is intended nor shall be interpreted or construed to be a representation or agreement by either HA or Developer that a mutually acceptable Affordable Housing Agreement will be produced from negotiations under this Agreement. Nothing in this Agreement shall impose any obligation on either Party to agree to a definitive Affordable Housing Agreement in the future. Nothing in this Agreement shall be interpreted or construed to be a guaranty, warranty or representation that any proposed Affordable Housing Agreement that may be negotiated by HA staff and Developer will be subsequently approved by the HA governing board. Developer acknowledges and agrees that the HA governing board's consideration of any future Affordable Housing Agreement is subject to the independent and reserved sole and absolute discretion of the HA governing board and any and all legally required public hearings, public meetings, notices, factual findings and other determination or activities required by law.

5. **No HA Commitment to Transfer Property.** Nothing in this Agreement is intended to be an express or implied commitment by HA or the City to provide financing and/or HA Funds, exercise any power of eminent domain or other power, acquire, adopt a resolution of necessity to acquire, provide HA staff time or other resources or take any other action regarding the transfer of any property or financial resources for the Project or otherwise.

6. **Restrictions Against Change in Ownership, Management and Control of Developer and Assignment of Agreement.**

(a) HA Reliance on Developer Qualifications. The qualifications and identity of Developer and Developer's principals are of particular concern to HA. Developer's qualifications and identity are the reason that HA has entered into this Agreement with Developer. During the Negotiation Period, no voluntary or involuntary successor-in-interest of Developer shall acquire any rights or powers under this Agreement, except as expressly provided in Section 6(c).

(b) Notice to HA of Organizational Changes. Developer shall promptly notify HA in writing of any and all changes whatsoever in the identity of the business entities or individuals either comprising or in Control (as defined in Section 6(d)) of Developer, as well as any and all changes in the interest or the degree of Control of Developer by any such person, of

which Developer or any of Developer's shareholders, partners, members, directors, managers or officers are notified or may otherwise have knowledge or information. Upon the occurrence of any significant or material change (more than 10%), whether voluntary or involuntary, in ownership, management or Control of Developer (other than such changes occasioned by the death or incapacity of any individual) that has not been approved by HA, prior to the time of such change, HA shall have the right, in HA's sole and absolute discretion, to terminate this Agreement, without liability to Developer or any other person, by sending written notice of termination to Developer, referencing this Section 6(b).

(c) Developer Assignment. Developer may only assign Developer's rights under this Agreement to an Affiliate (as defined in Section 6(d)), subject to all of the following conditions: (1) such Affiliate expressly assumes all of the obligations of Developer under this Agreement in a written assumption agreement reasonably satisfactory to HA; and (2) Developer, shall, at all times, Control any such Affiliate. Notwithstanding any assignment of this Agreement, Developer shall, at all times, be responsible and obligated directly to HA for performance of Developer's obligations under this Agreement.

(d) Definitions of "Affiliate" and "Control." For the purposes of this Agreement, the term "**Affiliate**" means any person, directly or indirectly, Controlling or Controlled by or under common Control with Developer, whether by direct or indirect ownership of equity interests, by contract, or otherwise. For the purposes of this agreement, "**Control**" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether by ownership of equity interests, by contract, or otherwise.

7. **Unavoidable Delay.** The time period for performance of any action to be taken by either HA or Developer pursuant to this Agreement shall be extended by the number of days by which an Unavoidable Delay actually delays such performance, subject to the limitations set forth in this Section 7 or in Section 2. For the purposes of this Agreement "**Unavoidable Delay**" means delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including casualty, third-party legal actions related to HA's approval of this Agreement or the pursuit of the activities contemplated by this Agreement, war, acts of terrorism or riots. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency. Any Party claiming Unavoidable Delay shall notify the other Party: (a) within ten (10) calendar days after such Party knows of any such Unavoidable Delay; and (b) within ten (10) calendar days after such Unavoidable Delay ceases to exist. To be effective, any notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party seeking to be excused by an Unavoidable Delay shall exercise such Party's commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time. Each Party expressly agrees that adverse changes in economic conditions of either Party specifically or the economy generally, or changes in market conditions or demand, shall not operate to excuse or delay the performance of each and every one of each Party's obligations or covenants arising under this Agreement. Both Parties expressly assume the risk of such adverse economic or market changes, whether or not foreseeable as of the Effective Date.

8. **Developer Obligations to Review Draft Agreements and Attend Meetings.**

(a) Project Design and Planning. During the Negotiation Period, Developer shall keep HA staff advised on the progress of Developer in performing Developer's obligations under this Agreement, on a regular basis (i.e. at least monthly in writing to the Executive Director) or as requested by HA staff, including having one or more of Developer's employees or consultants who are knowledgeable regarding this Agreement, the design and planning of the proposed project and the progress of negotiation of a future Affordable Housing Agreement, such that such person(s) can meaningfully respond to the HA governing board or HA staff questions regarding the progress of the design and planning of the Project or the negotiation of an Affordable Housing Agreement, and can attend both: (1) meetings with HA staff, as reasonably scheduled by HA staff; and (2) meetings of the HA governing board, when reasonably requested to do so by HA staff.

(b) Affordable Housing Agreement. During the Negotiation Period, Developer shall diligently review and comment on drafts of an Affordable Housing Agreement prepared by HA's legal counsel and, if the terms and conditions of such an Affordable Housing Agreement are agreed upon between HA staff and Developer, submit the Affordable Housing Agreement signed by the authorized representative(s) of Developer to HA's executive director for submission to the HA governing board for review and approval or disapproval, in the sole and absolute discretion of the HA governing board. Any Affordable Housing Agreement shall consist of terms, conditions, covenants, restrictions and agreements acceptable to both Developer and the HA governing board, in their respective sole and absolute discretion.

(c) CEQA Documents. During the Negotiation Period, Developer shall diligently review and comment on draft environmental review documents relating to any proposed project prepared by HA's environmental consultant, if any.

9. Developer to Pay All of its Costs and Expenses. All fees or expenses of engineers, architects, financial consultants, legal, planning or other consultants or contractors, retained by Developer for any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to the Obligations of Developer set forth in Section 3, including the negotiation or documentation of an Affordable Housing Agreement that may be undertaken by Developer during the Negotiation Period or otherwise, pursuant to or in reliance upon this Agreement or in Developer's discretion, regarding any matter relating to this Agreement, or an Affordable Housing Agreement shall be the sole responsibility of and undertaken at the sole cost and expense of Developer and no such activity or matter shall be deemed to be undertaken for the benefit of, at the expense of or in reliance upon HA. HA shall not be obligated to pay, reimburse or refund any expenses, fees, charges or costs incurred by Developer or HA in pursuit of any study, analysis, evaluation, report, schedule, estimate, environmental review, planning or design activities, drawings, specifications or other activity or matter relating to this Agreement or negotiation or documentation of an Affordable Housing Agreement that may be undertaken by Developer or HA during the Negotiation Period or otherwise, whether or not this Agreement is eventually terminated or extended or an Affordable Housing Agreement is entered into between HA and Developer.

10. HA Not To Negotiate With Others. During the Negotiation Period, the HA governing board and HA staff shall not negotiate with any other person regarding the use of the

HA Funds. The term “**negotiate**,” as used in this Agreement, means and refers to engaging in any discussions with a person other than Developer, regardless of how initiated, with respect to that person’s development of affordable housing utilizing the HA Funds to the total or partial exclusion of Developer, without Developer’s written consent, subject to the other provisions of this Section 10. Notwithstanding the preceding provisions of this Section 10, HA shall have the right to receive and retain unsolicited offers regarding development of affordable housing from persons other than Developer, but shall not negotiate with the proponent of any such offer during the Negotiation Period to the extent that the HA Funds would be required to proceed with this alternative affordable housing project. Nothing in this Agreement shall prevent or prohibit HA from discussing or disclosing the fact that HA is a Party to this Agreement. Notwithstanding any other provision of this Section 10 or this Agreement, implementation of HA’s development plans and/or use of available funding shall be and remain in the sole and exclusive purview and discretion of HA. Nothing in this Agreement shall limit, prevent, restrict or inhibit HA from providing any information in HA’s possession or control that would customarily be furnished to persons requesting information from HA concerning HA’s activities, goals or matters of a similar nature as required by law to be disclosed, upon request or otherwise.

11. **Acknowledgments and Reservations.**

(a) No Project Commitment. HA and Developer agree that, if this Agreement expires or is terminated for any reason, or an Affordable Housing Agreement is not approved and signed by both HA and Developer, for any reason, neither HA nor Developer shall be under any obligation, nor have any liability to each other or any other person regarding the development of an affordable housing project, the HA Funds or the financing considered to assist with the development of an affordable housing project.

(b) No HA Offer or Acceptance. Developer acknowledges and agrees that no provision of this Agreement shall be deemed to be an offer by HA, nor an acceptance by HA of any offer or proposal from Developer, for HA to convey or receive any estate or interest in property or for HA to provide any financial assistance, including the HA Funds to Developer, for development of an affordable housing project.

(c) No Conveyance. Developer acknowledges and agrees that Developer has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in any real or personal property from HA.

(d) Development Standards. Certain development standards and design controls for a project may be established between Developer and HA, but HA and Developer understand and agree that any project must conform to all City and other applicable governmental development, land use and architectural regulations and standards. Drawings, plans and specifications for any project shall be subject to the approval of the City, through the standard development application and design review processes for similar projects. Nothing in this Agreement shall be considered approval of any plans or specifications for a project by HA or the City. The Parties enter into this Agreement further acknowledging and intending that a complete and definitive Affordable Housing Agreement may not be entered into between them, if at all, prior to review of any project in accordance with CEQA.

(e) No HA Approval. Nothing in this Agreement, nor any comments provided by HA staff, nor any failure of HA staff to provide comments to any submittal under or pursuant to this Agreement shall: (i) modify or replace any land use entitlement process of HA or City applicable to the Project; (ii) limit the police power land use jurisdiction of HA or City relative to the Project; (iii) constitute an approval of all or any portion of a project the City pursuant to the police power land use jurisdiction of HA or City; or (iv) constitute any approval of all or any portion of an Affordable Housing Agreement with Developer by HA.

(f) HA Due Diligence. HA reserves the right to reasonably obtain further information, data and commitments to ascertain the ability and capacity of Developer to purchase, develop or operate a Project. Developer acknowledges that Developer may be requested to make certain financial disclosures to HA, HA staff, HA's legal counsel or other HA retained consultants, as part of the financial due diligence investigations of HA relating to the potential sale and redevelopment of HA property by Developer and that any such disclosures may become public records. HA shall maintain the confidentiality of financial information of Developer to the extent allowed by law, as determined by the HA's legal counsel.

(g) Required HA Approval. HA shall not be deemed to be a Party to any agreement for the acquisition of, lease of or disposition of real or personal property, financial commitments to Developer or development of a project, except pursuant to the terms and conditions of a complete Affordable Housing Agreement approved by the HA governing board, in its sole and absolute discretion, following all required public hearing(s), determinations, findings or other procedures. Developer expressly acknowledges and agrees that HA will not be bound by any statement, promise or representation made by HA staff or representatives during the course of negotiations of an Affordable Housing Agreement and that HA shall only be legally bound upon the approval of a complete Affordable Housing Agreement in the future by the HA governing board, in its sole and absolute discretion, in accordance with law.

(h) No Intent to be Bound. Further efforts by either Party to perform due diligence, arrange or obtain financing or carry out other acts in contemplation of the possible acquisition, transfer or development of the Property or the Project shall not be deemed evidence of intent by either Party to be bound by any terms, conditions, covenants, restrictions or agreements relating to acquisition, transfer or development a project.

12. **Nondiscrimination**. Developer covenants by and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through Developer, that this Agreement is made and accepted upon and subject to the following conditions:

(a) Standards. There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property nor shall Developer, itself, himself or herself, or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with

reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees in the property or a project.

(b) Interpretation. Notwithstanding Section 12(a), with respect to familial status, Section 12(a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in Section 12(a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to Section 12(a).

13. **LIMITATION ON REMEDIES AND DAMAGES.**

(a) WAIVER AND RELEASE. IF EITHER PARTY TERMINATES THIS AGREEMENT AS A RESULT OF A MATERIAL DEFAULT UNDER THIS AGREEMENT BY THE OTHER PARTY, SUBJECT TO ALL APPLICABLE NOTICE AND CURE PERIODS, THE TERMINATING PARTY'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO TERMINATE THIS AGREEMENT. HA AND DEVELOPER EACH ACKNOWLEDGE AND AGREE THAT NEITHER PARTY WOULD HAVE ENTERED INTO THIS AGREEMENT, IF IT WERE TO BE LIABLE TO THE OTHER PARTY FOR ANY MONETARY DAMAGES, MONETARY RECOVERY OR ANY REMEDY IN THE EVENT OF A DEFAULT OF THIS AGREEMENT BY IT, OTHER THAN TERMINATION OF THIS AGREEMENT. ACCORDINGLY, HA AND DEVELOPER AGREE THAT EACH PARTY'S SOLE AND EXCLUSIVE RIGHT AND REMEDY DURING A DEFAULT OF THIS AGREEMENT BY THE OTHER PARTY IS TO TERMINATE THIS AGREEMENT. EACH PARTY WAIVES ANY RIGHT TO PURSUE ANY REMEDY OTHER THAN TERMINATION OF THIS AGREEMENT AS A RESULT OF ANY DEFAULT OF THIS AGREEMENT BY THE OTHER PARTY.

(b) 1542 ACKNOWLEDGMENT. EACH PARTY ACKNOWLEDGES THAT IT IS AWARE OF THE MEANING AND LEGAL EFFECT OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

(c) 1542 WAIVER. CALIFORNIA CIVIL CODE SECTION 1542 NOTWITHSTANDING, THE INTENTION OF EACH PARTY IS TO BE BOUND BY THE LIMITATION ON DAMAGES AND REMEDIES SET FORTH IN THIS SECTION 13, AND EACH PARTY HEREBY WAIVES AND RELEASES ANY AND ALL CLAIMS AGAINST THE OTHER PARTY FOR MONETARY DAMAGES, MONETARY RECOVERY OR OTHER LEGAL OR EQUITABLE RELIEF RELATED TO ANY DEFAULT OR BREACH OF THIS AGREEMENT, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 13, WHETHER OR NOT ANY SUCH RELEASED CLAIMS WERE KNOWN OR UNKNOWN

TO THAT PARTY AS OF THE EFFECTIVE DATE. EACH PARTY SPECIFICALLY WAIVES THE BENEFITS OF CALIFORNIA CIVIL CODE SECTION 1542 AND ALL OTHER STATUTES AND JUDICIAL DECISIONS OF SIMILAR EFFECT WITH REGARD TO THE LIMITATIONS ON DAMAGES OR REMEDIES AND WAIVERS AND RELEASES OF ANY SUCH DAMAGES OR REMEDIES CONTAINED IN THIS SECTION 13.

Initials of Authorized
HA Representative

Initials of Authorized
Developer Representative

14. Default; Breach; Remedy.

(a) Default. Failure or delay by either Party to perform any material term, provision, obligation or agreement or observe any restriction, condition or covenant set forth in this Agreement shall constitute a “**Default**” under this Agreement. If the Party that is claimed to be in Default by the other Party cures, corrects or remedies the alleged Default within fifteen (15) calendar days after receipt of written notice specifying such Default, such Party shall not be in Default under this Agreement. The notice and cure period provided in the immediately preceding sentence shall not, under any circumstances, extend the Negotiation Period. If notice of an alleged Default is given with fifteen (15) or fewer calendar days remaining in the Negotiation Period, this Agreement shall automatically terminate on the date of such notice, without further notice to or action by either Party, and the Party alleged to have been in Default shall be deemed to have cured such Default on the termination of this Agreement. The Party claiming that a Default has occurred shall give written notice of Default to the Party claimed to be in Default, specifying the alleged Default. Delay in giving such notice shall not constitute a waiver of any Default nor shall it change the time of Default. However, the injured Party shall have no right to exercise any remedy for a Default under this Agreement, without first delivering written notice of the Default.

(b) Breach; Termination. If a Default of either Party remains uncured for more than fifteen (15) calendar days following such Party’s receipt of written notice of such Default, a “**Breach**” of this Agreement by the Defaulting Party shall have occurred, except as otherwise provided in Section 14(a) during the last fifteen (15) calendar days of the Negotiation Period. In the event of a Breach of this Agreement, the sole and exclusive remedy of the Party who is not in Breach shall be to terminate this Agreement by serving written notice of termination on the Party in Breach. The failure of Developer to timely submit any item described in Section 3 shall be a Default under this Agreement by Developer.

(c) No Waiver. Any failure or delay by a Party in asserting any of such Party’s rights or remedies as to any Default or Breach shall not operate as a waiver of any Default or Breach or of any rights or remedies associated with a Default or Breach.

15. Compliance with Law. Developer acknowledges that any Affordable Housing Agreement, if approved by the HA governing board, will require Developer (among other things) to carry out the development of a project in conformity with all applicable laws, including all applicable building, planning and zoning laws, environmental laws, safety laws and labor and wage laws.

19. **Counterpart Originals.** This Agreement may be signed by HA and Developer in multiple counterpart originals, each of which shall constitute an original and all of which together shall constitute a single agreement.

20. **No Third-Party Beneficiaries.** Nothing in this Agreement is intended to benefit any person other than HA or Developer.

21. **Governing Law.** HA and Developer acknowledge and agree that this Agreement was negotiated, entered into and is to be fully performed in the City of Avalon, California. HA and Developer agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the substantive and procedural laws of the State of California, without application of conflicts or choice of laws principles.

22. **Waivers.** No waiver of any Breach or Default of any term or condition contained in this Agreement shall be deemed a waiver of any preceding or succeeding Breach or Default of such term or condition, or of any other term or condition contained in this Agreement. No extension of the time for performance of any obligation or act, no waiver of any term or condition of this Agreement, nor any modification of this Agreement shall be enforceable against HA or Developer, unless made in writing and signed by the Party against whom such extension, waiver or modification is sought to be enforced.

23. **Principles of Interpretation.** No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time. Headings at the beginning of each section or sub-section of this Agreement are solely for the convenience of reference of HA and Developer and are not a part of this Agreement. Whenever required by the context of this Agreement, the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to sections are to this Agreement. All exhibits referred to in this Agreement are attached to this Agreement, unless otherwise specified. If the date on which HA or Developer is required to take any action pursuant to the terms of this Agreement is not a business day of HA, the action shall be taken on the next succeeding business day of HA.

[Signatures on the following page]

**SIGNATURE PAGE
TO
EXCLUSIVE NEGOTIATION AGREEMENT
(C&C Development)**

IN WITNESS WHEREOF, HA and Developer have signed and entered into this Exclusive Negotiation Agreement (C&C Development) through the signatures of their authorized representative(s) set forth below:

HA:

HOUSING AUTHORITY OF THE CITY OF
AVALON, a public body, corporate and politic

By: _____
Executive Director

ATTEST:

By: _____
Authority Secretary

APPROVED AS TO FORM:

Best Best & Krieger LLP

By: _____
Authority Counsel

DEVELOPER:

C & C Development Co., LLC
a California limited liability company

By: _____
Todd R. Cottle

By: _____
Barry A. Cottle