

Montgomery County Department of General Services  
Wheaton Façade Easement Program  
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**1. PURPOSE OF THE PROGRAM**

The purpose of the Wheaton Façade Easement Program (“Program”) is to enable Montgomery County to purchase the right to control the renovation of certain elements of an existing commercial building’s exterior, including aesthetic appearance, signage, and maintenance within the County’s designated Capital Improvement Program Areas.

The Program furthers the County’s intent to actively partner with private property owners and businesses (“Applicants”) to improve and reinvest in their commercial properties in an environmentally friendly and sustainable manner. Applicants voluntarily enter into façade easement purchases. Terms of the easement, including the purchase price and the length of the easement, are negotiated by the Applicant and County staff using specific criteria established for the Program. Façade easements contain enforcement procedures for violations of terms and conditions and also contain provisions to enable and Applicant to buy back the façade easement.

**2. ADMINISTRATION**

The Program is administered by the Wheaton Redevelopment Program (WRP), which is part of the Department of General Services, and is responsible for establishing the necessary departmental procedures and practices and ensuring the expeditious processing of all valid and complete easement applications. All easement purchases are subject to the funding limitations of the Program. The WRP is responsible for providing the technical and advisory services required for the proper and efficient administration of the Program.

**3. ELIGIBILITY REQUIREMENTS FOR FAÇADE EASEMENTS**

Eligible Applicants for the Program are:

- The owner of a commercial property; or

- The lessee of a commercial property, if the terms of the lease give the lessee legal authority to make alterations to the exterior of the leased space. If a façade easement is negotiated with the lessee, the façade easement must be agreed to and cosigned by the lessee and the property owner. The property owner's signature signifies concurrence with the terms of the easement and the design of the façade improvement.

To be eligible, a property must be:

- An existing building at least 10 years old (new construction projects are not eligible);
- Located within a designated Capital Improvement Project (CIP) area; and
- For commercial use, or mixed use with a commercial component greater than 60% of the FAR of the property.

#### **4. DETERMINATION OF TERMS AND PURCHASE PRICE OF EASEMENT**

The Applicant's and the WRP's negotiation of the terms and the purchase price of the façade easement are governed by the following guidelines:

- The maximum purchase price of a façade easement must not exceed 75 percent of the eligible costs of the proposed improvements to the property, but in all events, the purchase price of an easement must not exceed \$225,000.
- The minimum term of a façade easement is 5 years and the maximum term is 15 years. The term for the easement may be dictated by the funding sources for the Program, and therefore, non-negotiable.
- The final determination of the purchase price is at the sole discretion of the Director of the Department of General Services ("Director").
- An Applicant's request to participate in the Program will be evaluated using these criteria:
  - The degree of the proposed façade improvement's conformity with the overall strategy for the area's revitalization.
  - The degree of the proposed façade improvement's conformity with the Program's Design Guidelines.
  - The Applicant's use of environmentally-friendly materials.
  - The scope and cost of the renovation of the façade.
  - The leverage of public funds to private investment in the facade renovation.
  - The location of the building in the revitalization area.
  - The participation by tenants, if any, in the overall upgrading and renovation of the building.
  - The length of the proposed easement.

#### **5. ELIGIBLE COST CONSIDERATIONS**

The cost of renovation and improvement to the façade for the first four stories of a building may be considered by the WRP. However, street level improvements will constitute the majority of all improvements for which Program support is provided.

Renovation costs may include cleaning of building surfaces, surface treatments, paint, windows, doors, canopies and signage (if a component of the overall project), electrical work related to building illumination and signage, permanent landscape features such as integral planters which become a part of

the building façade, architectural and construction services related to facade improvement, and related demolition costs, if applicable. Environmentally friendly, sustainable materials are the preferred choice of the WRP for all components of facade improvement.

## **6. INELIGIBLE COSTS**

Building improvements or work completed by the Applicant prior to the County’s approval of a façade easement purchase are not eligible. The participation of County employees or their family members may require the review and approval of the County’s Chief Administrative Officer and/or the County’s Ethics Commission.

## **7. REPURCHASE PROVISIONS**

Each façade easement shall include a repurchase provision that permits the Applicant to acquire the property rights (façade easement sold to the County) while the easement is in effect. The repurchase price shall be calculated as follows:

<u>Duration of easement</u>	<u>Repurchase Price</u>
0 – 5 years	100% of façade easement
5 - 10 years	60% - 100% of façade easement
10 – 15 years of purchase	30% of original purchase price

The repurchase price will be negotiated with the Applicant and clearly articulated in the easement agreement. Some of the funding sources for the Wheaton Façade Program may require a minimum easement period before the Applicant has an opportunity to repurchase the easement.

## **8. APPLICATION PROCESS**

### **A. An Applicant submits a “Letter of Interest” to the WRP.**

The “Letter of Interest” must include:

- The applicant’s name, address, phone number, facsimile number and email address;
- The property owner’s name, address, phone number, facsimile number and email address, if different from the Applicant;
- The property address of the building where the Applicant wishes to have the County purchase a façade easement;
- If the Applicant is a lessee, a copy of the current lease;
- A detailed description of the proposed façade improvement;
- The cost of the proposed façade improvement that is supported by a minimum of three cost estimates;
- A request to enter into voluntary negotiations with the WRP to determine the terms and conditions of the proposed façade easement; and,
- The signature of the Applicant, and of the property owner if different from the Applicant.

### **B. Presentation to Facade Review Committee**

(Estimated time requirement – approximately 4 weeks from receipt of a completed application)

All façade easements applications will be reviewed and evaluated by the WRP's Façade Review Committee.

- The Applicant must present the proposed design for the façade improvement to the Façade Review Committee.
- The presentation must include design drawings, material samples, color selections and manufacturer information, as requested. It is strongly recommended that the Applicant's architect attend the presentation. WRP staff familiar with the project area will coordinate with the Applicant concerning the presentation to the Façade Review Committee.
- The Façade Review Committee, after consideration of the presented material, will make a recommendation to the Director about whether to enter into a façade easement with the Applicant.

#### C. Determination of the Director

(Estimated time requirement – up to 2 weeks)

- The Director will review the recommendation of the Façade Review Committee.
- The Director, in the Director's sole and absolute discretion, may concur with the recommendation or determine the proposed easement purchase is not in the best interest of Montgomery County.
- The Director has final approval authority.
- The Director's decision is final and will be reflected in a signed decision memorandum forwarded to the WRP. In turn, the WRP will provide written notice to the Applicant of the Director's decision.

#### D Applicant Notification of Director's Determination.

(Estimated time requirement – 1 week)

The WRP will inform the Applicant in writing of the Director's decision about whether to purchase an easement from the Applicant. If approved, an offer letter from the WRP to the Applicant will indicate the terms and conditions under which the County will purchase the façade easement.

#### E. Documents Required for the Purchase of a Façade Easement.

(Estimated time requirement – 2 weeks)

If the Applicant agrees to the County's terms to purchase a façade easement on the property, the Applicant must indicate acceptance of the WRP's offer, terms and conditions for the purchase of the façade easement by signing the offer letter and returning it to the WRP within 10 business days of the date of the letter. The property owner, if different from the Applicant, must co-sign the acceptance letter.

Along with the executed offer letter, the applicant must provide the WRP the following documents:

1. A current title report of the property ;
2. If the Applicant is a corporation, LLC or other business entity, articles of incorporation, bylaws and any amendments to those documents; and, a resolution accepting the County's terms for

purchasing the easement and appointing an authorized representative to execute the façade easement;

3. Property insurance naming Montgomery County additional insured;
4. If there is a deed of trust or other lien on the Property, the lienholder must agree to subordinate the deed of trust or other lien to the County's façade easement (the County will provide the required subordination agreement); and
5. A letter indicating the proposed start date and estimated date of completion of the façade construction.; and

**9. NOTIFICATION OF INTENT TO PURCHASE & EXECUTION OF EASEMENT**  
(Estimated time requirement – 4 weeks)

Upon receipt of the documents in Section 8(E), the WRP will coordinate with the Office of the County Attorney and the Applicant to complete a facade easement and, if required, a subordination agreement. Documents previously submitted by the Applicant may be required to be updated. The WRP will process the easement for recordation.

The County will forward the façade easement and subordination agreement, if required, to the Applicant who must have them executed by the Applicant's authorized representative and any lienholders on the property and return them to the County within seven business days of receipt.

**10. CONSTRUCTION & VERIFICATION OF FACADE EASEMENT**  
(Estimated time requirement for construction verification – 1 week)

Façade improvements must not begin until the façade easement and subordination agreement, if required, have been fully executed and returned to the County. Construction of the façade improvements must commence and be completed within the time periods agreed to by the Applicant and the WRP. Any changes to those deadlines must be reasonable and agreed to in writing by the WRP. The purchase price for the façade easement will be provided to the Applicant once the façade improvements have been completed and reviewed and approved by WRP staff. Once the Applicant notifies WRP staff that the façade easement improvements are completed, staff will inspect the facade improvements to confirm their completion and their adherence to agreed-upon specifications.

**11. CHECK DISBURSAL FOR AMOUNT OF EASEMENT**  
(Estimated time requirement – 10 business days)

After the easement has been recorded in the land records and the completed façade easement has been inspected and found to adhere to the easement's specifications, a check in the amount of the façade easement purchase price will be issued by the County to the Applicant.