

CITY OF TRACY

**RETAIL, OFFICE, AND INDUSTRIAL INCENTIVE
PROGRAMS**

Approved by the Tracy City Council Resolution 2008-138

Revised Resolution 2010-057

Revised Resolution 2011-228

Revised Resolution 2017-061

Components

RETAIL INCENTIVE PROGRAMS

- I. Citywide Retail Incentive Program
- II. West Valley Mall Revitalization Program
- III. Hospitality, Entertainment & Recreation Program (HER)

OFFICE AND INDUSTRIAL INCENTIVE PROGRAM

CITY OF TRACY RETAIL INCENTIVE PROGRAMS

INTRODUCTION AND DEFINITIONS.

A. Introduction.

The Retail Incentive Programs generally are meant to stimulate the private sector to invest in the future of Tracy so that Tracy can retain its existing share of the regional market in light of increasing regional competition.

The Retail Incentive Programs are consistent with the following goals of the Tracy General Plan, Economic Development Element:

- ED-2 Support for and promotion of existing businesses
- ED-3 A supportive business environment
- ED-6 Healthy, key economic activity centers
- ED-8, Responsiveness to change and opportunities
- ED-9, A financially sound and viable City

This Retail Incentive Program has three major components:

- I. Citywide Retail Incentive Program
- II. West Valley Mall Revitalization Program
- III. Hospitality, Entertainment & Recreation Program (HER)

It is not the intent of these programs to divert sales tax dollars from other communities, in violation of Government Code sections 53084 and 53084.5.

B. Definitions.

ELIGIBLE APPLICANT means an applicant who meets the eligibility requirements for a particular program.

CITYWIDE refers to all areas within the City limits that are zoned for commercial retail uses.

DIRECT PUBLIC BENEFITS means benefits to the City and community which justify a public incentive under this program. It may include, but is not limited to: (1) whether the business is a regional draw; (2) the amount of net new sales tax to be received by the City over a fixed period of time; (3) the creation of jobs; (4) capital investment by the business; (5) other benefits identified in the performance contract.

HOSPITALITY, ENTERTAINMENT & RECREATION refers to entities that offer multiple uses within one identified establishment, such as a full service resort with overnight accommodations, conference room or concert hall, restaurant, and recreation facilities for public access.

Definitions (continued)

PERFORMANCE CONTRACT means the contract containing retail incentives which may ultimately be signed between an applicant and the City. (See Sections II. E. and III. C. below).

PRIMARY TRADE AREA means the area shown on Exhibit B, attached.

RETAIL SALES means sales as defined in the Bradley-Burns Uniform Local Sales and Use Tax Law, at California Revenue and Taxation Code section 7200 and following.

SMALL BUSINESS is defined as a new or expanding entity with at least 5 and not more than 25 full-time employees.

UNIQUE BUSINESS means a business that is a regional draw for customers within a 30-mile radius. The applicant will need to demonstrate that consumers typically are willing to travel 30 minutes or more to their location, by providing data from other locations.

I. CITYWIDE RETAIL INCENTIVE PROGRAM.

A. Purpose:

The purpose of the Citywide Retail Incentive Program is to attract “unique businesses” to Tracy to encourage unique retail development. This program is meant to attract new investment dollars by retailers that are not currently serving the Primary Trade Area.

There are two program options under the Citywide Retail Incentive -- a sales tax rebate, and a Building & Planning Fee Rebate. A portion of the Building & Planning Fee Rebate program is reserved for small business entities, as defined, on a first come-first serve basis.

B. Eligibility and Thresholds:

To be an “eligible applicant” for one or all of the Retail Incentive Programs, a business must meet the following criteria:

Sales Tax Rebate	Building & Plan Fee Rebate
1. It must be the entity that will actually engage in “retail sales” within the City;	
2. Its point of sale must be the City of Tracy;	
3. It must be located within the City Limits;	
4. It must not currently be located within the primary trade area;	
5. It may not be a vehicle dealer or big box retailer, which is relocating from another jurisdiction within the same market area and is subject to the provisions of Government Code section 53084; and	
6. It must be a “unique business”, as defined;	Small business, as defined, may be eligible on a first come-first serve basis
7. It must provide 5 years’ worth of actual annual sales for its two closest locations;	Not applicable
8. It must generate a minimum of \$10 million in sales tax generating annual sales.	Not applicable

C. Program(s)

Sales Tax Rebate Incentive

If the eligible applicant generates a minimum of:	Then the applicant is eligible to receive a % sales tax rebate on the portion of sales tax collected by the City.
\$30M	50%
\$20M	40%
\$15M	30%
\$10M	20%

Building & Plan Fee Rebate

An eligible company for a rebate of a portion of the building, plumbing, mechanical, and electrical permit and plan check fees paid for as part of a commercial or tenant improvement building permit application. The City will rebate 75% of the building permit and plan check fees, up to a maximum of \$20,000, for fees associated with tenant improvement or equipment installation costs. In addition, the fees paid as part of a Development Review application or those associated with other discretionary permits from the Planning Division, may also be eligible for a rebate up to a maximum of \$10,000. Any rebate of Building and/or Planning fees will be contingent upon the issuance of a Certificate of Occupancy.

New or expanding Small Business, as defined, may be eligible for the Building and Planning Fee Rebate program. The City will rebate a Small Business 75% of the building permit and plan check fees, up to a maximum of \$5,000, for fees associated with tenant improvement or equipment installation costs. In addition, the fees paid as part of a Development Review application or those associated with other discretionary permits from the Planning Division, may also be eligible for a rebate up to a maximum of \$2,500. Any rebate of Building and/or Planning fees will be contingent upon the issuance of a Certificate of Occupancy. The Small Business portion of the Building and Planning Fee Rebate program are limited and will be available on a first come, first serve basis until designated funds have been exhausted.

Eligible building and plan check fee categories will be limited to:

BUILDING FEE CATEGORIES: Building Permit Fee, Building Plan Review Fee, Agreement Processing Fee, Grading Permit Fee, Public Improvement Inspection Agreement, Sign Permit

PLANNING FEE CATEGORIES: Development Review Fee, Conditional Use Permit Fee, Planned Unit Development (PUD) Amendment, Specific Plan Amendment, Variance, Zone Change, Zone Text Amendment

D. Procedure:

1. Application. An Eligible Applicant must complete a standard application form. The application form requires each applicant to provide basic information about its business including, but not limited to: a description of the business; projected annual sales; the number of jobs it will create; and what improvements it will complete.

2. Evaluation and preparation of performance contract. Staff will review the application form for completeness. If it is complete and meets the thresholds specified in subsection I.B. above, Staff will prepare a written performance contract (the "Performance Contract") in a form approved by the City Attorney, which includes (but is not limited to) the following provisions:

- a. Term, including the period of time the sales tax rebate remains in effect;
- b. A requirements not to open the same business within the Primary Trade Area for the term of the agreement;
- c. A requirement to pay prevailing wages pursuant to Labor Code section 1720 and following;
- d. A requirement that the business' books, records and accounts be open to and available for inspection by the City for monitoring purposes, upon reasonable notice;
- e. A requirement that the business obtain a City business license and comply with all laws and regulations; and
- f. A provision indemnifying the City against any claim of violation of Government Code sections 53084 or 53084.5 regarding financial assistance that affects another public agency.

3. City Council review and decision. The proposed performance contract will be submitted to the City Council for its review and decision. Approval of a performance contract is within the complete discretion of the City Council.

In making a decision whether to approve a performance contract, the City Council will take into account the direct public benefits to the City. (See Section B., under Instructions and Definitions, above.)

II. TRACY MALL REVITALIZATION PROGRAM

A. Goals and Objectives.

The purpose of the Tracy Mall Revitalization Program is to support and sustain the West Valley Mall, a vital part of the City's economic base and a significant source of sales tax revenue to the City. This program is intended to provide financial assistance in attracting and retaining an appropriate anchor tenant at the West Valley Mall.

B. Program Guidelines.

The City Council may approve a financial incentive to the owners of the West Valley Mall and/or to a prospective tenant of the West Valley Mall. The financial incentive must be used only for tenant improvements to an anchor tenant space of 100,000 square feet or more. The financial incentive may be either: (1) a sales tax rebate; or (2) direct financial assistance with security, tied to future sales tax generation. The details of the financial incentive must be reflected in a written agreement, in a form approved by the City Attorney.

Each financial incentive agreement must be approved by the City Council only after making findings that:

1. The net financial benefit to the public is larger than the financial incentive;
2. The agreement represents a direct public benefit (as defined);
3. There are identified City or other funds that are available to make the financial incentive; and
4. The financial incentive is secured by an appropriate form of financial security, if any direct financial assistance is involved.

C. City Council review and decision.

The proposed performance contract will be submitted to the City Council for its review and decision, based on the findings set forth in subsection I.B., under Eligibility and Thresholds, above. Approval of a performance contract is within the complete discretion of the City Council.

Attachments:

- A. Primary Trade Area

III. HOSPITALITY, ENTERTAINMENT & RECREATION (HER)

A. Goals and Objectives

The purpose of the Hospitality, Entertainment & Recreation (HER) incentive is to support and enhance the City's economic development efforts to attract a "unique retail" entity that offers a full service establishment that offers hospitality, recreation and entertainment venues. Studies have shown that some public investment is often needed to augment the large private capital that is required to develop hotel and tourism facilities. This program is intended to provide financial incentives to developer-owners, prospective tenants, or tenant representatives of eligible projects seeking to locate within the City limits of Tracy.

B. Eligibility Thresholds

To be an "eligible applicant" for the one or all of the Retail Incentive Programs, a business must meet the following criteria:

1. It must be the entity that will actually engage in "retail sales" and "transient occupancy tax" within the City;
2. Its point of sale must be the City of Tracy;
3. It must be located within the City Limits;
4. It must not currently be located within the primary trade area;
5. It must be a "unique business", as defined;
6. It must provide 5 years' worth of actual annual sales for its two closest locations;
7. It must generate a minimum of \$10 million in sales tax generating annual sales.
8. Must operate a minimum of 250 overnight rooms at one location.

C. Program(s)

The City Council may approve a financial incentive to eligible applicants, as defined under the HER program, in the form: (1) a sales tax rebate; or (2) direct financial assistance with security, tied to future sales tax generation; 3) building & planning rebates; and/or, 4) a transit occupancy tax rebate. The details of financial incentive(s) must be reflected in a written agreement, in a form approved by the City Attorney.

Each financial incentive agreement must be approved by the City Council only after making findings that:

1. The net financial benefit to the public is larger than the financial incentive;
2. The agreement represents a direct public benefit (as defined);

3. There are identified City or other funds that are available to make the financial incentive; and
4. The financial incentive is secured by an appropriate form of financial security, if any direct financial assistance is involved.

D. City Council review and decision.

The proposed performance contract will be submitted to the City Council for its review and decision, based on the findings set forth in subsection III.B above. Approval of a performance contract is within the complete discretion of the City Council.

OFFICE AND INDUSTRIAL INCENTIVE PROGRAM

A. Goals and Objectives.

The purpose of the Office and Industrial Incentive Program is to support and enhance the City's economic development efforts relative to attracting new businesses and creating jobs in the community. This program is intended to provide financial incentives to eligible developer-owners, prospective tenants, or tenant representatives for clients looking to locate in the City's office or industrial areas.

B. Program Guidelines.

The City Council may approve a financial incentive with developer- owners, prospective tenants, or tenant representatives for clients looking to locate in our office and or industrial areas. The Office / Industrial financial incentive will be targeted for developers and or prospective tenants that meet the following criteria:

- Generate annual gross sales of \$100,000,000 or more;
- Generate sales tax to the City corresponding to the gross sales;
- Provide a minimum of 1,000 FTE jobs;

C. Incentive Program(s)

Eligible applicant(s) may receive one or a combination of financial incentive(s) listed below:

- (1) a sales tax rebate; or
- (2) direct financial assistance with security, tied to future sales tax generation, and
- (3) building & planning rebates, and
- (4) high wage incentive.

1. Sales Tax Rebate

Applicants who generate a minimum of \$100,000,000 in annual gross taxable sales may be eligible to negotiate a percentage rebate on the portion of sales tax collected by the City.

2. Direct Financial Assistance

If direct financial assistance is requested, the funds must be used only for tenant improvements associated with the specific location. The details of the financial incentive must be reflected in a written agreement, in a form approved by the City Attorney. All financial incentive agreements must include a provision that the company promote, market, and hold at least one hiring fair exclusively to residents of Tracy prior to conducting hiring interviews for employees outside the area.

Each financial incentive agreement must be approved by the City Council only after making findings that:

- The net financial benefit to the public is larger than the financial incentive;
- The agreement represents a direct public benefit (as defined);
- There are identified City or other funds that are available to make the financial incentive; and
- The financial incentive is secured by an appropriate form of financial security, if any direct financial assistance is involved.

3. Building & Plan Fee Rebate

An eligible company for a rebate of a portion of the building, plumbing, mechanical, and electrical permit and plan check fees paid for as part of a commercial or tenant improvement building permit application. The City will rebate 75% of the building permit and plan check fees, up to a maximum of \$20,000, for fees associated with tenant improvement or equipment installation costs. In addition, the fees paid as part of a Development Review application or those associated with other discretionary permits from the Planning Division, may also be eligible for a rebate up to a maximum of \$10,000. Any rebate of Building and/or Planning fees will be contingent upon the issuance of a Certificate of Occupancy.

New or expanding Small Business, as defined, may be eligible for the Building and Planning Fee Rebate program. The City will rebate a Small Business 75% of the building permit and plan check fees, up to a maximum of \$5,000, for fees associated with tenant improvement or equipment installation costs. In addition, the fees paid as part of a Development Review application or those associated with other discretionary permits from the Planning Division, may also be eligible for a rebate up to a maximum of \$2,500. Any rebate of Building and/or Planning fees will be contingent upon the issuance of a Certificate of Occupancy. The Small Business portion of the Building and Planning Fee Rebate program are limited and will be available on a first come, first serve basis until designated funds have been exhausted.

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PLANNING FEE CATEGORIES: Development Review Fee, Conditional Use Permit Fee, Planned Unit Development (PUD) Amendment, Specific Plan Amendment, Variance, Zone Change, Zone Text Amendment

4. High Wage Incentive

The High Wage Incentive may be available to office or industrial companies that create and/or relocate a minimum of 100 jobs, which meet the “Head-of-Household” threshold approved by City Council. For purposes of this program, “Head of Household” is defined as a job which is compensated at an annual amount above \$72,000 and which receives some level of employer sponsored healthcare benefits. The “Head of Household” compensation requirement will be re-evaluated on an annual basis to ensure it is in-line with current City Council policies.

To receive the high wage incentive, new Office or Industrial companies must have at least 50% of their workforce at the “Head of Household” level. Existing businesses must have expanded their workforce by a minimum of 25% with new “Head of Household” jobs to participate in the program. All “Head of Household” jobs must be permanent, full-time positions.

The high wage incentive includes a payment of \$1,000 per eligible employee, per year, for a period of up to 5 years. All jobs created and or/relocated must be maintained for a period of 12 months. Companies must also verify applicable salaries and the required length of employment.

D. City Council review and decision.

The proposed performance contract will be submitted to the City Council for its review and decision, based on the findings set forth in subsection III.B above. Approval of a performance contract is within the complete discretion of the City Council.

**EXHIBIT A
Primary Trade Area**

