

Dear Montgomery County Council,

I am writing to submit my testimony to the committee hearing on the elimination of Tip Credit.

As the founder & CEO of Silver Diner restaurants, I have restaurants in VA MD & DC & have 1st hand experience of the negative impact of eliminating the Tip Credit.

Background:

- In our downtown restaurant Server Wage increased ~\$10k a month.
- o Given that our DC restaurants were breakeven for the year, we had to allocate that cost somewhere to avoid losing money.
- We evaluated the option of adding Service Charges, which is what the majority of the restaurants in our marketplace did.
- After surveying DC restaurants that added service charges, we learned that guests reduced the tip by the majority of the service charge, if they normally tipped 18.5%, they reduced their tip by as much as 3.5% (avg. service charge in DC), negatively impacting servers, even when the service charge was clearly labeled that it goes to the restaurant rather than servers.
- To avoid this direct negative impact on our Servers we chose a nominal price increase instead of adding a service charge after the July implementation of tip credit elimination.

Impact:

- DC Sales dropped 20% because of customer resistance to the price increase in today's inflationary economic times (versus seasonal drop of 9% in our other restaurants). Please see attached graph.
- Labor hours dropped 20% & remain decreased. Please see the attached graph.
- This results in a combination of lower earnings per hour, less hours for each Server and less jobs for all – ultimately by the same 20%.

Hurting Those Who You are Purporting to Help:

- Servers are earning less per hour.
- We have cut staff back in hours: less Server hours and
- Support staff hours have been reduced.
- Tipped employees lose out with the sharp decrease in hours as well as a decrease in pay failing to be offset by the increase in pay.
- All our Associates end up losers.

Customers & Growth:

- Customers are up in arms over service charges & prices and are unwilling to pay.

- We cannot do business, opening restaurants in a climate where we are losing our customer's patronage, and our people are being hurt.

OUR BUSINESS moved from breakeven to a LOSS of \$7k a month and this is only 1/3 portion of the tip elimination. When fully implemented it's \$30k a month, we and many others would be out of business.

Wherever this is implemented, we could no longer afford to open restaurants as it would create an unfavorable climate to our Associates and Guests.

Regards,

Robert Giaimo

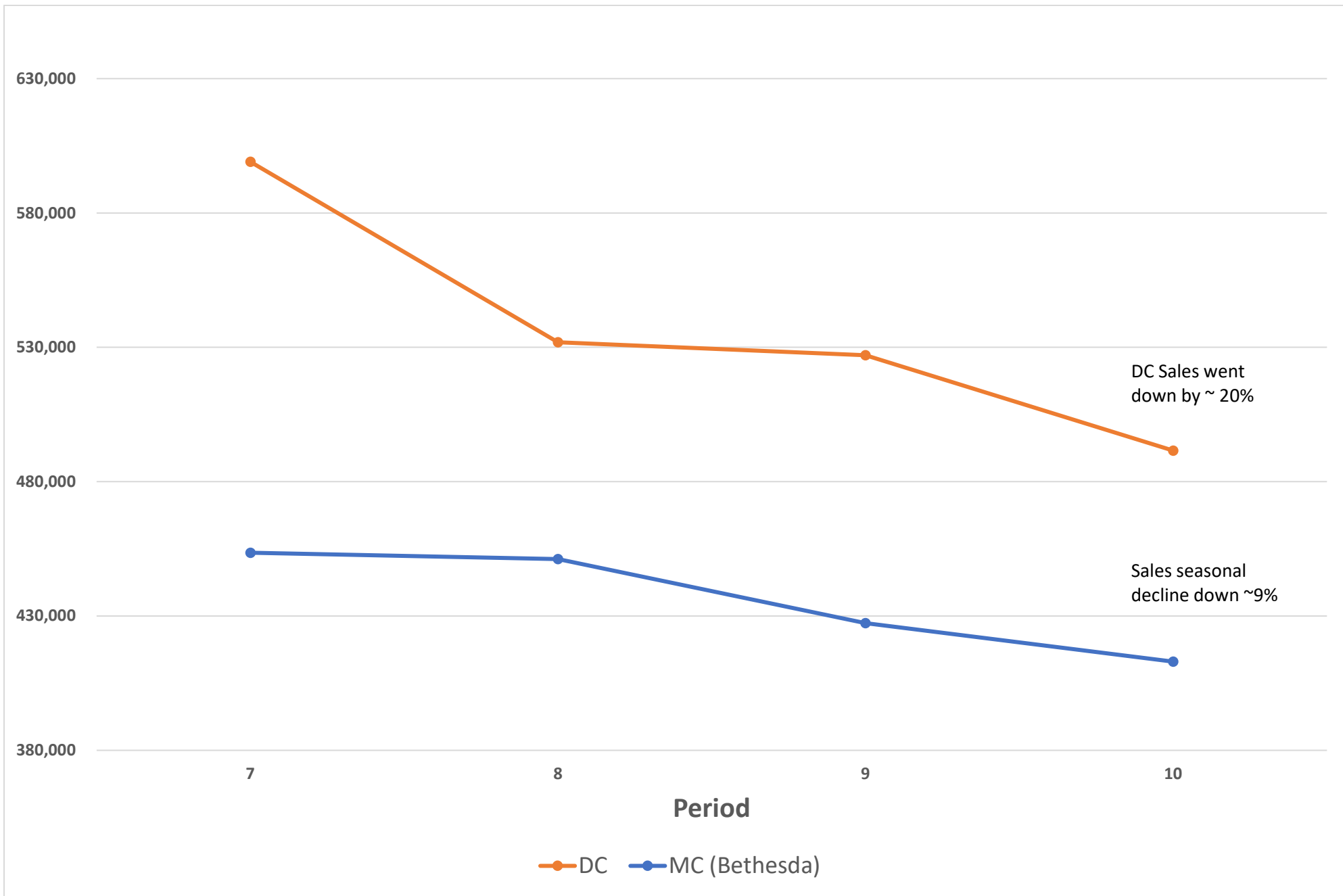
President/CEO

Founder

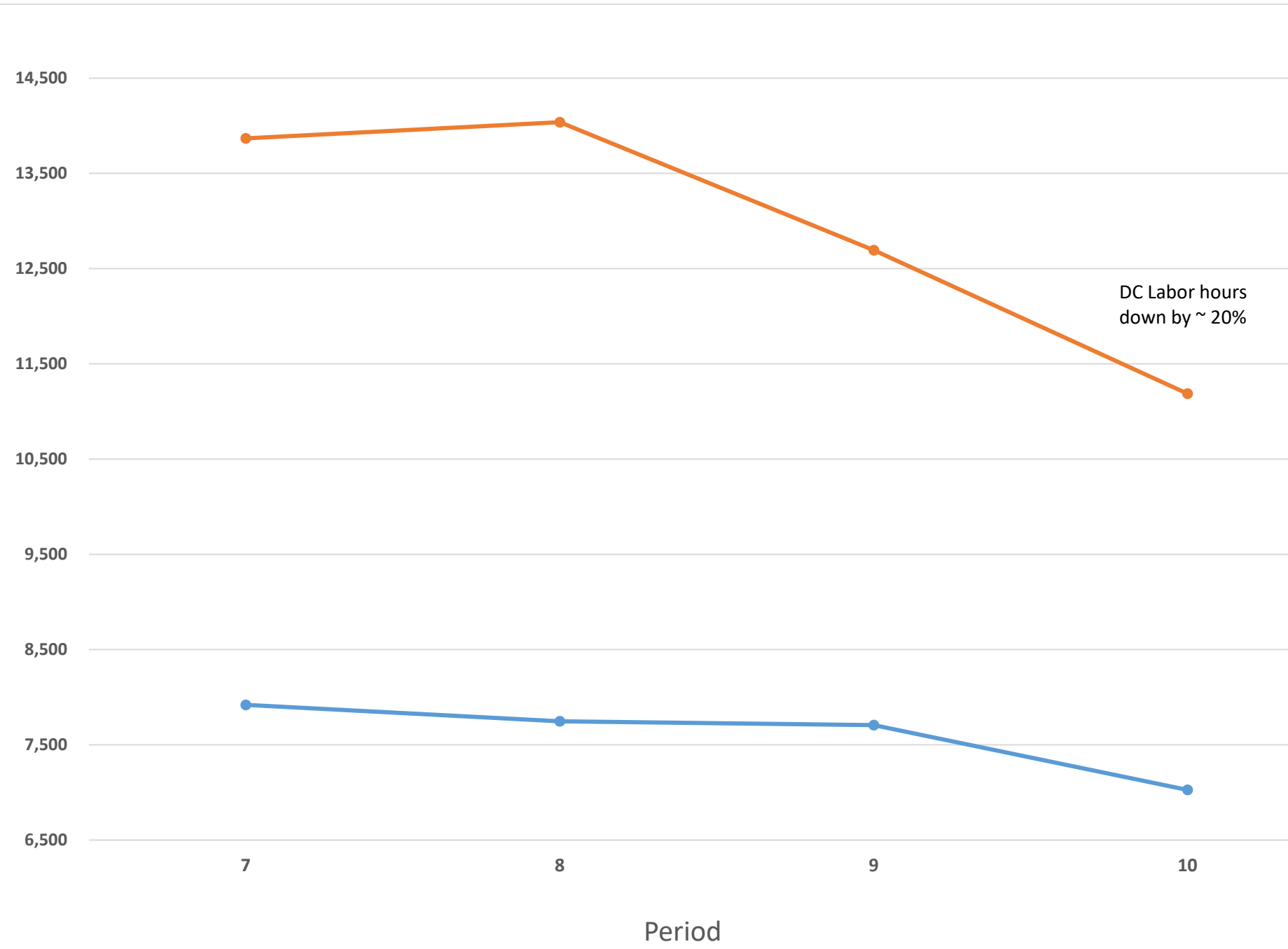
Silver Diner Development LLC.

<https://www.silverbrands.com/>

# Tip Wage Price Increase Impact DC vs MC (Bethesda) Sales



# Tip Wage Labor Impact DC vs MC (Bethesda) Labor Hours



Dear Montgomery County Councilmembers,

In response to Councilmember Gabe Albornoz's request, I have provided the following information on the Tipped Waged phased out in DC; total tips before and post implementation, dollars in tips in June (Period 5) & Sept (Period 10). This shows total tip decline of \$30,000.

<b>DC Location</b>	Period 5/June	Period 10/Sept
	4/17/2023	9/4/2023
	5/14/2023	10/1/2023
Sales	637,262	519,825
Tips	111,902	81,723
Tip %	17.6%	15.7%

This represents a combination of people tipping less as prices have gone up, and the fact that with less business, our servers collect less tips.

### **Inflationary impact on our business**

Post-Covid, the restaurant business is caught between a rock and a hard place as costs have soared, but customers are understandably resistant to how much they are willing to pay for a meal, e.g. the experience Councilmember Albornoz' had at Cactus Cantina, where the restaurants are no longer affordable for a family.

To be specific, see a copy of our consolidated financial statement (attached) for our DC restaurant for our most recent period (attached) where you will note that we lost \$5,522 in Period 10 due to \$7,181.60 additional Wage & Tip Credit elimination.

These losses in Sept/P10 represent \$10,000 a month in increased wages as a result of the move from \$5.35 to \$8 an hour. When the tip credit is fully phased out, the cost per hour increase to 3x this ( $\$17-8 = \$9$ ), would cost us ~\$30k a month and force us to shut down restaurants in jurisdictions that have this tip credit phase out/elimination.

### **Reporting Requirements are in place to catch outliers**

This is a general description. The MD Restaurant Association can provide more details.

Regarding the bad actors who hurt our industry & more critically, the people in our industry, by denying them their correct wages through wage theft, several years ago restaurants in Montgomery County partnered with the county to establish safety nets to prevent wage theft:

- Pay transparency on paychecks: Pay stubs are required to show the hours worked; the tipped hourly wage; the tipped earnings and the total hourly wage earned.
- Payroll audits of monthly payroll showing the hours worked; the tipped hourly wage; the tipped earnings and the total hourly wage earned.
- Postings for employee labor law & information are required which provide instructions on how to report suspected wage theft to the County & the Department of Labor.

Regarding posting public info on those bad actors who have been caught, several counties in VA have mechanisms for posting food safety violators and I imagine those could be models for the public posting idea.

For reference, I have also attached two charts showing the impact in DC to our sales and labor & as a comparison, the seasonal trend in our Woodmore location. DC Sales have dropped 20%

- Fully implemented, the tip credit elimination costs us \$30,000 a month
- Service charges have become the norm for some restaurants and that impact is guests tip less.

### **You asked about our Community Commitment**

Loss of local restaurants is more than just an economic loss, overall vitality of community declines. Silver Diner has always been a leader in and a support of our communities.

Awards/Recognition:

- Montgomery County Chamber of Commerce 2023 Spirit of Free Enterprise
- Black Box Intelligence: Best Practices Award for Extraordinary Workplaces
- MenuMasters Healthful Innovation Award: Kids Menu
- United Fresh Produce: Excellence in Produce
- HALO Award for promoting Healthy Lifestyles
- RAM: Restauranter of the Year
- RAMMY: Technology Trailblazer Award
- Washington Business Journal Most Diverse Workplace

- Chef in Residence for Montgomery County Public Schools – vegan entrees
- \$1.5M donated to local schools for nutrition and fitness programs (through loyalty card)
- \$200K raised for food insecure students in the DMV through Real Food for Kids

Our associates live in our communities and are the heart of our business.

- 95% of our Managers grew from Associates
- 100% Our Operating Partners/General Managers grew from Manager positions
- 53% of our Support Center (HQ) grew from Associate positions.

Along with the testimony I previously provided below, I hopes this information is helpful. Thank you all for your work in keeping Montgomery County a strong and vital community.

Regards,

Robert Giaimo

President/CEO

Founder

Silver Diner Development LLC.

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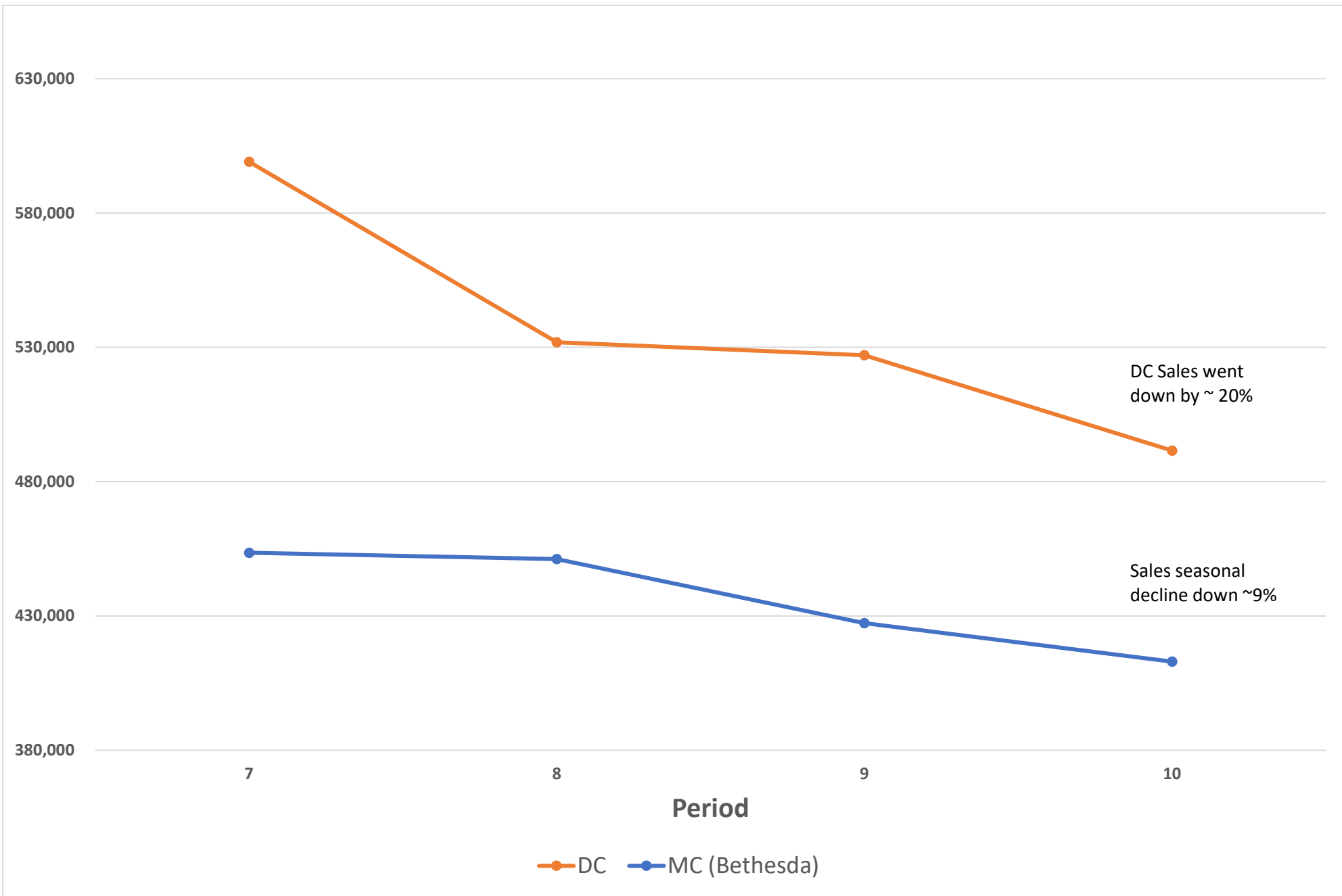
## DC

Period 10, 2023

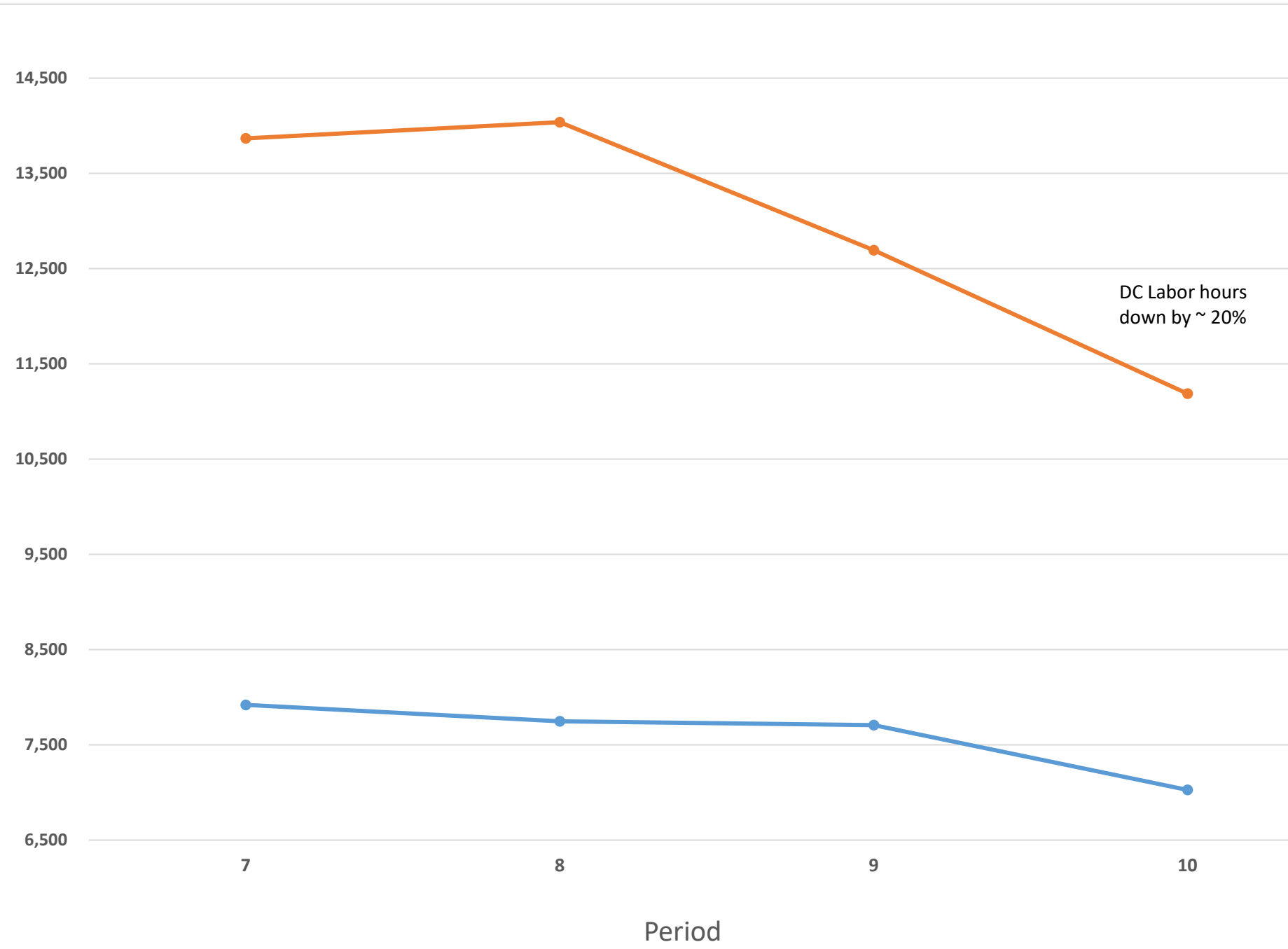
	Actual		Budget		vs. Budget	
Sales	\$519,825		\$676,091		(\$156,266)	-23.1%
Cost of Goods Sold	132,193	25.4%	167,529	24.8%	35,335	-0.7%
Labor						
Direct Labor	155,217	29.9%	184,445	27.3%	29,228	-2.6%
Management	61,054	11.7%	58,846	8.7%	(2,208)	-3.0%
Non-Cash Compensation	0	0.0%	0	0.0%	0	0.0%
Management Bonus	1,175	0.2%	5,600	0.8%	4,425	0.6%
Benefits & Taxes	35,677	6.9%	51,972	7.7%	16,295	0.8%
Total	253,123	48.7%	300,863	44.5%	47,740	-4.2%
Operating Expenses	91,359	17.6%	89,865	13.3%	(1,495)	-4.3%
Corporate Marketing	6,238	1.2%	8,113	1.2%	1,875	0.0%
Advertising Allocation	4,162	0.8%	5,409	0.8%	1,246	0.0%
Local tactics	1,135	0.2%	2,704	0.4%	1,569	0.2%
Restaurant operating margin	31,614	6.1%	101,608	15.0%	(69,994)	-8.9%
Occupancy	37,136	7.1%	46,105	6.8%	8,969	-0.3%
Restaurant cash flow	(5,522)	-1.1%	55,504	8.2%	(61,025)	-9.3%



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Dear Montgomery County Councilmembers,

Further to my written testimony, see the chart below, in response to the question from David Kunes, in Councilmember Jawando's office, what is the total wage differential, for our servers taking into account the base and tip wage, pre & post implementation of tip credit reduction.

NOTE: The increase in cost caused us to take a small price increase, which caused a decline all around, as documented below.

<b>DC Location</b>	<b>Pre-Tip Credit Reduction</b>	<b>Post-Tip Credit Reduction</b>
	Period 5/June	Period 10/Sept
	4/17/2023	9/4/2023
	5/14/2023	10/1/2023
Sales	637,262	519,825
Tips	111,902	81,723
Tip %	17.6%	15.7%
<b>Tips Decreased</b>		<b>-\$30,179.00</b>
<b>Base Pay Increased</b>		<b>\$7,181.60</b>
<b>Total Server Pay Decreased</b>		<b>-\$22,997.40</b>

In summary:

- Servers total wages went down by \$20k/20% (including tips & base)
- Sales went down by 20%
- Server, as well as kitchen and other staff hours went down by 20%
- Customers are unhappy, staff is unhappy and everyone loses.

Regards,

**Robert Giaimo**

CEO/President

Silver Diner Development

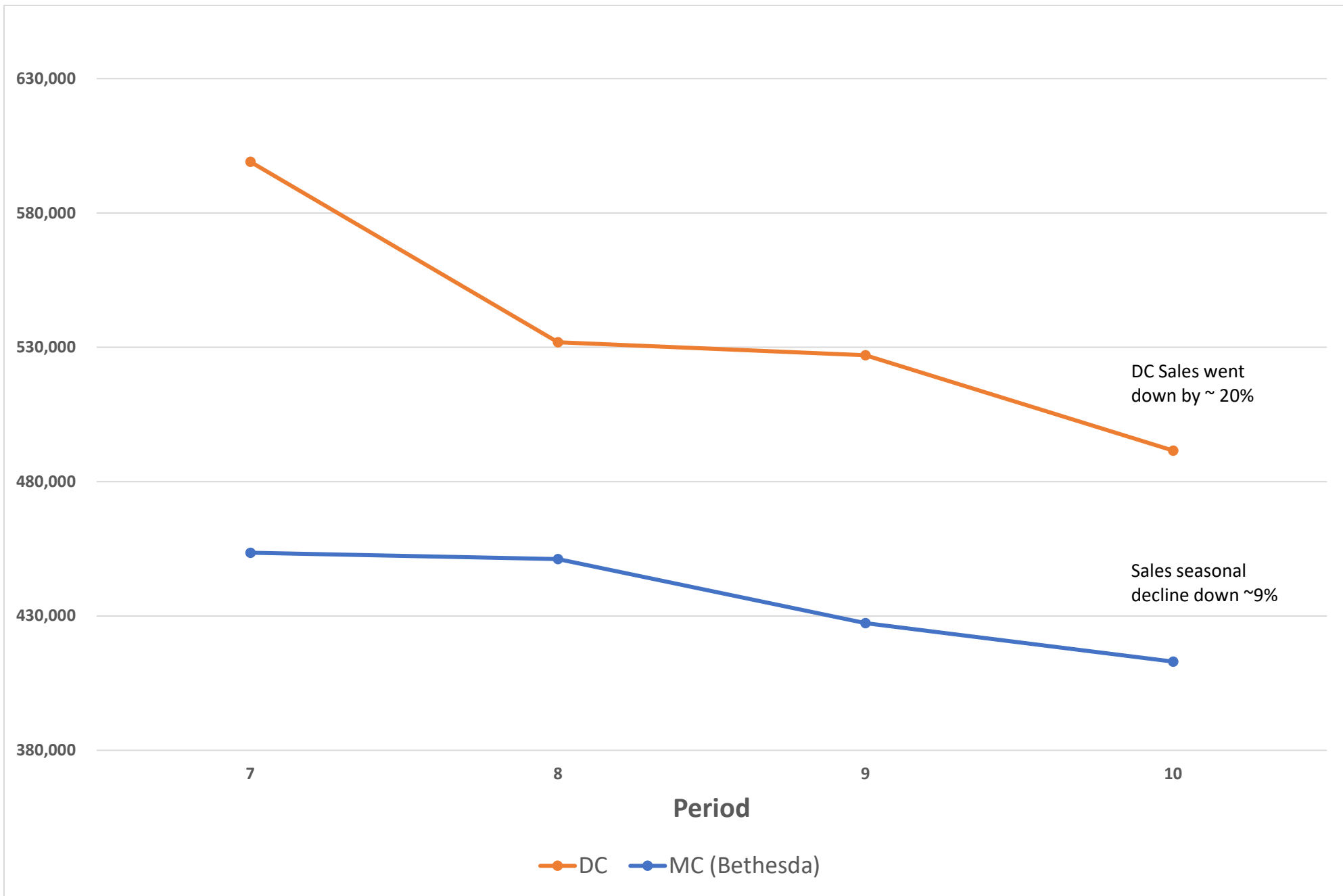
[www.SILVERBrands.com](http://www.SILVERBrands.com)

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