

Press Release

Chico Scrap Metal – 20th Street Location

Update from the Courthouse: The City Refuses to Pay for CSM's Relocation; the Parties Return to Court in January 2022.

December 30, 2021

For close to two decades, the City has dodged the question about its relocation obligation under the Chapman/Mulberry Plan (which requires the City to “**facilitate the relocation**” the relocation and “**take the necessary steps to relocate**”). When pressed to say something on the subject, from time to time, the City has offered a litany of excuses, such as there is no place within the City of Chico to relocate Chico Scrap Metal, or it does not have enough money on hand to pay for the relocation expenses. However, the City also assured Chico Scrap Metal owners that it was committed to finding a fair solution, and kicked the can down the road. Fast forward to 2021 – when the City has accumulated significant reserves and has ample funds to now meet its relocation obligations, the City Council says that it does not want to pay for the relocation. Of course, the City Council still insists Chico Scrap Metal either close the Chico location or figure out how to relocate – at its own expense. (See attached Press Package re further details.)

Chico Scrap Metal manager, Kim Scott, responds to the news as follows: *“We’ve had enough of the City’s games and broken promises. If the City does not want to resolve this situation fairly and amicably, then we’ll return to the Butte County Superior Court or, if required, the Court of Appeal – to ask for an order that the City of Chico be required to comply with its General Plan. And, to mitigate any further damage to our business, we will relocate in the first half of 2022, no matter the status of the court case. And we will continue to seek an order requiring the City to pay 100% of the relocation expenses.”*

Ms. Scott added: *“To our customers, you will see a sign posted at our Chico location starting on January 1, 2022, setting forth our schedule for closure and relocation. To the City Councilmembers who campaigned on the promise to promote local economic development and support local businesses, you have all proven yourselves to be just like all the other politicians— you tell local businesses to wait until after the next election and the next one after that.”*

The City and Chico Scrap Metal are scheduled to return to the Butte County Superior Court in late January 2022 for a further case management conference. The City’s decision to kick this can down the road for close to two decades has made the legally mandated solution ever more costly.

Contact:

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**Three attachments

Attachment 1

TIMELINE OF EVENTS

October 2004: The City approved the “Chapman/Mulberry Neighborhood Specific Plan” (the “Chapman/Mulberry Plan”), which called for the City to set an amortization schedule and “facilitate the relocation of the Chico Scrap Metal Yard to an industrially zoned location that does not have conflicts with residentially zoned and used lands.” Elsewhere, it states under the “Implementation section that the City is obligated to **“take the necessary steps to relocate the Chico Scrap Metal yard to a more appropriate location.”** The amortization language and the relocation language both appear in the Plan, at page 11):

Amortization of Chico Scrap Metal Yard

The Chico Scrap Metal Yard is located within the Chapman/Mulberry Neighborhood Plan area and is proposed to be the site of a future mixed-use neighborhood core. Upon City adoption of the Chapman/Mulberry Neighborhood Plan, the Chico Scrap Metal Yard will become a non-conforming use. Once the Chico Scrap Metal Yard becomes a non-conforming use, the City shall adopt an ordinance providing for its amortization.

Time Frame: Ongoing

Neighborhood Rehabilitation

Neighborhood Clean-Up

The City and County shall assist community based organizations in their efforts to organize a neighborhood clean-up program.

Time Frame: Ongoing

Relocation of the Chico Scrap Metal Yard

The City and County shall cooperatively take the necessary steps to relocate the Chico Scrap Metal Yard to a more appropriate location.

Time Frame: Ongoing

In plain terms, the City was supposed to set the clock and when the clock ran out, the City would have to step up and relocate Chico Scrap Metal.¹ (The full text of the Chapman/Mulberry Plan can be found at <https://chico.ca.us/sites/main/files/file-attachments/chapmanmulberryplan.pdf?1577748630>).

December 2006: The City sets the clock by adopting the amortization schedule for Chico Scrap Metal, setting it to expire in 2011.

December 2011: Still struggling with the economic impacts of the Great Recession, the City extends the amortization deadline to December 2014. The City admits that this extension will also give the City more time to resolve the relocation problem. (See **Attachment 2** – Sept. 2011 Planning Commission Agenda Report, p. 4.)

¹ The reference to the County appears to tie to the fact that Butte County Supervisor Jane Dolan was working with the City to ensure that after annexation, the Chapman/Mullberry Plan’s would continue to include the requirement that Chico Scrap Metal be relocated.

December 2014: The City directs the Planning Staff to explore the potential of a development agreement that would permit Chico Scrap Metal to remain at its current location, which tracks the language of the Chapman/Mulberry Plan in Ordinance No. 2346, the Amortization Ordinance, subsection (g)(1), which permitted the City to consider the feasibility of converting the nonconforming use to a conforming one based on changed neighborhood conditions and the feasibility of relocating. Here, the problem was cost and lack of commercial properties in Chico available for relocation.

November 2016: The City approves the redevelopment agreement, which requires site improvements at the E. 20th Street location; the City Council approves an ordinance terminating the amortization schedule, and relieving the City of its legal obligation relocated Chico Scrap Metal.

December 2016: A local political group spearheaded a referendum to reinstate the amortization schedule and relocation obligation. (The leaders were Karl Ory and Bob Mulholland, who is Ms. Dolan's husband and Mr. Ory's campaign manager.)

September 2018: Facing a court order to either hold the referendum election or reinstate the amortization schedule and relocation obligation, the City Council chooses the latter.

December 2018: Chico Scrap Metal sues the City regarding the pending dispute concerning compliance with the Chapman/Mulberry Plan – in sum and substance, if the amortization requirement is lawful as applied to Chico Scrap Metal, then City must be ordered to comply with relocation obligation as well. City cross-complains for nuisance and a declaration of its relocation obligation.

October 2021: The City prevails on summary judgment to the effect that it is legally too late to challenge the amortization schedule. The question left open for determination is whether the Court will decide to issue an order requiring the City to comply with its relocation obligation.

December 2021: The City dismisses its cross-complaint. Chico Scrap Metal makes two further proposals for resolution – one proposing that the City give an interest bearing, secured loan to Chico Scrap Metal to cover the purchase of the new location with Chico Scrap Metal bearing most of its own moving and infrastructure expenses. The other was for a deeply discounted reimbursement (\$750,000 – *less than half* of the actual estimated relocation expenses (which are current calculated based on estimates at \$1.6 million. The City rejects both proposals and withdraws from discussions to resolve the relocation obligation dispute. (See Attachments 3.)

January 2022: Recognizing that the City has no intention of doing what is lawful and fair, and that Chico Scrap Metal cannot afford operate in a constant state of financial uncertainty, Chico Scrap Metal will commence the relocation process on its own. Starting on January 1, 2022, Chico Scrap Metal's customers will see posted the schedule for closure of the E.20th Street location and the plans to move to a new location in Chico by June 2022. Chico Scrap Metal will continue to demand in pending court proceedings that the City comply with its lawful obligations under the Chapman Mulberry Plan.

Attachment 2

**City Planning Commission Agenda Report -
September 2011**



DATE: September 8, 2011

File : TA 11-01

TO: Planning Commission

FROM: Mark Wolfe, AICP, Director
Planning Services Department

RE: Code Amendments relating to amortization of Chico Scrap Metal, 878 East 20th Street

SUMMARY

On July 5, 2011, the City Council directed that the Planning Commission consider an amendment to the City's Municipal Code as it pertains to amortization of Chico Scrap Metal, a recycling business at 878 East 20th Street.

The Municipal Code currently requires that the business cease operations at this location by December 31, 2011. The use is non-conforming under the site's present R-1 (Single Family Residential) and CN (Neighborhood Commercial) zoning. Amortization of non-conforming uses is not normally required by the Code. In this case, amortization is called for as a matter of policy under the Chapman/Mulberry Neighborhood Plan. The Municipal Code is the mechanism by which this policy is implemented.

The question put to the Planning Commission by the Council is whether the current amortization date should remain, or if another date is advisable. The owner of the business requests that the amortization date be changed from December 31, 2011 to December 31, 2016.

Staff is recommending that the Commission recommend the Council amend the amortization date to December 31, 2013. This recommendation reflects a balance between achieving the goals of the Neighborhood Plan and providing sufficient time for relocation of the business.

The main issue relating to this amendment has been raised by the District Attorney's Office, as indicated in attached correspondence from Chico Environmental Science and Planning. The concern expressed in the letter is that contaminated dust from the site may impact nearby properties and persons. While cessation of activities at the site could address this concern, the business has an ongoing responsibility to comply with air quality standards and other regulations, which, if enforced, would be equally effective in addressing this issue.

Recommendation:

Planning staff recommends that the Planning Commission adopt Resolution No. 11-12 (**Attachment A**), finding that the project is not subject to environmental review and recommending that the City Council make certain amendments to the Municipal Code regarding amortization of Chico Scrap Metal.

BACKGROUND

- 2000: County adopts Chapman/Mulberry Neighborhood Plan. The Plan addresses a 338-acre area consisting mostly of County lands. Subject site is under City jurisdiction, and is designated "Warehouse and Manufacturing" and "Low Density Residential" by City General Plan. Zoning of the six parcels comprising the site is mixed with "M-L" (Light Industrial/Manufacturing) and "R-1" (Low Density Residential) districts applying.
- 2004: City adopts Chapman/Mulberry Neighborhood Plan. Formerly M-L zoned parcels are rezoned CN (Neighborhood Commercial). A Planned Development (PD) zoning overlay is applied, with the goal being that the site ultimately develop as a mixed use center with both retail and residential uses.

With regard to Chico Scrap Metal, the Neighborhood Plan states: "The Chico Scrap Metal Yard is located within the Chapman/Mulberry Neighborhood Plan area and is proposed to be the site of a future mixed-use neighborhood core. Upon City adoption of the Chapman/Mulberry Neighborhood Plan, the Chico Scrap Metal Yard will become a non-conforming use. Once the Chico Scrap Metal Yard becomes a non-conforming use, the City shall adopt an ordinance providing for its amortization."

Land Use Policy No. 5 of the Plan states that: "The City shall work with the County to facilitate the relocation of the Chico Scrap Metal Yard to an industrially zoned location which does not have conflicts with residentially zoned and used lands."

The Plan's Implementation Program states that: "The City and County shall cooperatively take the necessary steps to relocate the Chico Scrap Metal Yard to a more appropriate location."

Amortization of Chico Scrap Metal was considered to be critical to the economic and social revitalization of the area, as the use was seen as an impediment to development of a mixed-use neighborhood center on the site. Such a center was at the time envisioned to support a laundromat, a hair salon, a coffeehouse, a small restaurant, neighborhood supporting offices, and a market to sell produce grown in the neighborhood. The scrap metal recovery operations were also seen as being in conflict with nearby residential uses and the adjacent elementary school.

- 2006: City amends Municipal Code to require amortization of Chico Scrap Metal by December 31, 2011.
- 2011: Owner addresses Council regarding amortization issue. Councilmember Walker requests that Council agendaize issue for discussion. Council unanimously agrees to do so, and on July 5, directs Planning Commission to consider alternative amortization dates.

ALTERNATIVES AND RECOMMENDATION

Possible recommendations to the Council are generally:

1. Recommend no amendment: With this approach, the Municipal Code would remain as it is. Chico Scrap would be required to cease operations at the site no later than December 31, 2011, roughly three months from now.

Potential Advantages:

- Present use of property would cease, as envisioned by Neighborhood Plan. Any possible nuisance factors (noise, etc.) would be eliminated.
- With use terminated, redevelopment of site in the near term may become more likely. Given current economic conditions, however, this possible benefit should be considered speculative and possibly remote.

Potential Disadvantages:

- Reduced access to recycling facilities in the community.
- Potential for site and structures to remain vacant for a prolonged period of time after cessation of use, creating potential for vandalism and other problems.

2. Recommend that the Council amend Municipal Code to revise amortization date: This option could take several forms. Staff has identified the following alternatives under this scenario:

- 2a: Amend the Municipal Code to change the current amortization date of December 31, 2011 to a later date, and eliminate that section of the Code which currently allows for extension requests. This would in effect set a firm amortization date at some point in the future.

Potential Advantages:

- With additional time, owner and City could continue to work towards successful relocation of use, as called for by the Neighborhood Plan.
- Recycling services would continue to be available at this location, facilitating local recycling efforts and advancing General Plan sustainability goals.

Potential Disadvantages:

- Could tend to delay redevelopment of site with a conforming use.

- 2b: Amend the Code to change the current amortization date of December 31, 2011 to a later date, and retain that section which allows for an extension request.

Advantages/Disadvantages: Generally same as with Alternative 2a.

Staff is recommending that the Commission recommend "Alternative 2a", with a revised amortization date of December 31, 2013, providing an additional two years for the business owner to conclude operations at this site, and move to another. While the owner would prefer a longer period of time, staff believes this recommendation is a reasonable balance between achieving the goals of the Neighborhood Plan and ensuring sufficient time to effect a relocation of the business.

ENVIRONMENTAL REVIEW

As defined by the California Environmental Quality Act (CEQA), the term "Project" means "...an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by any public agency.
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.
- © An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies."

To the extent that a change in the amortization date would not cause a direct or indirect change in the environment, it does not meet the CEQA definition of a project, and is thus not subject to review under the Act.

PUBLIC CONTACT

A 10-day public hearing notice was mailed to all landowners and residents within a 300-foot radius. A legal notice was also placed in the Enterprise Record.

DISTRIBUTION:

Internal (1)

File: TA 11-01

External (1)

Kim Scott, Chico Scrap Metal

ATTACHMENTS:

- A. Planning Commission Resolution No. 11-12
- B. Location/Notification Area Map
- C. Correspondence: Business Description from owner of Chico Scrap Metal
- D. Correspondence: September 7 letter from Chico Environmental and Planning Services

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RESOLUTION NO. 11-12

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CHICO
RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO
TITLE 19 OF THE CHICO MUNICIPAL CODE RELATING TO AMORTIZATION OF CHICO
SCRAP METAL AT 878 EAST 20TH STREET

WHEREAS, the Planning Commission has considered amendments to the Chico Municipal Code which relate to the amortization of Chico Scrap Metal at a noticed public hearing held on September 15, 2011; and

WHEREAS, the proposed amendments are not subject to review under the California Environmental Quality Act, as said amendments are not considered to be a project as such term is defined by the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF CHICO AS FOLLOWS:

- I. The Planning Commission hereby finds that:
 - A. The proposed amendments are consistent with the General Plan; and
 - B. The proposed amendments are consistent with the City's Land Use and Development Regulations, Subdivision Regulations, and Design Criteria and Improvement Standards, and are compatible with the uses permissible in, and the regulations prescribed for, the zoning districts which apply to the subject property.
- II. Based on the above, the Planning Commission hereby recommends that the City Council approve the amendments to the Chico Municipal Code as set forth in Exhibit I.

THE FOREGOING RESOLUTION WAS ADOPTED at a meeting of the Planning Commission of the City of Chico held on September 15, 2011, by the following vote:

- AYES:
- NOES:
- DISQUALIFIED:
- ABSENT:
- ABSTAIN:
- //

1 ATTEST:

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4 MARK W.T. WOLFE, AICP
5 Planning Commission Secretary

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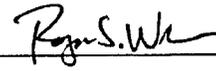
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APPROVED AS TO FORM:



ROGER S. WILSON
Assistant City Attorney

ATTACHMENT 3

Chico Scrap Metals Proposals
to City for Relocation Obligation



Therese Y. Cannata
tcannata@cofolaw.com

December 2, 2021

By Email Only

Jennifer Pancake
Andrew Jared
Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101
jpancake@chwlaw.us

Re: *Chico Scrap Metal, Inc. v. City of Chico*
Butte County Superior Court Case No. 18CV03900

Dear Ms. Pancake and Mr. Jared:

We concur that a further meeting with Judge Benson may assist the parties in getting to the finish line. However, we continue to work on this issue.

First, we acknowledge, and intend to comply with, the obligations of Chico Scrap Metal, Inc. (“CSM”) to relocate subject to the appropriate assistance from the City. In addition to substantial ongoing operational impacts and concerns, the relocation requires a new site to be identified and secured. The site selection process is constrained by the limited availability of appropriately sized and zoned properties within the City’s current or near-term boundaries. No ideal property has been identified but, despite the constraints, CSM have tentatively determined the Southgate property to be most appropriate alternative even though it is larger and more expensive than CSM was seeking.

Second, the City has made clear its desire to expedite the relocation and CSM has committed substantial resources to facilitate the City’s desire. As earlier discussed, CSM is continuing to assess and resolve the associated operational issues and is confident it will be able to identify solutions. The timeline for relocating the facilities hinges on the financial costs of attaining site control. This directly relates to the obligations of the City to facilitate this process.

In recognition of the resource strain required to fulfill the City obligations to facilitate the relocation, we have identified an approach that would *earn*, rather than cost, taxpayer money. A review of the City’s financial records indicates prudent fiscal planning that includes, among other things, a pooled money investment pool of more than \$122

million (https://chico.ca.us/sites/main/files/file-attachments/5_may_2021.pdf?1624289716). CSM and the Scott family understand the difficulty and fiscal discipline that allowed the City to acquire those funds and understand why there may be reluctance to loan funds even to meet the City's legal obligations related to the relocation. We believe we have identified a solution that addresses a wide range of concerns and makes it possible to move quickly with the relocation.

We propose that the City invest in the relocation in the form of secured financing. According to the City's May 31, 2021 Investment Portfolio Report, more than 60% of the City's pooled assets are invested in the Local Agency Investment Fund (LAIF) where they have earned 0.315% YTD. This investment would comply with the necessary safeguards against risk for this type of investment because CSM is a well-established Chico business that has demonstrated its ability over the years to successfully navigate the ebb and flow of the local economy, and the loan would be secured by valuable real property (the Southgate property) – virtually eliminating any risk to taxpayers. The loan terms, which will require further discussion, will include sufficient funds to purchase the Southgate property as well as a rate of interest (ROI) for taxpayers would be greater than the current LAIF rate being earned on the \$74.5 million invested in that pool.

This financing option benefits taxpayers by providing a higher rate of return than the alternative. It complies with the associated requirements because the secured nature of the loan produces an ultra-low risk investment opportunity. By mitigating the fiscal barrier to relocation, the City would meet its business need for the relocation to occur quickly. It provides a pathway to settlement that promptly and finally resolves an uncertain liability (*i.e.* relocation obligations), and assures a net gain for the City, because the proposed financing would *earn*, rather than cost, taxpayer money.

The City Council can announce a resolution that demonstrates the capacity to find innovative solutions to controversial political problems. This solution respects the rights of private businesses in the City of Chico and fully complies with the mandate of the Chapman Mulberry Plan to relocate CSM. It is fiscally conservative because the financing solution is a secured investment and does not require an expenditure of taxpayer dollars. It is politically unassailable because it assures a prompt, cost-free relocation of CSM.

I want to close by putting to rest several false narratives that may impede our efforts to get this case resolved. It is not correct which is that CSM has been stalling the relocation process for the past decade. As is clear in the discovery provided this case, the CSM and the Scott family have diligently worked with the City since 2010 trying to resolve this issue. Further, coupled with every extension or stay of the “amortization deadline,” there has been a corresponding acknowledgment by the City staff and/or members of the City Council that the City needed more time to figure out the “relocation piece” of the puzzle. The challenge has been local politics and, often, a selective memory about what the Chapman/Mulberry Plan actually says and requires. The amortization language and the relocation language appear in the Plan, at page 11:

Ms. Pancake and Mr. Jared

December 2, 2021

Page 3

Amortization of Chico Scrap Metal Yard

The Chico Scrap Metal Yard is located within the Chapman/Mulberry Neighborhood Plan area and is proposed to be the site of a future mixed-use neighborhood core. Upon City adoption of the Chapman/Mulberry Neighborhood Plan, the Chico Scrap Metal Yard will become a non-conforming use. Once the Chico Scrap Metal Yard becomes a non-conforming use, the City shall adopt an ordinance providing for its amortization.

Time Frame: Ongoing

Neighborhood Rehabilitation

Neighborhood Clean-Up

The City and County shall assist community based organizations in their efforts to organize a neighborhood clean-up program.

Time Frame: Ongoing

Relocation of the Chico Scrap Metal Yard

The City and County shall cooperatively take the necessary steps to relocate the Chico Scrap Metal Yard to a more appropriate location.

Time Frame: Ongoing

Further, when the Chapman/Mulberry Plan was adopted, CSM already had two other locations – the Durham and Oroville locations. Had the intent been to close the Chico location and force CSM to leave the City of Chico altogether and reduce its operations to two locations, that language would have been included.

We hope that the City Council, despite the constantly changing political winds of this diverse community, shares our desire for a fair solution that requires the City to comply with all of the requirements of the Chapman/Mulberry Plan. We therefore look forward to continuing discussions to get this done.

Very truly yours,

CANNATA, O'TOOLE, FICKES & OLSON LLP



THERESE Y. CANNATA

TYC:hs

cc.: Vince Ewing (by email only)



Therese Y. Cannata
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December 20, 2021

By Email Only

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By Email Only

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Re: *Chico Scrap Metal, Inc. v. City of Chico*
Butte County Superior Court Case No. 18CV03900

Dear Counsel:

This confirms, for the record, what Chico Scrap Metal, Inc. (“CSM”) and the Scott Family Trust is presently prepared to do to resolve all outstanding disputes with the City concerning its E. 20th Street facility as well as the obligation of *all parties* to comply with *all requirements* of the Chapman/Mulberry Plan.

We confirm that CSM is going to close its E. 20th Street location and relocate its operations to a new location. It is doing so because the City has allowed the clock for amortization (which the City set) to run out without also taking the “necessary steps to relocate [CSM] to a more appropriate location.” CSM cannot risk the further adverse financial impacts arising from the City’s failure to comply with the City of Chico’s General Plan. These potential consequences include a sudden disruption in their business operations, the further harm to CSM’s business reputation, and the financial uncertainties of the timing of closure. Simply stated, CSM and the Scott Family Trust are agreeing to set a firm deadline for closure and move to a new location in order to mitigate its damages. However, CSM will continue to seek 100% of the damages caused by the City’s persistent failure to comply with the General Plan.

As we previously indicated, the site selection process for a new location in Chico has been constrained by the limited availability of appropriately sized and zoned properties within the City’s current or near-term boundaries. No ideal property has been identified but, despite the constraints, CSM reconfirms that it has determined the Southgate property to be most appropriate alternative even though it is larger and more expensive than CSM was seeking. CSM is in escrow to purchase the Southgate property, and it will continue to work on acquiring that property as its new Chico location. We note that the Southgate

property is very close to the current location, and located in an unincorporated area of Chico, which is slated to be annexed by 2030. CSM can therefore continue to provide to the citizens of the City of Chico a local drop-off point for scrap metal recycling, which aligns with the City's stated policy to protect the environment and promote all forms of recycling.

As to timing for closure of the CSM E. 20th Street location, the City has made clear its desire to expedite the relocation and CSM has committed substantial resources to facilitate the City's desire. It will take approximately six months and the only urgency is political. The neighbors and customers continue to appreciate CSM's efforts as a small family-owned business to require the City to comply with its own obligations under the Chapman/Mulberry neighborhood plan with the same vigor that it seeks to enforce it against CSM. To that end, CSM provides the following schedule for the move to a new location:

- CSM will post signage at its E. 20th Street location on or about January 15, 2022 notifying the community that it will be closing down this location on June 1, 2022.
- CSM will cease taking in new material on February 28, 2022 and attempt, where possible to redirect customers to its other two locations.
- Limited operations at the site will continue for the next 90 days as follows: there will be an office worker/CSM representative in the office during regular business hours to redirect customers to the Durham site and eventually the new Southgate site (if CSM manages to open it before June 1, 2022); there will be workers on site to load material for transport to point of sale (in Oakland, Sacramento, and Richmond); there will be workers on site to remove equipment, ready buildings for demolition, and other requirements for closure.
- CSM will continue to reduce scrap metal inventory (as it has already started doing). More specifically, by January 15, 2022, it will reduce all stockpiled materials to below the fence level of the property (noting that recent construction, supply chain delays, and trucking shortages have made it difficult to move materials, but CSM is working quickly to solve the problem). And as noted, CSM expects to have all scrap metal inventory off the site by June 1, 2022.
- CSM will continue to update the City on its progress in reaching each milestone, as well as its ongoing expenses and financial losses resulting from this closure.

Further, as you know, to move to this new location, CMS will incur considerable expenses, which have been outlined to the City. The categories include:

- Prepare a new site for drainage for storm water compliance and lay a concrete work surface at the new location for the company's customary operations, including the operation of machinery and truck traffic

- Build comparable office with adjacent storage/warehouse
- Permits for new location (e.g., use permit, grading, drainage, and building work)
- Purchase and install truck scale
- Move all equipment, vehicles, and inventory to the new location
- Misc. costs for moving addresses, phone and computer installations, and regulatory permits required for operations
- Misc. costs related to complete closure of the E. 20th Street location.

As previously detailed, CSM's relocation expenses will exceed \$1.6 million, and we've not included in this total the cost of acquiring a new location, CSM's own labor to undertake this move, business disruption losses, and the construction and redevelopment costs associated with returning the E. 20th Street property back to income producing, commercial use.

Despite the fact that this is a problem created by the City and one that the City rightfully should solve without burdening CSM and Scott Family Trust, CSM is prepared to accept a steeply discounted sum for relocation in exchange for closure and exiting litigation. As such and to the extent the City prefers to pay a fixed amount in satisfaction of its obligations to "take the necessary steps to relocate [CSM] to a more appropriate location," CSM and the Scott family trust would accept either: \$950,000 in four (4) annual installments starting on January 15, 2022 (so \$237,500 per year); or a reduced sum of \$750,000 payable in two equal installments on January 15, 2022 and June 1, 2022.

We also remind you that CSM and the Scott Family Trust proposed earlier this month that the City fund a secured loan for CSM and the Scott Family Trust to acquire the Southgate property. Rather than repeat it here, that proposal is attached hereto as **Exhibit 1**, and remains an option for resolving this dispute. Further, the Scott family and we stand ready to make a presentation to the City Council and/or City Staff on this proposal to resolve questions and concerns about the loan, including providing adequate security for the loan, setting an adjustable rate relative to Local Agency Investment Fund (LAIF) to ensure that the loan remains an advantageous investment of taxpayer funds.

Very truly yours,

CANNATA, O'TOOLE, FICKES & OLSON LLP



THERESE Y. CANNATA

Encls.

TYC:hs