

CITY OF ELMHURST
SALES TAX INCENTIVE POLICY

I. INTRODUCTION

The purpose of this document is to provide guidance for the City of Elmhurst's (the "City") use of sales tax assistance for development activities. These guidelines establish a framework by which sales tax incentive requests can be received, reviewed and evaluated in an objective fashion. For this evaluation, the City will use the criteria indicated in this policy.

It is imperative to maintain and encourage a strong and positive business climate in the City, but this must be done in tandem with cautious review of the long-term financial implications, as well as potential community-wide impacts. As a matter of policy, the City of Elmhurst will consider using sales tax incentives to assist private developments in those circumstances in which the proposed private projects show that significant amounts of sales tax revenue and economic activity will be realized.

It is the intention of the City of Elmhurst to review requests for sales tax incentives on a case-by-case basis. Proposed agreements to share revenue or costs of improvements must be carefully considered on an individual basis—upon the merits of each situation. Generally sales tax incentives will be provided on a "pay-as-you-go" basis, but requests for up-front financing may be considered on a case-by-case basis. It is not the intention of the City to use revenue sharing or incentives to relocate points of sale from neighboring communities or to allow such requests to induce a bidding war for City resources. The City Council shall have the option of amending or waiving sections of this policy when determined necessary and/or appropriate.

It is the goal of the City to encourage additional economic development, and the City will consider participating to the minimum level required to make the development viable. The provision of financial assistance is at the sole discretion of the City. The City reserves the right to reject or approve projects on a case-by-case basis, taking into account established policies, specific project criteria, and the demand on City services in relation to the potential benefits to be received from the proposed project. Meeting policy guidelines or other criteria does not guarantee the award of assistance. Furthermore, the approval or denial of one project is not intended to set a precedent for approval or denial of another project. The City's decision to participate in any agreement should be viewed as a contribution that will facilitate growth and add long-term value to the community.

II. SALES TAX INCENTIVE CRITERIA

Attracting, retaining or expanding businesses for the purpose of improving the City's economic base is the key criteria to qualify for a sales tax incentive. Two of the following criteria must also be met in order for incentive requests to be considered:

1. Desirable business that would address an under-served business segment.
2. Presence of extraordinary development/redevelopment costs such as, but not limited to:
 - Remodeling/demolition
 - Environmental remediation
 - Capital purchases
 - Facility expansion
 - Public infrastructure
 - Governmental requirements (i.e. storm water retention, road improvements, etc)
 - Land acquisition
3. Quality of development and overall aesthetics that are in excess of the mandated legal requirements and design standards.

III. GENERAL POLICIES FOR THE USE OF SALES TAX ASSISTANCE

1. Sales tax assistance will not be provided to projects that have the financial feasibility (as determined by the City) to proceed without the benefit of the assistance. Prior to consideration of a sales tax assistance request, the City may undertake an independent analysis of the project costs to ensure that the request for assistance is necessary.
2. Sales tax assistance generally will not be used for projects that place extraordinary, unmet demands on City infrastructure or services.
3. Sales tax rebates will be predetermined for a fixed period of time, not to exceed ten years and will include annual and total cap amounts. The agreement provisions will be based upon a percentage of sales taxes produced, i.e. a 50%/50% split City/developer.
4. The developer must be able to demonstrate to the City's satisfaction the ability to construct, operate, and maintain the proposed project based upon past experience, general reputation, and credit history.
5. When applicable, "claw-back" provisions will be utilized. For example, when recipients fail to meet investment (physical building upgrades or development), longevity, or job creation commitments, they will be required to repay a pro-rated share of the incentive reflecting the level of deficiency as determined prior to the agreement.
6. The level of sales tax assistance should be reduced to the lowest possible level in the least amount of time by maximizing the use of private debt and equity financing first.

IV. APPLICATION PROCESS AND PROCEDURE

1. Application for sales tax assistance shall be made on the Sales Tax Assistance application forms provided by the City. Applicants may be required to reimburse the City for extraordinary legal, administrative, planning and/or consultant costs associated with processing the application.

2. As indicated in the Sales Tax Assistance application, the developer shall submit a preliminary financial commitment from a financial institution, plans and/or drawings for the project, and background information on the developer. The developer shall submit financial projections, with back-up documentation, which will serve as a basis for the agreement. Existing sales or transfer sales from existing Elmhurst businesses must be accounted for in the projections.
3. The developer shall submit audited financial statements for the last three (3) years. If the audited statements are comparative, only two (2) years are needed. If audited statements are not available, three (3) years of annual financial statements, tax returns and summary schedules for other projects completed or started within the three (3) year time frame covered by the financial statements must be submitted. The developer must also submit an interim financial statement for the current year. Upon the request of the applicant, the City may permit these documents to be provided directly to the City's financial advisor or legal counsel in order to protect proprietary or confidential information.
4. The developer shall submit a complete listing (name and address) of all investors in the project with 5% or greater ownership interest. The listing shall also identify each individual's ownership interest.
5. The developer shall comply with all disclosure requirements of the City, under applicable law.
6. Developer shall submit other information as requested.

Footnotes

Public Infrastructure means city owned and maintained water mains, hydrants and other necessary works and appurtenances for providing water service; sanitary sewers or other instrumentalities or appurtenances for providing sanitary sewer service; sidewalks, curbs, gutters, streets, off-street parking lots, culverts, bridges, or viaducts; drains, sewers and appurtenances for providing storm water drainage; traffic signs, signals, lights and lighting; poles, posts, wires, conduits, lamps and other appurtenances providing for street lighting; parks, parkways and recreational paths; recapture agreements for utilities and acquisition of any and all property, easements and rights of way which may be necessary to accommodate such improvements. Such term shall not include improvements serving a specific site, e.g., water and sanitary sewer service lines.