June 21, 2017

To: Council Infrastructure Subcommittee

From: City Manager

Subject: Soils and Concrete Processing Business License

Background:

The City currently charges a truck haul fee of .47 cents per cubic yard (fee will increase to .49 cents in fiscal 2018). For the soils and concrete processing businesses at the UPC site, this generates about $600K annually. At the last subcommittee meeting we discussed creating a business license tax in lieu of the truck haul fee with a cap of $1.50 per cubic yard. The subcommittee discussed increasing that tax to $3.50.

Subsequent to that meeting I have had the opportunity to meet with UPC, the property owner, regarding the two businesses under review. The concrete business operates under a ground lease from UPC and City has issued an interim permit for this business. The Soils Processing business (BSP) is a UPC business that they hire an operator for. The two businesses have a slightly different corporate structure. For our purposes we charge fees in the same manner and, if a tax were imposed, we recommend continuing to do so.

UPC provided staff with information, which we are verifying with our actual receipts, that for the Soils Processing business the listed fee rate schedule on their website does not reflect the fee in actual contracts that they have with major projects due to negotiated rates, primarily in San Francisco. UPC says the contract's economic value is roughly 1/3rd the value that the rate schedule would suggest.

Why do they negotiate contracts less than the rate sheet? The apparent reason has to do with the economic market for depositing soils. There is a site near the Dumbarton Bridge which accepts soils free of charge, however for San Francisco projects this requires more time to drive to as well as return, which is both a financial issue in terms of employee costs as well as gas, wear and tear on trucks and the time delay. Because of this, projects in San Francisco and the northern peninsula are willing to pay a fee to deposit soils/concrete in Brisbane.

Secondarily, UPC prefers the larger contracts as the ability to oversee quality control on material is better than the one-off trucks that come to the site. They indicate to us that about 80% to 90% of their business is from contracts. The other interesting piece of information is that the market for exports is such that the fees they charge are very low. Soils apparently are not that difficult to obtain free of charge.

When we last reviewed this with the subcommittee we were looking at a current fee of approximately $10 per 20 cubic yard truck (.47 cents X 20) with UPC charging $272 per truck which equated to about 3.5%. In actuality, if the actual charges are a third of this then our current fee is about 10%.

Options

We could continue to charge a truck hauling fee based on truck trips but a more direct, simpler and legally defensible method is to charge a gross receipts tax, as we do for most businesses in the City. In discussing this with the Finance Director and City Attorney our thought is the City would impose a gross receipts tax of up to 15%. This would generate approximately $300k to $400k more a year than our current method.

Additionally, we may wish to consider a base fee upon which the gross receipt tax is added to take into account that we could have activity in the future for exports from which there is very little gross receipts.

As to the administration of a gross receipts tax the number we calculate the tax on is self-reported and subject to an audit/review by our business license tax auditors, Muni Services.