

1 STEPHEN R. HARRIS, ESQ.  
2 Nevada Bar No. 001463  
3 HARRIS LAW PRACTICE LLC  
4 6151 Lakeside Drive, Suite 2100  
5 Reno, NV 89511  
6 Telephone: (775) 786-7600  
7 E-Mail: [steve@harrislawreno.com](mailto:steve@harrislawreno.com)  
8 Attorneys for Debtor

9 UNITED STATES BANKRUPTCY COURT  
10 FOR THE DISTRICT OF NEVADA

11 \* \* \* \* \*

12 IN RE: Case No. BK-18-50037-btb  
13 SPECIALTY CONTRACTING (Chapter 11)  
14 COMPANY, MOTION FOR INTERIM AND FINAL  
15 Debtor. ORDER AUTHORIZING DEBTOR TO  
16 OBTAIN DEBTOR-IN-POSSESSION  
17 FINANCING UNDER 11 U.S.C. §§105,  
18 362, 363, 364(c)(2) AND F.R.B.P. 4001(c)

Hearing Date: February 9, 2018  
Hearing Time: 10:00 a.m.  
Est. Time: 30 minutes  
Set by: Judge Beesley per OST

19 \_\_\_\_\_/  
20 SPECIALTY CONTRACTING COMPANY, a Nevada corporation ("Debtor"), by and  
21 through its attorney STEPHEN R. HARRIS, ESQ. of HARRIS LAW PRACTICE LLC, hereby  
22 moves the Court for entry of an order authorizing the Debtor to obtain post-petition financing  
23 pursuant to 11 U.S.C. §§ 105, 362, 363, 364(c)(2) and Rule 4001(c) of the Federal Rules of  
24 Bankruptcy Procedure (the "Bankruptcy Rules"). This Motion is supported by the entire record  
25 before the Court, and by the following memorandum of points and authorities.

26 **Jurisdiction and Venue**

27 1. The Debtor filed a voluntary petition for relief under Chapter 11 of the United States  
28 Bankruptcy Code, 11 U.S.C. § 101-1330 (the "Bankruptcy Code"), on January 11, 2018. Debtor  
continues to operate its business as debtor and debtor-in-possession pursuant to Sections 1107(a)

1 and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or  
2 examiner, and no official committee has yet been established in this case.

3 2. This Court has jurisdiction over this Chapter 11 proceeding under 28 U.S.C. §§ 157  
4 and 1334. This matter constitutes a core proceeding under 28 U.S.C. § 157(b)(2).

5 3. The Debtor is a licensed contractor in the State of Nevada specializing in concrete  
6 cutting, environmental remediation, demolition/abatement and other specialty services. The  
7 Debtor currently employs approximately twenty to fifty employees based out of its headquarters  
8 in Sparks, Nevada, with the number of employees depending on the current jobs in progress.  
9 Accordingly, venue of the Debtor's Chapter 11 proceeding is proper in this District under 28  
10 U.S.C. §§ 1408 and 1409.

11 4. The statutory predicates for the relief requested in this Motion are Bankruptcy Code  
12 §§ 105, 362, 363 and 364(c)(2) of the Bankruptcy Code and Rule 4001(c) of the Bankruptcy  
13 Rules.

14 **Relief Requested**

15 5. By this Motion, the Debtor seeks authorization under sections 105, 362, 363, and  
16 364(c)(2) of the Bankruptcy Code, to:

- 17 a. Obtain secured post-petition financing of a maximum amount of \$1,000,000.00  
18 under an Accounts Receivable Purchase & Security Agreement (the "DIP  
19 Factoring Agreement"), by and between Debtor as Borrower, and Avalon Funding  
20 Corporation ("DIP Lender" or "Avalon"), as the DIP Lender; and  
21 b. Grant the DIP Lender a senior security interest, pursuant to section 364(c)(2) of  
22 the Bankruptcy Code with respect to such obligations, against the Collateral  
23 described as all post-petition accounts receivable generated by the Debtor for its  
24 post-petition services.

25 **Basis for Relief**

26 6. Debtor has determined that the proposed DIP Factoring Agreement is necessary to  
27 continue to operate its business and for a successful reorganization. To ensure the uninterrupted  
28 business operations of the Debtor, Debtor has concluded that obtaining this post-petition

1 financing is necessary and in the best interest of the Debtor to bridge its ongoing business  
2 operations until such time as it can collect pre-petition receivables and negotiate cash collateral  
3 use for same.

4 **Summary of the Terms of the DIP Factoring Agreement**

5 7. The terms and conditions of the proposed DIP Factoring Agreement are set forth in  
6 detail in Exhibit "A" attached hereto. The following is a summary of the most significant terms  
7 and conditions of the proposed DIP Factoring Agreement. If any conflict exists between this  
8 summary and the DIP Factoring Agreement, then the terms and provisions of the DIP Factoring  
9 Agreement control:

- 10 a. *Borrower.* Specialty Contracting Company dba Diversified Demolition  
11 ("Borrower").
- 12 b. *Commitments.* The DIP Factoring Agreement provides for the extension  
13 of credit in a maximum amount of \$1,000,000.00, available upon entry of  
14 an interim or final DIP Order. The credit accommodations under the DIP  
15 Factoring Agreement consist of accounts receivable advances not to  
16 exceed seventy five percent (75%) of the eligible gross receivables less  
17 than 60 days from the date of invoice, up to a maximum of \$1,000,000  
18 advance.
- 19 c. *Closing Date.* The DIP Factoring Agreement shall close following  
20 execution of all required documents and satisfying the terms thereof,  
21 subject only to the Bankruptcy Court having entered an interim or final  
22 DIP Order in form and substance reasonably satisfactory to the DIP  
23 Lender.
- 24 d. *Term.* The term of the DIP Factoring Agreement is twelve (12) months  
25 with an option to renew. Debtor has the discretion to choose how much to  
26 factor and which contracts and associated invoices to factor.
- 27  
28

- 1 e. *Use of Proceeds.* The funds paid to Debtor under the DIP Factoring  
2 Agreement will be released to the Debtor each Friday to finance the  
3 ongoing business operations by the Debtor.
- 4 f. *Priority and Collateral.* To secure the Debtor's obligations under the DIP  
5 Factoring Agreement, all obligations of the Debtor to the DIP Lender shall  
6 be secured by a senior security interest in the Collateral, consisting of all  
7 post-petition accounts receivable.
- 8 g. *Advances.* Debtor has not previously received advances from the DIP  
9 Lender.
- 10 h. *Rate.* DIP Lender shall be paid two percent (2%) of the invoice amount  
11 for factored invoices collected within 1-20 days of purchase by Lender;  
12 and an additional .001 each day thereafter for invoices collected after 20  
13 days until the invoice is paid in full. An additional service fee of .003 of  
14 the invoice amount will be added to the above factoring fee. Debtor shall  
15 also reimburse DIP Lender for all legal fees, filing fees and expenses  
16 incurred by DIP Lender in obtaining Court approval of the DIP Factoring  
17 Agreement. Lastly, Debtor agrees to pay \$1,000 to DIP Lender at closing,  
18 which Closing Fee shall be paid out of the initial funding.
- 19 i. *Conditions to Funding of Any Disbursements.* See Covenants section of  
20 DIP Factoring Agreement attached as Exhibit "A".
- 21 j. *Interim Approval of DIP Facility.* The DIP Factoring Agreement requires  
22 Court approval before funding. Debtor may seek approval of the DIP  
23 Facility on an interim basis if necessary (the "Interim DIP Approval")  
24 pending entry of the Final DIP Order by the Court. A copy of the DIP  
25 Factoring Agreement is attached hereto as **Exhibit "A"** and incorporated  
26 herein by that reference.

27 **Negotiations of the DIP Factoring Agreement**

28 The Debtor negotiated the terms of the DIP Factoring Agreement with Avalon in good

1 faith and at arm's length. Avalon has no connection to the Debtor and has proposed terms that  
2 are customary and reasonable in the industry. The Debtor has determined that Avalon's proposal  
3 for the DIP Factoring Agreement was, under the circumstances, the most favorable in light of the  
4 Debtor's immediate working capital needs. Accordingly, the Debtor, in its sound business  
5 judgment, ultimately accepted Avalon's proposal for post-petition financing. *See, e.g., Bray v.*  
6 *Shenandoah Federal Savings and Loan Ass'n, (In re Snowshoe Co.)*, 789 F.2d 1085, 1088 (4<sup>th</sup> Cir.  
7 1986) (that trustee contacted other financial institutions in the immediate geographic areas and  
8 was unsuccessful satisfied the requirements of Section 364 of the Bankruptcy Code); *In re 495*  
9 *Central Park Ave. Corp.*, 136 B.R. 626, 630-31 (Bankr. S.D.N.Y. 1992) (unsuccessful attempts  
10 to secure financing from other sources justified senior priority loan under Section 364); *In re*  
11 *Ames Dept. Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (that the debtors had contacted  
12 four lenders satisfied the requirement of Section 364 that the debtors were unable to obtain  
13 comparable financing on an unsecured basis).

14 In these circumstances, "[t]he statute imposes no duty to seek credit from every possible  
15 lender before concluding that such credit is unavailable." *In re Snowshoe Co.*, 789 F.2d at 1088.  
16 Where there are few lenders likely to be able or willing to extend the necessary credit to the  
17 debtor, "it would be unrealistic and unnecessary to require [the debtor] to conduct an exhaustive  
18 search for financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub*  
19 *nom, Anchor Savings Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989).

20 The DIP Factoring Agreement constitutes an accounts receivable financing package in the  
21 best interests of the Debtor and its estate to bridge the Debtor's business operations until Debtor  
22 can collect its substantial pre-petition receivables and obtain authorization to use any pre-petition  
23 cash collateral or propose a successful §363 sale or Chapter 11 plan.

#### 24 Applicable Authority

25 This Court may authorize the Debtor to enter into the DIP Factoring Agreement pursuant  
26 to Section 105(a) of the Bankruptcy Code, which grants broad authority to a court to enforce the  
27 provision of the Bankruptcy Code under equitable common law doctrines. Moreover, if a debtor  
28 is unable to obtain unsecured credit allowable as an administrative expense under Section

1 503(b)(1) of the Bankruptcy Code, then the Court, after notice and hearing, may authorize the  
2 debtor to obtain credit or incur debt:

- 3 a. With priority over any or all administrative expenses of the kind specified  
4 in Section 503(b) or 507(b) of the Bankruptcy Code; or  
5 b. Secured by a lien on property for the estate that is not otherwise subject to  
6 a lien; or  
7 c. Secured by a junior lien on property of the estate that is subject to a lien.  
8 11 U.S.C. §364(c).

9 Bankruptcy Rule 4001(c) governs the procedures for obtaining authorization to obtain  
10 post-petition financing and provides, in relevant part:

11 The court may commence a final hearing on a motion for authority  
12 to obtain credit no earlier than 15 days after service of the motion.  
13 If the motion so requests, the court may conduct a hearing before  
14 such 15 day period expires, but the court may authorize the  
15 obtaining of credit only to the extent necessary to avoid immediate  
16 and irreparable harm to the estate pending a final hearing.

17 The foregoing provisions of Sections 105 and 364 of the Bankruptcy Code and Bankruptcy Rule  
18 4001(c) authorize the Court to grant the relief requested herein.

19 As set forth in Debtor's Emergency Motion for Determination that Post-Petition Revenues  
20 Are Not Cash Collateral or Alternatively, For Use of Cash Collateral of Internal Revenue Service  
21 and Western Alliance Bank (Docket No. 41) ("Cash Collateral Motion"), the Debtor's post-  
22 petition receivables are not subject to the IRS or Western Alliance Bank's pre-petition liens.  
23 Thus, Debtor is seeking authorization to obtain financing from DIP Lender by providing it with a  
24 first priority lien on post-petition receivables pursuant to 11 U.S.C. §364(c)(2).

25 **Approval of the DIP Factoring Agreement Is Necessary for the**  
26 **Debtor's Reorganization**

27 As described above, it is essential to the success of the Debtor's Chapter 11 case that it  
28 obtain access to sufficient post-petition financing, without which the Debtor will be unable to



1 ensure uninterrupted business operations, and therefore, continue to operate to maximize the  
2 estate's assets, including collection of pre-petition accounts receivable. Absent access to the  
3 financing that will be available to the Debtor under the DIP Factoring Agreement, the Debtor will  
4 not be able to meet its ordinary course operating expenses and thus will be unable to preserve the  
5 Debtor's value as a going concern. Debtor believes that it is best positioned to collect its  
6 significant pre-petition receivables, because any disputes with customers that could be holding up  
7 payment of the receivables can be best resolved by the Debtor. Only the Debtor and its employees  
8 can provide the necessary details and back-up information of the work performed which is  
9 required to resolve any disputes. A trustee would not have the information or personnel available  
10 to properly address any questions as to the work performed by the Debtor, and the Debtor is best  
11 motivated to collect its own pre-petition receivables. Thus, the Debtor's continuing viability and  
12 its ability to successfully reorganize and collect its pre-petition accounts receivables depends  
13 heavily on the Court's approval of the DIP Factoring Agreement to fund post-petition operations.

#### 14 The Debtor Adequately Explored

#### 15 Alternatives to the DIP Factoring Agreement

16 A post-petition financing facility of the type needed in this case could not have been  
17 obtained on an unsecured basis. The Debtor will show that potential sources of a similar credit  
18 facility for the Debtor, obtainable quickly and on reasonable terms, are limited. In these  
19 circumstances, "[t]he statute imposes no duty to seek credit from every possible lender before  
20 concluding that such credit is unavailable." *In re Snowshoe Co.*, 789 F.2d at 1088. Where there  
21 are few lenders likely to be able or willing to extend the necessary credit to the debtor, "it would  
22 be unrealistic and unnecessary to require [the debtor] to conduct an exhaustive search for  
23 financing." *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff'd sub nom*  
24 *Anchor Savings Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989).

25 In the days leading to the Chapter 11 filing and since then, Debtor has sought out possible  
26 sources of financing. After appropriate investigation and analysis, the Debtor's management  
27 reasonably concluded that Avalon's proposal was the best alternative available at this time.  
28 Consequently, the Debtor's efforts in this regard satisfy the statutory requirement of Section

1 364(c) of the Bankruptcy Code.

2 **The Terms of the DIP Facility are Fair, Reasonable, and Appropriate**

3 The proposed terms of the DIP Factoring Agreement are fair, reasonable and adequate.  
4 The purpose of the DIP Factoring Agreement is to enable the Debtor to maintain the value of its  
5 estate while completing a §363 sale or formulating a confirmable plan of reorganization. *See In*  
6 *re First South Savv. Ass'n*, 820 F.2d 700, 710-15 (5<sup>th</sup> Cir. 1987); *In re Tenney Village Co.*, 104  
7 B.R. 562, 568069 (Bankr. D.N.H. 1989).

8 The various terms required by Avalon under the DIP Factoring Agreement are reasonable  
9 and appropriate under the circumstances. Courts routinely authorize similar lender terms and  
10 incentives beyond the explicit liens and other rights specified in section 364 of the Bankruptcy  
11 Code. *See, e.g., In re Defender Drug Stores, Inc.*, 145 B.R. 312, 316 (9<sup>th</sup> Cir. BAP 1992)  
12 (authorizing credit arrangement under section 364, including a lender "enhancement fee").

13 With access to the DIP Factoring Agreement, the Debtor is confident that it can continue  
14 as a going concern until it can propose a Section 363 Sale or viable plan of reorganization, which  
15 depends on unimpeded operations so that Debtor can complete ongoing projects and collect its  
16 pre-petition accounts receivable.

17 The success of this case thus depends on the confidence of customers with which the  
18 Debtor operates. If that confidence were destroyed by the Debtor's failure to complete post-  
19 petition projects, the Debtor's efforts to obtain new projects in the future and to collect its pre-  
20 petition receivables would be gravely jeopardized.

21 **Application of the Business Judgment Standard**

22 As described above, after appropriate investigation and analysis, the Debtor's  
23 management has concluded that the DIP Factoring Agreement is the best alternative available  
24 under the circumstances. Bankruptcy courts routinely defer to the debtor's business judgment on  
25 most business decisions, including the decision to borrow money. *See Group of Institutional*  
26 *Investors v. Chicago Mil. St. P. & Pac. Ry.*, 318 U.S. 523 550 (1943); *In re Simasko Prod. Co.*,  
27 47 B.R. 444, 449 (D. Colo. 1985) ("Business judgments should be left to the board room and no  
28 to this Court"); *In re Lifeguard Indus., Inc.*, 37 B.R. 3, 17 (Bankr. S.D. Ohio 1983). "More



1 exacting scrutiny would slow the administration of the Debtor's estate and increase its costs,  
2 interfere with the Bankruptcy Code's provision for private control of administration of the estate,  
3 and threaten the court's ability to control a case impartially." *Richmond Leasing Co. v. Capital*  
4 *Bank, N.A.*, 762 F.2d 1303, 1311 (5<sup>th</sup> Cir. 1985).

5 In general, a bankruptcy court should defer to a debtor's business judgment regarding the  
6 need for and the proposed use of funds, unless such decision is arbitrary and capricious. *In re*  
7 *Curlew Valley Assocs.*, 14 B.R. 507, 511-13 (Bankr. D. Utah 1981). Courts generally will not  
8 second-guess a debtor's business decisions when those decisions involve "a business judgment  
9 mad in good faith, upon a reasonable basis, and within the scope of his authority under the Code."  
10 *Curlew Valley*, 14 B.R. at 513-14 (footnotes omitted).

11 The Debtor has exercised sound business judgment in determining that a post petition  
12 credit facility is appropriate and has satisfied the legal prerequisites to borrow under the DIP  
13 Factoring Agreement. The terms of the DIP Factoring Agreement are fair and reasonable and are  
14 in the best interests of the Debtor's estate. Accordingly, under Section 364(c)(2) of the  
15 Bankruptcy Code, the Debtor should be granted authority to enter into the DIP Factoring  
16 Agreement and to borrow funds from Avalon by factoring its post-petition receivables on the  
17 basis described above.

18 **Approval and Minimum Cash Requirements**

19 **Notice with Respect to Final DIP Order**

20 Because the Debtor will first seek interim and then final approval under this Motion, the  
21 Debtor respectfully requests that it be authorized to serve copies of the Motion, by first class mail,  
22 email or facsimile upon: (a) counsel to any official committee of unsecured creditors appointed  
23 in this case; (b) the Office of the United States Trustee; (c) all parties who have filed requests for  
24 Notice pursuant to Bankruptcy Rule 2002; (d) counsel for Avalon Funding Corporation; (e) the  
25 twenty (20) largest unsecured creditors of the Debtor and (f) the secured creditors of the Debtor.  
26 The Debtor further requests that the Court consider such notice of the Final DIP Hearing to be  
27 sufficient notice under Bankruptcy Rule 4001.

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Conclusion

WHEREFORE, Debtor respectfully requests that the Court enter its interim order authorizing the Debtor to obtain a credit line from Avalon Funding Corporation pursuant to the DIP Factoring Agreement, and enter into and perform according to the terms of the DIP Factoring Agreement, substantially in the form attached hereto as **Exhibit "A"**; and to further schedule a hearing for final approval of the DIP Factoring Agreement pursuant to Fed. R. Bank. P. 4001; and grant such additional and further relief as is just and proper.

DATED this 5<sup>th</sup> day of February, 2018.

STEPHEN R. HARRIS, ESQ.  
HARRIS LAW PRACTICE LLC

*/s/ Stephen R. Harris*

\_\_\_\_\_  
Attorneys for Debtor

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT "A"

# AVALON

FUNDING CORPORATION  
601 N. Parkcenter Drive, Suite 204  
Santa Ana, CA 92705  
Phone: (949) 707-2005  
Fax: (949) 298-4000  
www.avalonfunding.com

Thursday, February 01, 2018

**Diversified Demolition Inc.**  
**Debtor In Possession**  
**59 Coney Island Dr.**  
**Sparks, NV 89431**

Dear Kenneth M. Mercurio,

Avalon Funding Corporation ("**Buyer**") hereby proposes to enter into an agreement to provide accounts receivable financing to, **Diversified Demolition, Debtor in Possession.**, a Nevada Corporation ("**Seller**"). This letter is not meant to be, nor shall it be construed as, an attempt to define all the terms and conditions pertaining to the proposed accounts receivable purchase line, which terms and conditions would be contained in a separate Accounts Receivable Purchase & Security Agreement ("**Agreement**") which would be executed by the parties hereto.

The following is a summary of the key business points proposed:

- Amount of Line:**            **Not to exceed \$1,000,000**
  
- Advance Rate:**            Accounts Receivable advances not to exceed seventy five percent (75%) of the eligible gross receivables less than 60 days from date of invoice.
  
- Rate:**                            Our charges for factoring are calculated by discounting the face amount of the invoice. These charges are calculated from the date Avalon advances funds on an invoice to the date Avalon receives payment on the invoice. The fees would be as follows:
  - Invoices collected within 1-20 days of Buyer's purchase = two percent (2%) of the invoice amount.**
  - Invoices collected after 20 days will be charged an additional 0.001 each day thereafter until the invoice is paid in full. This fee applies to factored accounts receivable only.**
  
- Servicing Fee:**            An additional **service fee of .003** of the invoice amount will be added to the above factoring fee. This fee covers the additional expenses of monitoring liens, progress billing issues and other expenses incurred by Buyer with our credit lines, including 24/7 real time access to your account funding activity,



Credit Reports, special handling requirements associated with your invoice verification, postage, etc.

**Covenants:**

Customary, including but not limited to the following:

- a) Facility shall be cross-collateralized and cross-defaulted to any other obligations Seller may have now or in the future with Avalon, its subsidiaries, or affiliates; and
- b) An executed acceptance and assignment letter shall accompany all accounts receivable provided by Seller to Avalon. See "Exhibit A"
- c) Subcontractor agreement executed by General Contractor and Subcontractor will be required for each contract factored.
- d) Conditional Lien Releases will be required from all material suppliers/subcontractors.
- e) Preliminary Lien Notices shall be filed on each job to be factored.
- f) Avalon must be listed as "Additional Insured" on your General Liability Insurance.
- g) Copy of your active Contractor's License will be required.

**Guarantors:**

Debtor in Possession Financing (DIP) accounts Buyer requires a secured personal guarantee of **Kenneth M. Mercurio**.

**Collateral:**

Buyer shall have a UCC-1 priority security interest in the assets of Seller.

**Court Approval:**

**DIP Bankruptcy Accounts require Court approval prior to funding.**

**Term:**

Twelve (12) months with an option to renew.

**Early Termination:**

Not Applicable.

**Line Fee:**

None.

**Minimum Usage:**

**None.** Seller may choose how much to factor. Seller may also choose which contracts and associated invoice to factors.

**Remittance:**

Seller shall direct the factored customers to remit all payments to a lockbox or US PO Box designated by Buyer. All un-factored payments received by Buyer shall be forwarded to Seller the day after the funds have cleared the bank.

**Reserve:**

Eligible Reserves are released each Friday to Seller with the approval of Court.

A handwritten signature in black ink, appearing to be "ATP", is located in the bottom right corner of the page.



**Verification:** Invoices may require the account debtor (your customer) to sign a written approval and acceptance of the product/services and pricing prior to funding by Buyer. See "Exhibit A"

**Online Access:** Client will be provided online access to all pertinent accounts receivable data including A/R aging and collection reports.


**Application Fee:** Seller agrees reimburse Buyer for all legal fees, filing fees and expenses relating to obtaining DIP court approval.

**Legal / Doc. Fee:** At closing, Seller agrees to pay \$1,000.00 to Buyer. This fee covers the ordinary underwriting expenses of document preparation, audit, filing fees, software license fees, etc. The Closing fee shall be paid out of the initial funding.

This Proposal is conditional based on final terms and conditions dictated by the Courts and Buyer. This proposal shall expire on 02/09/2018.

If the terms and conditions described above are acceptable, please so indicate by signing below and returning the signed proposal to Buyer.

Sincerely,

  
Jay B. Haldeman  
Avalon Funding Corporation

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

Seller: **Diversified Demolition Inc., Debtor in Possession**

\_\_\_\_\_  
Ken M. Mercurio  
President





**"Exhibit A"**

(On your letter head)

Date  
Customer Name  
Address

**RE: ASSIGNMENT OF INVOICES TO AVALON FUNDING CORPORATION**

Attention: Accounts Payable Officer,

Diversified Demolition Inc., Debtor In Possession has been granted a working capital credit line by Avalon Funding Corporation ("Avalon") secured by our accounts receivable. You may have been previously notified of this relationship.

As a part of that security agreement, payment for the invoice(s) listed below as well as all other invoices must be remitted directly to Avalon Funding Corporation located PO BOX 10863, Santa Ana, CA 92711 to satisfy the debt owing on this account. These instructions shall remain in effect until you are notified in writing by Avalon to the contrary.

Avalon relies on the information provided herein prior to funding. Please acknowledge your receipt of the following invoice(s) and carefully verify the information for correctness:

Invoice Date	Invoice #	PO # / Contract # / Description	Amount	Due on or before
03/13/2012	10-10427	PO# 90001325-C	\$42,191.19	04/15/2012

Please acknowledge that the amounts payable on the invoice(s) listed above are fully earned, due and payable and will be paid in full without any offset, counter claim, defense, or deduction. For our mutual protection if either of us finds it necessary to retain counsel, the prevailing party shall recover its reasonable attorney's fees and expenses from the unsuccessful party.

Please sign and return this document to: [approved@avalonfunding.com](mailto:approved@avalonfunding.com), or fax it to (949) 298-4800. Should you have any questions, please contact Avalon directly by calling (949) 707-2005. Thank you for your cooperation and assistance in this matter.

Very truly yours,

**Diversified Demolition, Debtor In Possession**

Your Customer's Name Here

Kenneth M. Mercurio, President

(Your Customer signs here)

Authorized Signer

Printed Name & Title

