



OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

February 20, 2020

The Honorable Anne R. Kaiser
Chair, Ways and Means Committee
House Office Building, Room 131
Annapolis, Maryland 21401

Re: House Bill 540 – State Income and Property Tax Credits – Purple Line
Construction Zone

Dear Chairman Kaiser:

I support House Bill 540, which would allow businesses in Montgomery and Prince George’s Counties that lost business income directly attributable to Purple Line construction refundable State income tax credits and State property tax credits. The State income tax credits would equal the amount of business income lost during the taxable year, as certified by the Maryland Department of Transportation (“MDOT”). MDOT would be required to develop the details of the program consistent with the goals envisioned in House Bill 540 through regulation.

When a major State infrastructure project results in the displacement of a business, the State has existing programs that provide those businesses with financial assistance. However, there is no existing State program that offers similar assistance to businesses that need not be relocated but do suffer financially from loss of business activity during the preparation and construction phases of major projects. A number of small businesses located near the Purple Line alignment will fall into this category and may need financial assistance to mitigate the impacts of lost revenue while the Purple Line is being built. Construction is well underway now, with the project scheduled to be complete in 2023.

House Bill 540 could effectively help support these small businesses and in fact, help avoid the closure of some that may not be able to survive the construction cycle. While the bill may be viewed by MDOT and the Department of Commerce as an imperfect vehicle, the details can be fleshed out via the regulatory process, including how lost business income would be determined and how the credits may be passed through to qualifying businesses that lease the

The Honorable Anne R. Kaiser
Re: House Bill 540
February 20, 2020
Page 2

property. In fact, Montgomery County's small business assistance program to help Wheaton business could be used as a "template" for the State. The County developed this program to provide technical and financial assistance to Downtown Wheaton businesses that are negatively impacted by the County's Wheaton Revitalization construction project. Information about that effort is attached.

I respectfully request the Committee to take favorable action on this legislation. It is not an insurmountable task to develop the tax credit program, and, these businesses that are struggling as the Purple Line is being constructed need greater assistance. The Purple Line is a State project and the County asks that the State take steps to help.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Elrich". The signature is fluid and cursive, with the first name "Marc" written in a larger, more prominent script than the last name "Elrich".

Marc Elrich

SMALL BUSINESS ASSISTANCE PROGRAM (SBAP)

The Montgomery County Small Business Assistance Program (SBAP) assists certain small businesses located in the County that are adversely impacted by a County-funded redevelopment project or a redevelopment project located on County-owned property, as required by [Bill 6-12](#) adopted by the Montgomery County Council on April 17, 2012.

The Wheaton Redevelopment Project, a public-private partnership between Montgomery County and Stonebridge-Carras is the current focus of the SBAP. County Parking Lot #13 in downtown Wheaton is being redeveloped, and the related construction is anticipated to impact businesses in close proximity to the project. The SBAP can provide technical and financial assistance to small businesses that meet eligibility requirements and criteria for assistance as described in [Executive Regulation 24-12AM](#)

Technical Assistance - Businesses are required to complete an evaluation by the County's resource partners, and may be required to complete one or more technical assistance programs to be eligible for financial assistance under the SBAP. Through the County, the resource partners provide programs and services free of charge, and a business may take advantage of them as often as they would like throughout the redevelopment project. If a business applies for financial assistance, the County will request documentation from our resource partners to validate whether a business has or has not completed the evaluation and technical assistance recommended by the resource provider. The County is utilizing the organizations below as resource partners for the SBAP:

- Latino Economic Development Corporation Consortium – The Consortium is comprised of:
 - The Latino Economic Development Corporation (LEDC) www.ledcmetro.org
 - The Greater Washington Hispanic Chamber of Commerce (GWHCC)
<http://www.gwhcc.org>
 - The Hispanic Chamber of Commerce of Montgomery County (HCCMC)
<https://hccmc.org>
- Contact:**
LEDC Consortium: Richard Cisneros (O) 202-540-7424, (C) 571-224-7930
r.cisneros@ledc.org

Financial Assistance - A small business may be eligible for a financial assistance if it meets the eligibility criteria and can demonstrate that the redevelopment project adversely impacted the business' net profit. The total amount of assistance that a business may receive through the Small Business Assistance Program - throughout the entire redevelopment project - is \$75,000.

The Process

After participating in the required technical assistance program, a business seeking financial assistance must complete a Small Business Assistance Program Application (English - page 4, Español - página 7) and provide, at a minimum, the information and documentation requested in the application.

Eligible businesses can apply for financial assistance on or after September 5, 2017 (the first quarter after construction for the Wheaton Redevelopment Project began).

Eligibility

For a business to be considered eligible to receive financial assistance, the County will evaluate the following:

- 1) Is the business a small business?
- 2) Is the business financially healthy?
- 3) What is the remaining term of the business's lease?
- 4) Did the business participate in any required technical assistance programs?

Definitions:

Small Business

- 1) Has its principal place of business in Montgomery County
- 2) Is independently owned and operated
- 3) Is not a subsidiary of another business, AND
- 4) Meets the size or sales criteria below

Business Type	Employee Less Than	OR	Prior 3 Years' Average Sales Less Than
Retail	30	or	\$5,000,000.00
Wholesale	30	or	\$5,000,000.00
Service	50	or	\$5,000,000.00
Construction	50	or	\$14,000,000.00
Manufacturing	40	or	\$14,000,000.00

Financially Healthy – The Business must demonstrate that it had a net profit prior to project construction. The County accepts the documentation below to validate a business' financial health.

- 1) Most Recent 3 Years Business Federal Income Tax Returns – One of the prior 3 years must show a net profit, or, if the business was in operation for less than 3 years, the most recent year must show a net profit; OR
- 2) Personal Tax Returns (required if Federal Business return was for an "S" Corporation, LLC or Partnership return) – One of the prior 3 years must show the business owner paid federal and state income tax; OR

- 3) Business Income for Schedule C (only applies to partnership, single-member LLC, or sole proprietorship) – One of the prior 3 years must show that income reported exceeded expenses reported; OR
- 4) Financial Statement and Bank Statements – Financial statements, supported by the business' or owner's bank statements, must show a net profit if the business has not filed a Federal Income Tax Return.

Lease – A businesses must have at least 12 months remaining on its lease at the time of its application. If a business does not have at least 12 months remaining on its lease it will be required to submit a letter stating that it will renew its lease for at least 12 months.

Net Profit – For purposes of this Program net profit shall be considered earnings before taxes, interest, depreciation, and amortization have been deducted.

Grant Calculation – The Federal annual tax returns, financial statements (Profit & Loss, Balance Sheet) and business bank statements referenced in the definition above will be analyzed by the County to determine the average annual net profit before construction began. This annual average will serve as a baseline against which adverse impact can be measured. To receive financial assistance, a business must also provide information and financial statements that demonstrate adverse impact from the redevelopment project, that is, the net profit reported after construction started is less than the average profit calculated prior to construction.

Businesses that intend to seek financial assistance on a periodic, ongoing basis (e.g., quarterly or semi-annually) will need to provide ongoing, appropriate financial information that enables the County to measure impact based on comparable fiscal periods. For example, if a business intends to request financial assistance on a quarterly basis, it would need to provide corresponding quarterly financial statements (Profit and Loss Statements) for the periods prior to impact (construction) as well as the same periods after impact. So, Quarter 1 in the years before impact would be compared to Quarter 1 after impact. Quarter 2 in the years before impact would be compared to Quarter 2 after impact, and so forth. It is recommended that businesses with operations that are seasonal provide information in such a manner.

In addition, the County will compare the actual annual net profit to the average annual net profit after Quarter 4 of the first year of construction and will adjust any future grant payments accordingly.

Grant Calculation Example - Business A is eligible for grants under the SBAP. The average annual net profit for 2014 - 2016 is \$100,000, and the average quarterly net profit for 2014 - 2016 is \$25,000. The following are Business A's grant calculations for all four quarters in 2017:

Quarter	Average Net Profit Before Impact (A)	Actual Net Profit After Impact (B)	Grant Payment (A minus B)
2017 – Q1	\$25,000	\$15,000	\$10,000
2017 – Q2	\$25,000	\$25,000	\$0

2017 – Q3	\$25,000	\$30,000	\$0
2017 – Q4	\$25,000	\$15,000	\$5,000*
Totals	\$100,000	\$85,000	\$15,000

*Since the actual annual net profit of \$85,000 was \$15,000 less than the average net profit of \$100,000, the Q4 grant payment is adjusted accordingly.

Use of Funds – The SBAP does not stipulate a specific use for the grant funds, so eligible businesses may use the grant payments in whatever manner they deem necessary to support their business during the redevelopment project. The County and its resource partners, however, will work closely with each eligible business to ensure that the grant funds are meeting the goals of the SBAP.

For further information on the Small Business Assistance Program Contact:

Justin Stone
 Manager, Small Business Assistance Program
 Montgomery County Department of Finance
 101 Monroe Street, 15th Floor
 Rockville, MD 20850
 240-777-8864 (Direct)
Justin.Stone@montgomerycountymd.gov