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**UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF ARIZONA**

In re:

AVALON MOBILITY, INC.,

Debtor.

In Proceedings under Chapter 11

Case No. 4:18-bk-00503-SHG

**DEBTOR'S EMERGENCY  
MOTION FOR APPROVAL OF  
USE OF CASH COLLATERAL**

COMES NOW Avalon Mobility, Inc., an Arizona Corporation (the “Debtor”), as debtor and debtor in possession in the above-referenced Chapter 11 case, and by this Motion hereby requests this Court, pursuant to Sections 105(a) and 363 of the Bankruptcy Code, to enter an Order: (a) authorizing Debtor to continue to use cash held in its debtor in possession accounts in accordance with the terms of the requested Order; (b) deeming the secured creditors as adequately protected pursuant to §§ 361, 362 and 363 of the United States Bankruptcy Code; and (c) scheduling a final hearing (the “Final Hearing”) pursuant to Bankruptcy Rules 2002, 4001, 9014 and Local Rules 4001-3 and 4001-4.

**I. PROCEDURAL BACKGROUND**

1. On January 18, 2018 (the "Petition Date") the Debtor filed an emergency petition pursuant to Chapter 11 of the Bankruptcy Code.

1           2.       The Debtor operates a logistics, moving and storage company in Phoenix and  
2  
3 Tucson, Arizona.

4           3.       JP Morgan Chase Bank, N.A. is owed approximately \$100,000.00 on a secured  
5 line of credit. Chase may have a lien interest in the cash, accounts, receivables, intangibles, etc.  
6 of the Debtor. United Van Lines and Debtor are parties to an agreement that provides for United  
7 Van Lines to remit to Debtor monies upon completion of moving/storage orders that United Van  
8 Lines originates. Therefore United Van Lines is in possession of property of the estate and fully  
9 secured by receivables it will receive before any monies are remitted to Debtor.  
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11          4.       It is necessary that the Debtor be permitted to utilize its cash, receivables and  
12 other collateral that may be subject to a lien interest of any kind in order to operate. Foremost,  
13 Debtor needs to pay wages to its employees and a corresponding motion is filed  
14 contemporaneous to the foregoing motion.  
15

## 16                   **II. JURISDICTION**

17          5.       This Court has jurisdiction over the subject matter of this Motion pursuant to the  
18 provisions of 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C.  
19 §§ 1408 and 1409. Consideration of this Motion is a core proceeding pursuant to 28 U.S.C. §  
20 157(b)(2). The statutory predicates applicable to this Motion are 11 U.S.C. §§ 105(a), 361, 362  
21 and 363.  
22

## 23                   **III. LEGAL AUTHORITY**

24          6.       Pursuant to 11 U.S.C. § 363(c)(2), a debtor-in-possession may use cash collateral  
25 if the party with an interest in the cash collateral authorizes such use, or if the court, after notice  
26 and a hearing, authorizes such use. 11 U.S.C. § 363(c)(2). The debtor has the burden of proof on  
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1 the issue of adequate protection while the entity asserting an interest in the cash collateral has the  
2 burden of proof on issues of the validity, priority, and extent of any interest in claimed cash  
3 collateral. 11 U.S.C. § 363(p). Once the parties have met their respective burdens, the Court  
4 must condition or restrict the use of cash collateral consistent with the secured party's interests.  
5 The Court is required to protect the value of the secured creditor's collateral. *In re McCombs*  
6 *Properties VI, LTD.*, 88 B.R. 261, 266 (Bank. C.D. Cal 1988). If the value of the collateral is  
7 likely to diminish from the use of the collateral, adequate protection must be provided by the  
8 debtor. *Id.* Should the facts of the case provide that the value of the creditor's rights are not  
9 likely "to diminish during the time of use," adequate protection need not be provided. *Id.*

12 7. In order to run its business effectively Debtor must continue to make use of the  
13 cash collateral it receives in order to meet its ongoing obligations as it seeks to reorganize under  
14 Chapter 11. Due to the urgent nature of this Motion, Debtor respectfully requests this Court set a  
15 hearing to consider this Motion. Timely payment of the expenses included in the budget is  
16 essential for Debtor to continue in business for at least the next forty five (45) days while a plan  
17 is being formulated.

19 8. Debtor has prepared a budget attached hereto as Exhibit A ("Budget") based on  
20 its knowledge of Debtor's income and expenses during the same months last year, guided by any  
21 current factors that would influence the figures from last year. Debtor will use Cash Collateral  
22 consistent with the Budget. No management fee shall be paid to principals of the debtor.

24 9. The amount of Chase's secured claim is less than half the receivables owed to  
25 debtor as of the Order for Relief. Further, Debtor owns unencumbered property that is of a value  
26 that adequately protects Chase's claim.

1           10. A notice of the filing of this Motion to all parties in interest shall be provided  
2 concurrently with this filing, including the United States Trustee, the Arizona Department of  
3 Revenue, the Hogan School DOT, and all known creditors and parties in interest.  
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5 WHEREFORE, the Debtor respectfully requests that this Court (1) schedule an expedited  
6 hearing on this motion; (2) determine the extent and nature of any creditors' interest in the cash  
7 and receivables of the Debtor; (3) enter an order authorizing the use of cash collateral to operate;  
8 and (4) enter an order providing that the Debtor is authorized to pay those expenses set forth in  
9 the Budget; and (5) for such other relief, as is fair, reasonable or equitable in the circumstances.  
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11  
12 RESPECTFULLY SUBMITTED this January 18, 2018  
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14   The Law Offices of C.R. Hyde, PLC

15   /s/ C.R. Hyde  
16   Charles R. Hyde, Attorney for the Debtor  
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INCOME	\$	240,000.00
EXPENSES		
PACKING MATERIAL	\$	27,000.00
PARYOLL- DIRECT	\$	60,000.00
PAYROLL- INDIRECT	\$	40,000.00
1099 DRIVERS	\$	25,000.00
FUEL	\$	20,000.00
VEHICLE REPAIR AND MAINTANENCE	\$	8,500.00
WAREHOUSE SUPPLIES	\$	1,500.00
TRASH REMOVAL	\$	1,500.00
SOFTWARE	\$	500.00
INSURANCE	\$	14,000.00
OFFICE SUPPLIES	\$	1,000.00
TRAVEL	\$	1,000.00
TUCSON RENT	\$	16,000.00
PHOENIX RENT	\$	12,000.00
ALARMS	\$	500.00
UTILITIES	\$	5,000.00