AVALON CITY COUNCIL MEETING
TUESDAY, MARCH 1, 2016- 6:00 PM
CITY HALL 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 / ROLL CALL

PLEDGE OF ALLEGIANCE / INVOCATION

ANNOUNCEMENTS

WRITTEN COMMUNICATIONS

PRESENTATION

CITY MANAGER REPORT / CITY ATTORNEY REPORT

COUNCILMEMBER REPORTS / MAYOR REPORT

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

1. Income Survey Agreement Amendment with Michael Baker International (MBI)

   At the December 15, 2015, City Council Meeting, Council approved an agreement with MBI to perform a community-wide income survey. The last survey regarding commuter ferry travel is 14 years old, and since the City has already committed to the cost and effort of a community-wide income survey, it seems prudent and cost effective to collect up-to-date commuter ferry travel data to support the continuing efforts of the City and LACMTA information concurrently with the income survey.

   Recommended Action

   Authorize Staff to execute an amendment to the scope and budget of the approved Income Survey contract with Michael Baker International, to include information on commuter ferry travel, in an amount not-to-exceed $5,500.

2. Waterside Permit Modification Application – Memory Maker Charters
Memory Maker Fishing Charters has submitted a Waterside Project modification proposing to add a second 19' to 24' vessel to their current permit. The applicant, Adam Olson, proposes up to two trips daily, seven days a week, year around from 6:00 a.m. to 9:00 p.m. Mr. Olson will use the Green Pier and Cabrillo Mole to pick up and drop off passengers and will moor the boat at Avalon Boat Stand in the summer and on a City mooring in the winter.
Recommended Action
Make the affirmative finding that conditions set forth in the Avalon Municipal Code have been met and grant the Waterside Project Application modification of adding a second boat to Memory Maker Fishing Charters waterside permit.

3. Biosolids Conveyor and Gearbox Maintenance for the Alfa Laval Biosolids Centrifuge Dewatering Skid System
Field service for the preventive maintenance on the gearbox and conveyor for the Alfa Laval ALYSYS G2-45 Centrifuge Dewatering Skid System is required to be made regularly. This is to ensure the equipment is fully operational, at all times, to effectively control waste streams generated by the residents and visitors of the City of Avalon.
Recommended Action
Authorize the City Manager to execute an Agreement with Environ Strategies and Alfa Laval, to perform the recommended preventive maintenance on the gearbox and conveyor associated with the Centrifuge Dewatering Skid System located at the Avalon Wastewater Treatment Facility, for a Not-to-Exceed cost of $8,700.00.

4. On-Call Civil Engineering Firm Contract
The City is in need of a new Civil Engineering firm to provide Plan Checks, and various other services, on an as-needed basis. These activities will be necessary for any new development, or Capital Improvement projects that may require a re-design, and/or verifications of civil plans and drawings.
Recommended Action
Authorize the City Manager to execute an Agreement with Engineered Solutions Group, to perform the requisite services on an as-needed basis for the Planning Department and the Public Works/Capital Improvements Department, for one year, with authorization to renew.

NOTICE OF POSTING
I, Denise Radde, declare that the City Council Agenda for March 1, 2016 was posted on Wednesday, February 24, 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 and on the City website.

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Denise A. Radde, City Clerk / Interim City Manager

CITY OF AVALON CITY COUNCIL

MEETING DATE: March 1, 2016 **AGENDA ITEM:** 1

ORIGINATING DEP: Planning **CITY MANAGER:** DR

PREPARED BY: Audra McDonald, Administrative Analyst

SUBJECT: Income Survey Agreement Amendment with Michael Baker International

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RECOMMENDED ACTION(S): Authorize Staff to execute an amendment to the scope and budget of the approved Income Survey contract with Michael Baker International to include information on commuter ferry travel in an amount not-to-exceed $5,500.

REPORT SUMMARY: At the December 15, 2015, City Council Meeting, City Council approved an agreement with Michael Baker International to perform a community-wide income survey for an amount not-to-exceed $16,544.00. The purpose of the community-wide survey is to assemble accurate household income data that accurately represents the economic picture of the residents of the City. The income survey may potentially assist the City in grant applications that have a Disadvantaged Community Requirement (The US Census Department states the error of margin in the data at +- $11,606, and a difference of only $3,471 between the State 80% MHI and the City's 80% MHI.)

- State of California MHI is $61,094
- State of California 80% MHI threshold is $48,875.
- City of Avalon MHI is $65,433
- City of Avalon 80% MHI is $52,346

Since the time of the approval of the Income Survey, Staff attended a meeting with key Los Angeles Metropolitan Transportation Authority (LACMTA) Staff as part of the continuing dialogue regarding securing permanent, self-sustained funding for the City of Avalon Commuter Subsidy Program which is currently funded with discretionary Proposition A Funds. Two previous commuter ferry surveys, commissioned by LACMTA, were conducted (1996 and 2002) to assist in challenging the Federal Government's interpretation of the definition of a commuter. Since the last survey regarding commuter ferry travel is 14 years old, and the City has already committed to the cost and effort of a community-wide income survey, it seems prudent and cost effective to collect up-to-date commuter ferry travel data to support the continuing efforts of the City and LACMTA information concurrently with the income survey.

GOAL ALIGNMENT: Goal 6 – Comprehensive Transportation Review

FISCAL IMPACTS: The cost of the approved Income Survey is $16,544, if the amendment is approved, the new contract amount would be $22,044.00, which is not included in the FY15-16

Budget for the General Fund account 101-35-5005. Depending upon the results of the survey, significant increases in grant funding could be received.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Commuter ferry travel data would not be included in the community-wide survey.

FOLLOW UP ACTION: Amend the contract to include commuter ferry travel data and work with Michael Baker International staff in the development and implementation of the Community-Wide Survey.

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

ATTACHMENTS:

1. Michael Baker International Amendment to the Scope and Budget for an Income Survey.

Michael Baker
INTERNATIONAL

We Make a Difference

February 17, 2016

Audra McDonald, Administrative Analyst
CITY OF AVALON
410 Avalon Canyon Road
P.O. Box 707
Avalon, CA 90704

RE: AMENDMENT TO THE SCOPE OF WORK AND BUDGET FOR AN INCOME SURVEY

Dear Ms. McDonald:

Please find below a summary of the additional work to be performed to add LA Metro Ferryboat Commuter related questions to income survey.

Our methodology will be to add several questions to determine if predominant commuter service means that for any given trip segment (i.e., distance between any two piers), more than 50 percent of the average daily ridership makes a return trip on the ferryboat on the same day.

The project team, directed by Jennifer Gastelum, has over 16 years of experience in conducting housing-related surveys, preparing housing policy, and analyzing data. Ms. Gastelum will direct the income survey with support from project manager Jessica Hayes and a team of associate planners who will conduct the follow-up door-to-door fieldwork.

We are available to begin work on this project immediately and have attached a scope of services (Attachment A), cost estimate (Attachment B), and schedule (Attachment C). Michael Baker estimates a project time of approximately six weeks at a cost of **$16,544**. We are proposing an additional **$5,500** to add the LA Metro Ferryboat Commuter questions and tabulation and outreach to business owners.

Please contact Jennifer Gastelum at (916) 361-8384, ext. 10258, or via e-mail at jgastelum@mbakerintel.com should you require any additional information. We look forward to the opportunity to work with you again.

Sincerely,

Kevin Gustorf, P.E
Vice President

Jennifer Gastelum
Housing and Community Development Service Lead

2729 Prospect Park Drive, Suite 220, Rancho Cordova, CA 95670
P: (916) 361-8384 F: (916) 361-1574

ATTACHMENT A. SCOPE OF SERVICES

Task 1. Project Initiation/Survey Methodology. Michael Baker will conduct a conference call with City staff to confirm the project objectives and schedule and to discuss the proposed survey methodology. Based on input from staff, we will prepare a memorandum outlining the survey procedure and methodology and a survey questionnaire. The questionnaire will aim to determine household income and household size. The draft materials will be submitted for review and approved by City staff prior to the initiation of fieldwork.

Deliverables: Attendance (via teleconference) at a project initiation meeting, survey procedure memorandum, draft and final survey questionnaire.

Task 2. Conduct Survey. Michael Baker will conduct an income survey that includes collecting income information from approximately 1,000 households. The 2010 Census identifies 1,473 households. The survey will be completed in two steps: a mailer and door-to-door follow-up.

> **2.1 Survey Mailer.** We will rely on the City to provide us with a mailing list that includes all residential units in the community. We will then prepare and send a mailer including the questionnaire, an introductory letter, and a stamped return envelope. Materials will be provided in English and Spanish.
>
> **2.2 Door-to-Door Follow-Up.** We understand that the mailed survey is likely to yield limited responses and as such, we will conduct a door-to-door survey to gather the remaining questionnaires. Surveyors will follow the survey procedure established in Task 1. They will provide the questionnaire items to respondents in English and Spanish versions and manually record the survey responses onto the questionnaire form.

Deliverables: Mailing list, mailer in English and Spanish, door-to-door fieldwork

Task 4. Add LA Metro Ferryboat Commuter Questions. Our methodology will be to add several questions (2-4 questions) taken from the 2006 LA Metro Survey to determine commuter service on the Ferryboat. Michael Baker will provide a draft of the survey with the commuter questions included for review and approval.

Deliverables: Included as part of Task 1: draft and final survey questionnaire.

Task 5. Local Business Owner Outreach. Michael Baker will work with the City to identify a list business owners to contact regarding the number of their employees that commute to and from the island on a daily basis for work.

Deliverables: Results of the business owner outreach will be included in the income survey findings memo (electronic copy)

ATTACHMENT B. BUDGET BY TASK

The following are hourly rates listed by team member.

Team Member	Hourly Rate
Jennifer Gastelum, Project Director	$150
Jessica Hayes, Project Manager	$115
Rosa Camacho-Chavez, Grant Management Specialist	$90
Patrice Clemons, Associate Planner	$85
Russell Toler, Assistant Planner	$80
GIS	$85
Administrative Assistance	$65

Project Budget – total cost not to exceed $22,044

Task	Description	Cost
1.	Project Initiation/Survey Methodology	**$1,760**
2	Conduct Survey	
2.1	Survey Mailer	**$3,700**
2.2	Door-to-Door Follow-Up	**$7,084**
3.	Tabulation/Results/Memo	**$4,000**
TOTAL		**$16,544**
New Task 4	Add LA Metro survey questions and tabulation	$2,500
New Task 5	Outreach to local business owners	$3,000
SUBTOTAL		$5,500
NEW TOTAL		**$22,044**

ATTACHMENT C. SCHEDULE

Michael Baker anticipates a total project time of six weeks from project initiation. The following table describes the time frame for each task.

Task	Time Frame
Task 1 and 4. Project Initiation/Survey Methodology	Weeks 1 to 2
Task 2. Conduct Survey	
2.1 Survey Mailer	Weeks 2 to 3
2.2 Door-to-Door Follow-Up	Week 4
Task 3. Tabulation/Results/Memo	Weeks 5 to 6
Task 5 Outreach to Business Owners	Week 5 to 6

CITY OF AVALON CITY COUNCIL

MEETING DATE: March 1, 2016 **AGENDA ITEM:** 2

ORIGINATING DEP: Harbor **CITY MANAGER:** DR

PREPARED BY: Brian Bray, Harbor Master

SUBJECT: Waterside Permit Modification Application – Memory Maker Charters

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RECOMMENDED ACTION(S): City Council make the affirmative finding that conditions set forth in the Avalon Municipal Code have been met and grant the Waterside Project Application modification of adding a second boat to Memory Maker Fishing Charters waterside permit.

REPORT SUMMARY: Adam Olson of Memory Maker Fishing Charters has submitted a Waterside Project modification proposing to add a second 19' to 24' vessel to his current permit. The applicant proposes up to two trips daily, seven days a week, year around from 6:00 a.m. to 9:00 p.m. Mr. Olson will use the Green Pier and Cabrillo Mole to pick up and drop off passengers and will moor the boat at Avalon Boat Stand in the summer and on a City mooring in the winter.

Staff feels the addition of a 19' to 24' fishing charter boat being used up to twice a day will not generate substantial additional trips and will not have a negative impact upon existing facilities.

The Finance Department has advised Memory Maker Charters is current on his Harbor Use Fee payments and always submits his reports on time.

Section 10-2.416 of the Municipal Code provides that a waterside permit may only be granted where the City Council is able to make the following affirmative findings, (the facts which support the findings are set forth after each of the conditions.):

(1) The project will not result in a substantial alteration of the City's present or planned waterside uses of the Avalon Harbor.

Applicant will use current City facilities to load and unload his passengers so there will not be such alternation.

(2) With regard to transportation and circulation, the project

(i) will not generate substantial additional boat trips, including shoreboat trips, or other movement within Avalon Harbor;

Applicant may generate an additional 1 or 2 landings at non-peak hours and 1 or 2 landings at peak hours on the Pier or Cabrillo Mole loading floats before departing the harbor for his excursion. These are not substantial.

(ii) will not have a substantial negative impact upon existing mooring, docking, or other anchorage facilities;

Applicant will use a mooring at Avalon Boat Stand in the summer months and a City mooring in the winter months. It is staffs opinion that an additional 1 or 2 landings at non-peak hours and 1 or 2 landings at peak hours on the Pier or Cabrillo Mole loading floats will not cause an issue with the current traffic.

(iii) will not have a substantial impact on other modes and systems of transportation;

The addition of one boat will not have a substantial impact on other modes and systems of transportation.

(iv) will not result in substantial alterations of present patterns of circulation or movement of people and /or goods;

The addition of one boat will not alter patters of circulation or movement of people and goods.

(v) will not increase traffic hazards to swimmers, boaters, or other existing activities; and

Applicant may generate an additional 1 or 2 landings at non-peak hours and 1 or 2 landings at peak hours on the Pier or Cabrillo Mole loading floats before departing the harbor for his excursion, which will not result in hazards.

(vi) will not restrict or alter existing coastal access;

The additional boats will enhance existing coastal access.

(3) The project will not have a substantial impact upon and will not result in a need for new or altered governmental services, including but not limited to fire, police, maintenance of facilities, and harbor department services

No additional services are needed.

(4) The project will not result in the use of substantial amounts of fuel or other forms of energy or substantially increase the demand upon existing energy or require the development of new sources of energy;

The addition of one boat will not substantially impact fuel or energy demands.

(5) The project will not result in the need for new utility systems or a substantial alteration of existing sources or systems for power, natural gas, communications, water, sewage disposal or solid waste.

No new utility systems are needed.

(6) The project will not obstruct any scenic vista or view open to the public, and will not result in the creation of an aesthetically offensive site which is open to public view;
The additional boat tours will no obstruct views or be aesthetically offensive.

(7) The project will not result in a substantial negative impact upon the quality and quantity of existing recreational opportunities or result in alterations or restrictions to coastal access.

The project will enhance existing recreational opportunities and increase coastal access.

(8) The applicant is fit to be entrusted with the privileges of a permit, in that he has not engaged in prior violations of the City's harbor regulations, including the provisions of this article, has timely paid any harbor-related fees and has not presented checks returned for insufficient funds.

The applicant has held a Waterside Permit since 2007 and the Finance Department has advised Memory Maker Charters is current on his Harbor Use Fee payments and always submits his reports on time.

The Municipal Code also provides that the "City Council may deny the permit where the impacts listed in paragraphs (1) through (8) above are cumulatively significant, even though the individual impacts are limited. The City Council may approve a project where mitigation measures eliminating significant impacts are incorporated into the project, and the approval shall be conditioned upon the implementation of such mitigation measures. The failure to comply and maintain any mitigation measures shall be a basis for suspension or revocation of a waterside permit."

GOAL ALIGNMENT: Offer recreational activities in the Avalon area.

FISCAL IMPACTS: Unknown, potential Harbor Use Fees.

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Operator would not be able to add additional trips.

FOLLOW UP ACTION: Notify Memory Maker Charters of the City Council's decision.

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

ATTACHMENTS:

1. Waterside Permit Application
2. Waterside Permit Standard List of Conditions

Standard List of Conditions Relating to Waterside Project Applications

1. Section 1-6.01 Public Liability Insurance

Sec. 1-6.01 Public Liability Insurance. Applicants for permits or franchises and parties to leases and contracts with the City of Avalon may be required by the Avalon Municipal Code or the City Manager to maintain a policy of public liability insurance. Such policy shall:

(a) Contain broad form commercial general liability insurance, or in the case of marine operations, the substantial equivalent, with respect to the Premises, as applicable and the permittee, franchisee, contractor or lessees' activities with a combined single limit of not less than $1,000,000 per occurrence and aggregate. Such insurance shall be produced by an insurer authorized to do business in California with a then current Best's Insurance Guide Rating of not less than A-VII. , shall name the City of Avalon, its officers, agents and employees as additional insureds, and shall contain a provision that prohibits cancellation, modification or; and

(b) Name the City as additional insured and contain a waiver of subrogation against the named insured or respective officers, employees, agents; and

(c) Provide that it may not be canceled without at least thirty (30) days prior written notice to the City; and

(d) Provide primary and not excess coverage Insurance coverage shall be subject to the approval of the City.

The applicant shall provide evidence of such insurance coverage by providing the City with a copy of the policy and/or a copy of a fully explanatory certificate of insurance, as determined by the City.

2. Section 10-2.402 Use of Harbor Related Facilities: Use Fees

Wharfage, dockage, landing and use fees for the use of or impact upon any harbor or harbor-related facility owned or controlled by the City of Avalon shall be as follows:

(a) Except as otherwise specifically provided in this article, for all boats, ships, vessels, airplanes or other transportation facilities carrying passengers for hire or charter, whether operating under the authority of the California Public Utilities Commission or not, which land, discharge, load, or embark passengers on, to, or from such City harbor facilities Two Dollars and Fifty Cents ($2.50) per passenger so landed, discharged, loaded or embarked.

(b) Except as otherwise provided in paragraph (1) below, for all cruise ships, Two Dollars and Fifty Cents ($2.50) per passenger, which fee shall be levied upon eighty (80%) percent of the manifest passengers, excluding persons employed upon the vessel. As used in this section "cruise ship" means a vessel which lists Avalon as a port-of-call and which anchors so as to permit passengers to disembark and to return to the same vessel.

(c) For businesses engaged in the operation of excursion boats using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use. For the purpose of this section, "excursion boats" shall mean vessels operating from points in the City and returning thereto for sightseeing scenic tours or as pleasure cruises, and carrying passengers for hire, but not providing facilities for overnight stays.

(d) For businesses engaged in the operation of "shore boats," as defined herein, and using such facilities for landing, discharging, loading or embarking passengers on, to, or from such facilities, seven (7%) percent of the gross receipts of such business derived from such use, excepting therefrom receipts for transportation of passengers to and from "cruise ships," as defined in subsection (b) herein, or as otherwise provided in an applicable franchise agreement issued pursuant to Section 10-2.410. For the purpose of this section, "shore boats" shall mean vessels carrying passengers or freight for hire to and from boats moored within or without City waters to the shore in Avalon, between such boats in City waters or between points on the shore in Avalon.

(e) Operators of fishing tournaments whose participants use City harbor facilities during the course of such tournaments shall comply with the provisions of Title 3, Chapter 3 regarding admissions taxes as applied to entry fees charged for participation in such tournament.

(f) For all other businesses not otherwise expressly provided for in this Section 10-2.402 carrying passengers for hire by vessel from points in the City and returning thereto, or from one point in the City to another point therein, or engaged in the renting, leasing, or chartering of boats, paddle boards, rafts, or other floating watercraft for hire and using City harbor facilities, or whose patrons regularly use such facilities for launching, landing, boarding, unloading, embarking or disembarking, docking, or other similar uses, or whose business activities involve the use of such facilities, seven (7%) percent of the gross receipts derived from such use.

(g) The fees for the use of such facilities by those not falling within the classifications set forth in subsections (a) through (d) of this section shall be determined initially by a schedule adopted by the Council or shall be incorporated into the flat rental of any contract, permit, lease, franchise or other agreement entered into for use of the facilities.

3. <u>Section 10-2.410 Permits; Franchises to Conduct Business</u>

a. All businesses operating in the harbor, except those enumerated in paragraph (b) of this section, shall maintain a shore base of operations or an office in Santa Catalina Island. Such office shall have a business telephone, which is covered twenty four (24) hours a day. An answering service or mechanical means of answering may be used provided messages are checked no less than three (3) times per day.

4. In addition to the provisions of Section 10-2.402, all businesses operating within the harbor, except those operating pursuant to a franchise issued by the City shall:

(ii.) In the case of waterside permit holders other than cross-channel carriers, pay to the City a non-refundable use fee deposit of One Thousand ($1000.00) Dollars, payable in two (2) installments of Five Hundred ($500.00) Dollars each, the first installment on the inception of operations within the Avalon Harbor and the second on August 1. The use fee deposit may be applied against use fees due and owing under Section 10-2.402 at such time that the permittee has made timely payment of use fees for thirteen (13) consecutive months.

(iii.) In all cases where the business operates seven (7) or more months during any twelve (12) month period, pay to the City use fees under Section 10-2.402 no fewer than seven (7) months of any twelve (12) month period, and in no event less than the sum of twenty five ($25.00) Dollars per month for each month the business is operating and reports sales receipts.

(iv.) In all cases where the business operates fewer than seven (7) months during any twelve (12) month period, pay to the City a use fee of Two Hundred ($200.00) Dollars for each month the business is closed or does not report any sales receipts.

6. All vessels over sixteen (16) feet in length operated for hire or used to conduct work in the harbor shall be equipped with a marine radio which shall be monitored at all times that the vessel is in operation.

7. All businesses operating in the harbor shall maintain all equipment, materials, facilities, machinery and vessels utilized in the operation of the licensed business in a good working condition, and such businesses shall only employ workers who are qualified to conduct the duties appropriate to the licensed business.

4. <u>Resolution 96-36 Mandatory Activation Dates for Waterside Permits</u>

Section 4. All newly permitted businesses must have proof of insurance, other required permits and/or leases, and all required deposits in place prior to commencing business operations in Avalon Harbor. All new permits issued before January 31 will expire on April 1 of the year of issuance unless the business is operating as of that date. All new permits issued after January 31 will expire sixty (60) days after issuance unless the business is operating as of that time. The Harbor Master shall have the authority to grant one extension of thirty (30) days of the time within which a business must be operating, upon showing a good cause.

CITY OF AVALON

WATERSIDE PERMIT APPLICATION

An application fee of $217.00 is due at the time the application is submitted to the Harbor Department. Applications should be sent to the Avalon Harbor Department, P.O. Box 1085, Avalon, CA 90704, or delivered to the Harbor Master's office, #22 Pleasure Pier, Avalon, CA.

Deadline for new applications is December 15th of each year.

Please complete this application in full detail. Questions that require further details should be answered on an attached sheet.

1. Name of Applicant: Adam R Olson
2. Address: P.O. Box 1013 City Avalon CA Zip 90704
3. Phone (Home) (310) 592-5988 (Avalon business) same as home
4. Name of Business/Project: Memory Maker Fishing Charters
5. Location of Avalon Base of Operations: Avalon Harbor
6. Project/Business Description: I would like to add a second fishing boat to my business. 19-24 feet.
7. On the map provided, sketch the project/business activities, showing the proposed locations of all waterborne traffic and activity.
8. Duration:

   Hours of Operation 6am - 9pm

   Days of Operation Mon Tue Wed Thur Fri Sat Sun

   Months of Operation All
9. Does this activity include overnight accommodations on boat ☐ or shore ☐? No
10. Describe the number, length, and types of watercraft which will be added to the City waters?

    Number One/19-24 ft Trips per day 2+ Type Fishing

    Schedule Early morning to early evening.
11. For scheduled services, including shore boats, where will queuing be and for what duration? Pick up will be on Green Pier and Float 5 at Mole. Trips can be from 2 - 8 hours long.

12. How will people be transported to the facility? They will be picked up and taken out fishing.

How often? 6am - 9pm 7 days a week 12 months a year.

Number of passengers per trip? 1-6 passengers

13. What berthing/mooring will be required? Summer time in Jays and winter on Avalon mooring.

14. If the proposed business/activity requires a new structure or modification to harbor facilities or the harbor itself, including the moles and pier, attach the proposed plans.

15. How many new employees would be Avalon-based? One

16. Communications:

VHF Channels: 10, 65, 72 Phone: 310-592-5988

If answering machine, hours of operation: All hours - Seven days a week

17. If a sign will be required, list the size and submit a drawing. Please note that a Sign Permit Application must be obtained from and submitted to the Planning Department for approval. No sign needed.

18. Please attach all permits and certifications required to legally perform the activity being applied for in this application.

Applicant Acknowledgement

Applicant agrees that if this Waterside Permit is granted, he/she will conduct his/her business in accordance with all federal, state, and local laws, including the City's planning and zoning laws. Applicant also agrees to abide by the terms of this Permit and all rules, regulations, and/or restrictions placed upon it by the City Council. Applicant must follow all regulations regarding the use of City facilities. This Permit may be revoked, suspended, or further conditioned at any time by the City Council for violations of the foregoing, or immediately in the City Manager's discretion if the public's health, safety, or well-being is threatened by the actions or inactions of the Applicant. Failure to pay use fees shall also be a violation of the terms of this Permit. Any decision made by the City Council regarding this Permit is final and conclusive. Decisions of the City Manager may be appealed to the City Council if the City is notified within 10 days of the City Manager's decision, but the City's Manager's decision shall remain in effect until the next regular meeting of the City Council at which an appeal may be heard.

Applicant Name: Adam R Olson

Business/Activity Name: Memory Maker Fishing Charters

Applicant Signature: Adam Olson Date: 1-30-2016

Application Presented at the City Council Meeting on: _____

Application Approved: ____

Application Denied: ____

Application Approved with Attached Conditions: ____

_____

_____

_____

_____

_____

_____ City Manager _____ Date

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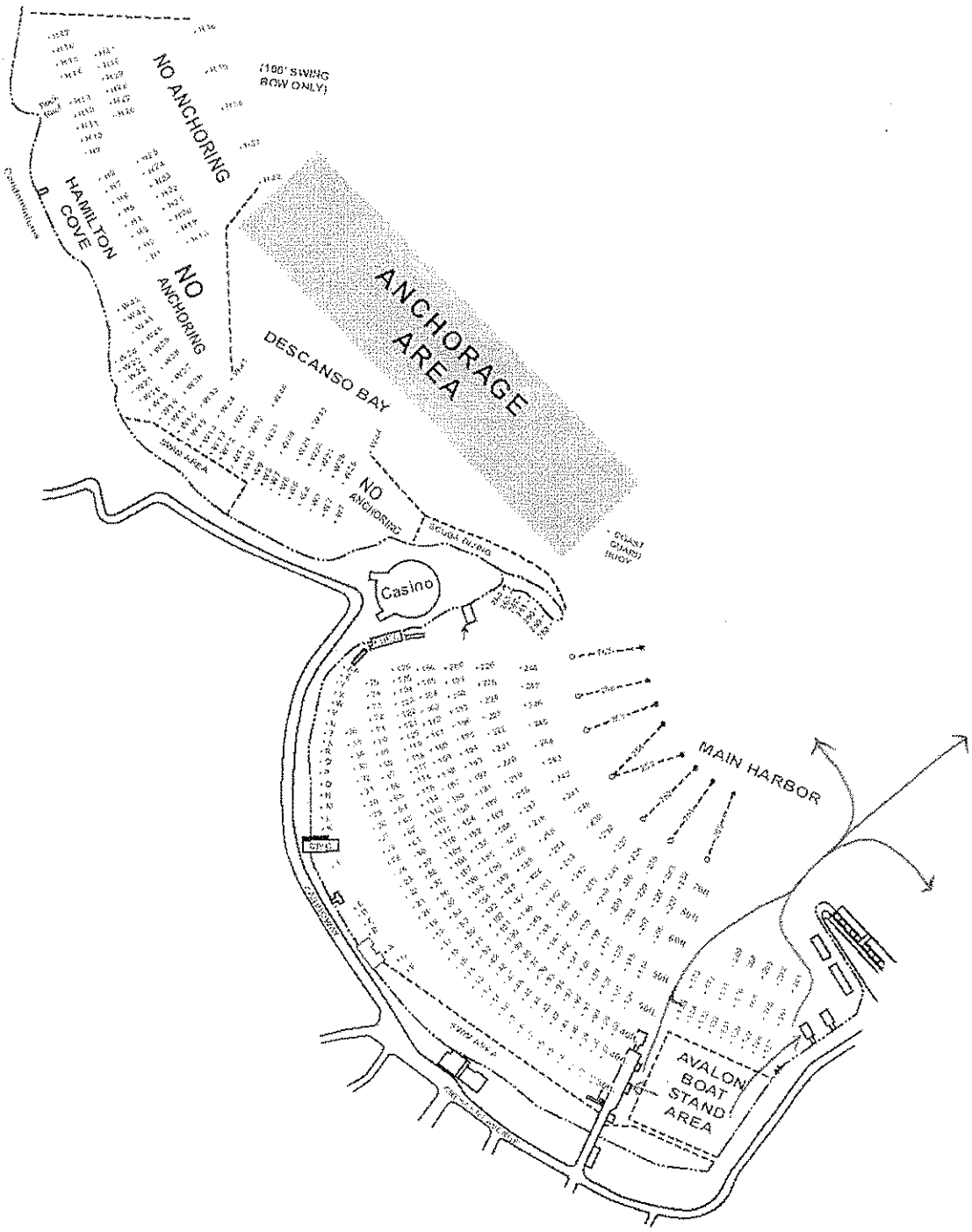
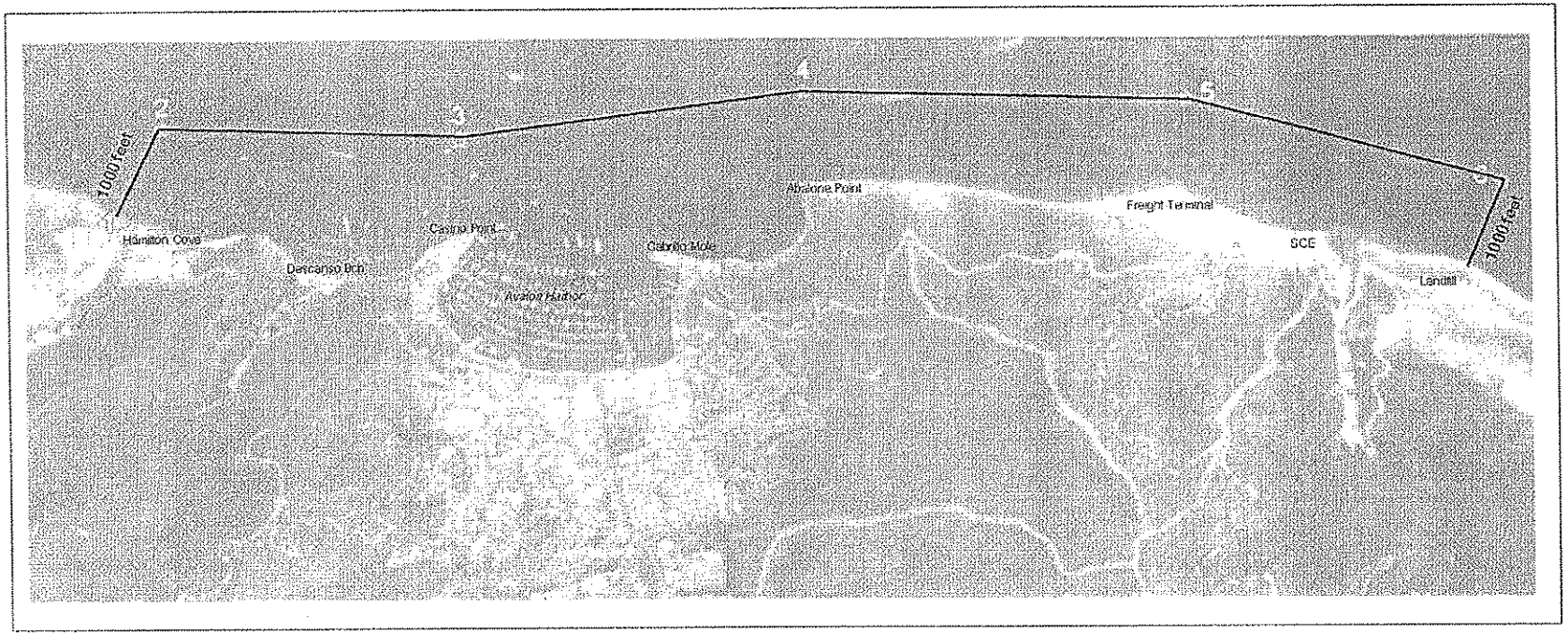


The vessel will leave from mooring in Jay's Rent A Boat in summer and an Avalon Mooring in winter. Pick up passangers on Green Pier and Float 5 at Mole. Take them out fishing and drop them off in same locations as pick ups.

City of Avalon
Tideland Lease Boundary



LICENSE

CITY OF AVALON – BUSINESS LICENSE

THIS LICENSE IS NON TRANSFERABLE

PLEASE POST IN A CONSPICUOUS PLACE

APPROVED BY

LICENSE EXPIRES: DECEMBER 31, 2016

Business Information:

Business ID:	009467
Business Name:	ADAM'S MEMORY MAKER FISHING
Owner Name:	ADAM ROY OLSON
Business Location:	AVALON HARBOR

License Information: Class Of Business

ADFEE
SER
VE2

Balance Due: 0.00

009467
ADAM'S MEMORY MAKER FISHING
P.O. BOX 1013
AVALON, CA 90704

CITY OF AVALON CITY COUNCIL

MEETING DATE: March 1, 2016 **AGENDA ITEM:** 3

ORIGINATING DEP: Public Works **CITY MANAGER:** DR

PREPARED BY: Dennis Jaich, Public Works Director

SUBJECT: Accomplish the Biosolids Conveyor and Gearbox Maintenance for the Alfa Laval Biosolids Centrifuge Dewatering Skid System

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RECOMMENDED ACTION(S): That the City Council authorize the City Manager to execute an Agreement with Environ Strategies (ES), and Alfa Laval, to perform the recommended preventive maintenance on the gearbox and conveyor associated with the Centrifuge Dewatering Skid System located at the Avalon Wastewater Treatment Facility, for a Not to Exceed (NTE) cost of $8700.00.

REPORT SUMMARY: Field service for the preventive maintenance on the gearbox and conveyor for the Alfa Laval ALYSYS G2-45 Centrifuge Dewatering Skid System is required to be made regularly. This is to ensure the equipment is fully operational, at all times, to effectively control waste streams generated by the residents and visitors of the City of Avalon. Emergency repairs would be required to be made expeditiously anyway due to the critical components involved in dewatering sludge to meet State of California stipulations set forth in the operating permit. Postponing recommended preventive maintenance often leads to extensive damage to equipment ultimately requiring much more to repair to a serviceable condition. In addition, sludge dewatering requirements are in place at the City of Avalon landfill which requires all sludge to be dewatered to less than a 50% water content. These are landfill regulations that are mandated by the State of California Solid Waste permitting agency.

Alfa Laval is the manufacturer of the unit, and it is therefore necessary that Alfa Laval perform the preventive maintenance. The Council may authorize this contract to Alfa Laval without formal bidding on the basis that maintenance contracts generally do not have to be formally bid and, for this particular contract, formal bidding would serve no public benefit because Alfa Laval is the sole firm that is fully capable of providing the service.

GOAL ALIGNMENT: City Infrastructure

FISCAL IMPACTS: Sewer Infrastructure Fund 108-25-6552

CONSEQUENCES OF NOT FOLLOWING RECOMMENDED ACTION: Process control procedures at the Avalon Wastewater Treatment Facility would be compromised. Without the continued smooth operations of the Alfa Laval ALYSYS G2-45 Centrifuge Dewatering Skid System the facility would be unable to dewater biosolids from the two aerobic digestion holding tanks. This would result in the two aerobic digestion tanks overflowing downhill into the marine

environment. The overflow would be called a SSO (Sanitary Sewer Overflow) which would violate stipulations set forth in the CDO (Cease and Desist Order No. R4-2008-0028) for NPDES Permit No. CA0054372

FOLLOW UP ACTION: Allow the City Manager to enter into an Agreement with ES & Alfa Laval, for this maintenance procedure, at a NTE cost of $8700.00.

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

ATTACHMENTS:

1. Alpha Laval Field Service Proposal dated January 26, 2016

January 26, 2016

City of Avalon CA
Attn: Van Madding

Service Division
Alfa Laval Inc.
955 Mearns Road
Warminster, PA 18974
Tel: +1 215-443-4254
Fax: +1 804-545-2060
www.alfalaval.com

Subject: Alfa Laval Field Service

Dear Van,

Please find our estimated field service proposal based on a field service engineer traveling to your site to perform intermediate service on your G2-45 Decanter, SN# 5122283.

Field Service Support

The price for Alfa Laval Support is $1,500.00.00 **per** day **plus** airfare, **if** required. This daily rate is applicable for any time traveling or spent on site up to a maximum of 8 hours per day, Monday thru Friday. Any additional hours spent on site or weekend work/travel will be invoiced a rate of $210/hr. This amount includes all expenses EXCEPT airfare. We anticipate 3 day(s) total to perform the work (including travel days).

Estimated Service: $4,500.00- does not include airfare

Parts:

Description	Part No.	Qty	Estimated Unit Price
Major Kit, Conveyor	6124206630	1	$594.58
Gearbox Svc Kit	6123904610	1	$704.39
Grease	6120367150	3	$33.40
Gear Oil	6120367110	2	$216.28

Estimated Parts: $1,615.45***

Total Estimated Parts and Service: $6,115.45***

*****Freight is NOT included and will be additional.**

CITY OF AVALON
PROFESSIONAL SERVICES AGREEMENT

AGREEMENT NUMBER: 1516-007

1. PARTIES AND DATE.

This Agreement is made and entered into this 23 day of February, 2016 by and between the City of Avalon, a municipal corporation organized under the laws of the State of California with its principal place of business at 410 Avalon Canyon Road, Avalon, California 90704 ("City") and **ESG Engineering**, a Partnership with its principal place of business at 1142 S. Diamond Bar Blvd., Suite 226, Diamond Bar, CA 91765 ("Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in **engineering/consultant** services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.2 Project.

City desires to engage Consultant to render such services for **On-Call City Engineering Services** ("Project") as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional engineering consulting services necessary for the Project ("Services"). The Services are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules, and regulations.

3.1.2 Term. The term of this Agreement shall be from February 24, 2016 to February 28, 2017, unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and

deadlines. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: Michael M. Thomas, P.E., Angelo C. Reginaldo, P.E., Aristotle Bondoc, P.E., and JR Rhoads, P.E.

3.2.5 City's Representative. The City hereby designates Dennis D. Jaich, or his designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all

purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative Consultant hereby designates Michael M. Thomas, or his designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance and Liquidated Damages. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Project Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all

Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Consultant. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Consultant. Consultant also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Consultant shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Consultant shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Consultant's compliance with the requirements provided for in Section 3.2.10 or any of its sub-sections.

3.2.10.2 Employment Eligibility; Subcontractors, Consultants, Sub-subcontractors and Subconsultants. To the same extent and under the same conditions as Consultant, Consultant shall require all of its subcontractors, consultants, sub-subcontractors and subconsultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Consultant verifies that they are a duly authorized officer of Consultant, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Consultant or its subcontractors, consultants, sub-subcontractors or subconsultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Consultant under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.2.11 Insurance.

3.2.11.1 Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.11.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subconsultants. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto);

and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability:* $1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability:* Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of $1,000,000 per accident for bodily injury or disease.

3.2.11.3 Professional Liability. Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than $1,000,000 per claim, and shall be endorsed to include contractual liability.

3.2.11.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents, and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents, and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents, and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.11.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

3.2.11.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

3.2.11.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.11.8 Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11.9 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.12 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as

applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subconsultants, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

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

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, if the total

compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 Ownership of Materials and Confidentiality.

3.5.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the

undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.5.2 Subconsultants. Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subconsultants, or those provided to Consultant by the City.

3.5.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.5.4 Indemnification. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.5 Confidentiality. All Documents & Data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of City, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant that is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or

the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6 General Provisions.

3.6.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:

ESG Engineering
1142 S. Diamond Bar Blvd., Suite 226
Diamond Bar, CA 91765
Attn: Michael Thomas

City:

City of Avalon
410 Avalon Canyon Road
P.O. Box 707
Avalon, CA 90704
Attn: Dennis Jaich, Public Works

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.2 Indemnification.

3.6.2.1 Scope of Indemnity. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

3.6.2.2 Additional Indemnity Obligations. Consultant shall defend, with Counsel of City's choosing and at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section 3.6.2.1 that may be brought or instituted against City or its directors, officials, officers, employees, volunteers and agents. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against

City or its directors, officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse City for the cost of any settlement paid by City or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Consultant shall reimburse City and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents, or volunteers.

3.6.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

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

3.6.5 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.6.7 Assignment or Transfer. Consultant shall not assign, hypothecate or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.6.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for

convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content or intent of this Agreement.

3.6.9 Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

3.6.11 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.13 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.15 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.6.16 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.17 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.18 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

[SIGNATURES ON NEXT TWO PAGES]

CITY'S SIGNATURE PAGE

CITY OF AVALON

By: _____
Denise A. Radde
Interim City Manager

Approved as to Form:

_____
Scott Campbell
City Attorney

CONSULTANT'S SIGNATURE PAGE

ESG Engineering
a Partnership

By: _____
Signature

_____
Name (Print)

_____
Title (Print)

By: _____
Signature

_____
Name (Print)

_____
Title (Print)

EXHIBIT "A"

SCOPE OF SERVICES

On Call City Engineering Services: May be called upon for plan check services, SWPPP development/review, design engineering, program management, and various other services as requested by City Staff..

May provide engineering experts in civil, mechanical, electrical, geotechnical, and structural disciplines, and various other services as requested by City Staff..

EXHIBIT "B"

SCHEDULE OF SERVICES

Services are on an "on-call" basis, and as such the City shall notify in writing the Consultant when services are required, the scope and schedule. Consultant shall not perform any work under this Agreement without first obtaining written direction from the City's Representative.

EXHIBIT "C"

COMPENSATION

FEE SCHEDULE

City of Avalon

Consultant Name: ESG Engineering

Staff Name	Classification	Rate
Michael Thomas	Project Manager	$155
Angelo Reginaldo	Principal Engineer	$145
Aristotle Bondoc	Engineer	$125
JR Rhoads	Engineer	$125

Notes:

1. Travel:

   GSA rates apply.
   Lodging: $138/night (not anticipated for this work)
   Meals & Incidental Expenses: $71/day
   Mileage: $0.575/mile (IRS rate, 2015; based on delta from Diamond Bar home office)
   Boats/parking/other direct travel costs: Actual amount invoiced

   Due to the nature of working on the island, field visits will be charged 4 hours boat travel plus time spent working directly on the project. Drive time to terminal will not be charged.

2. Other Direct Costs:

   Actual amount invoiced.

3. Sub-consultants:

   Sub-consultants charged at actual invoiced rate plus 10%. Rates to be agreed upon with the City prior to executing work.