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Governor's Office of Minority Affairs;

MARY JO CHILDS, Procurement Advisor,
Board of Public Works; and,

MARION BOSCHERT, Recording Secretary,
Board of Public Works

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P R O C E E D I N G S
GOVERNOR O'MALLEY: Good morning, everyone.

Welcome to the Board of Public Works. Today is March -- excuse me, February 22nd. The march continues, but today is February 22nd. We have a number of issues before the Board of Public Works today. Let me ask the Treasurer or the Comptroller if they have any opening comments?

TREASURER KOPP: I do have one comment of sad news that we mentioned yesterday. I don't know how many people here knew former Delegate, former Senator Art Dorman who passed away a couple of days ago. But Art Dorman was a member of the Legislature for at least 30 years, 35 years probably. When I first came to work here in Annapolis he was the Chairman of the Prince George's House Delegation, a man who really made a mark in a number of different areas.

He was the sponsor ranging from motorcycle helmet law, to the law which requires you to put on your windshield wipers when it's raining, to important innovations in pre-K and elementary school education, to Chesapeake Bay protection. And he did, and was

involved in a number of important regional and national groups, and he did everything with such an air of modesty and goodness that it, and never, never sought the limelight, never had temper tantrums. Just got things done. That you, he was unfortunately the sort of person who you notice after he's gone that there's a huge hole and the man is not there.

And so I just think as a former colleague, I know the Comptroller joins me in just wanting to mark for posterity and for Maryland that we have lost a great and very good man.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And Madam Treasurer, I agree completely about Senator Dorman. He was just a great guy.

I hope everyone had a wonderful President's Day weekend and holiday. I think it's worth noting that while we were honoring men at that holiday who spent their lives defending American values and freedom and liberty we're also celebrating frankly the Monday night, Tuesday, whenever it was, the triumph of another one of our national values, which is equality.

Of course I refer to the House of Delegates passing the Marriage Equality Act. And I want to just personally congratulate the Governor and the sponsors of this nationally important legislative victory. As a former member of the House and as a Marylander I was proud to see this happen, and I look forward to it moving forward in the Senate as it did last year.

While we're speaking of being proud to be a Maryland I just want to point out something that occurred last week that really demonstrated how I think we should all act and what we should teach our kids about sportsmanship and kindness, and this is an extraordinary story. It's a little complicated, but if you can follow me.

The Washington College, obviously of Maryland, men's basketball team was playing Gettysburg College up in Pennsylvania. It happened to be Gettysburg's senior day and one of the seniors on the Gettysburg team was a young man named Cory Weissman who had suffered a stroke at the end of his freshman year. For three years he had battled back through rehab and was finally able to participate again in the

sport he loved, basketball. So as a senior, on senior day, he was allowed to start. But he was pulled immediately because he still lacked the stamina and strength to play very much.

As the game neared the end Gettysburg pulled out to a wide lead. Washington College, our team, from Maryland, the Coach Bob Nugent sent a message to the Gettysburg bench that if they put Cory back in the game Washington would foul him and give him a chance to go to the free throw line and score his first points ever in a collegiate game.

Cory went back in, he was fouled, and went to the foul line, and missed his first shot. Nailed the second one, gave him that one point. And Cory afterwards said, "I just want to thank Coach Nugent of the Maryland team, Washington College. He's one of the classiest coaches I ever played against and this day is unforgettable."

While they lost the game Coach Nugent and his players won not just the hearts of the Gettysburg fans but are winners in the game of life. This unforgettable act of sportsmanship captured the

essence of what collegiate sports should be all about. They made Washington College and the entire State of Maryland very proud and I congratulate them and wish them well next season and beyond. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. Okay, the first order of business is the Secretary's Agenda.

SECRETARY MCDONALD: We have, that's actually Secretary Al Collins --

MR. COLLINS: My Agenda item --

GOVERNOR O'MALLEY: I'm sorry. We'll go instead to DGS and a particular, well maybe we can do the whole DGS Agenda items? Okay, Secretary Collins?

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has 18 items on our Agenda. We have revised Item 9 and withdrawn Item 6A. We would be glad to answer any questions you have at this time.

Governor, in particular I'd like to point out Item 16 which is grants and loans to the Anne Arundel Community College. And introduce, or bring up

to the podium if you would, Dr. Marty Smith who is representing that particular item today. And I think we have a proclamation for her. This is an item where the State is investing, continuing to invest in Anne Arundel Community College over \$5 million, \$5.085 million to be used for the renovations of their library and other buildings associated at the Community College.

DR. SMITH: Thank you very much.

GOVERNOR O'MALLEY: What do you want to tell us about this one, Madam President?

DR. SMITH: What I'd like to tell you about this is this is one of our original buildings. And it involves both an expansion of 30,000 square feet and a renovation. Since this is one of the original buildings you can imagine this renovation and expansion is desperately needed and greatly appreciated. And if I could without saying much more, may I just give you a thank you note? Which includes pictures. And I think they will be dear to your heart. Because they are all about what you are about.

COMPTROLLER FRANCHOT: Great, thank you.

TREASURER KOPP: Yeah.

GOVERNOR O'MALLEY: No one ever thanks us.

TREASURER KOPP: Oh, thank you.

DR. SMITH: All about jobs, jobs, jobs, the economy, education. And that's what this project is all about. And I thank you so much for your continued support.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Thank you. And we have something for you. It's a proclamation. I'd like everyone here at the Board of Public Works present when I go like this to please say, "Whereas." Are you ready?

(Laughter)

GOVERNOR O'MALLEY: Whereas, Martha A. Smith, Ph.D. began her tenure as Anne Arundel Community College's fifth President on August 1, 1994, focusing on putting students first. Dr. Smith has been recognized for her leadership, vision, and commitment to students and the community. Her influence on national educational issues can be felt

through her service to numerous local and national boards.

And whereas, throughout her illustrious career and tenure at AACC, Dr. Smith has received multiple honors while leading the College to reach new milestones and levels of achievements.

And whereas, among her many accomplishments Dr. Smith oversaw growth in facilities tied to the College's mission by opening a number of new locations and expanding the Arnold campus by five buildings.

And whereas, under the leadership of Dr. Smith AACC has garnered national and regional recognitions and honors year after year.

And whereas, throughout her tenure Dr. Smith put students first and oversaw continued enrollment and program growth.

And whereas, Maryland is pleased to honor Dr. Smith's distinguished career in the field of higher education and her contributions to the success of Anne Arundel Community College as she concludes her final year of service here.

Now therefore I, Martin O'Malley, Governor of the State of Maryland, and the Board of Public Works do hereby proclaim February 22, 2012 as a special day of tribute all day.

DR. SMITH: Oh, wow.

(Applause)

GOVERNOR O'MALLEY: Come around this way, it makes for a better picture. Get a rare Ash Wednesday photo, too. Color coordinated purple attire. Marty, thank you.

DR. SMITH: Great, thank you so very much.

GOVERNOR O'MALLEY: Terrific job. Thank you for all you've done for us.

DR. SMITH: Thank you very much. Let me just say thank you so much. It's been a privilege and an honor of the highest order serving with the staff of Anne Arundel Community College and all of our partners in Anne Arundel County, and of course all of our partners at the State level led by you all. We really want to take this opportunity to thank you so very much for continuing to believe in and support our

great community colleges in the great State of Maryland. So thank you very much.

GOVERNOR O'MALLEY: Good job.

MR. COLLINS: Thank you.

TREASURER KOPP: Marty, could I --

DR. SMITH: Yes?

TREASURER KOPP: -- you've made us all very proud. We've said this before, and I'm not going to go through the same thing again. But a pioneer in so many ways in higher education. And I want to thank you and I'm sure you want to say something about your outstanding board of trustees, also.

DR. SMITH: Yes, where would we all be without our board, our trustees? And I'd like to acknowledge our Vice Chair Jerry, Jerry Klasmeier who truly it takes a village and a board. So I thank you very much. It's really been an honor and a privilege. Thank you.

COMPTROLLER FRANCHOT: Well we, Jerry and I were speaking before. And I, and he said, "Boy, what a great elected official Dr. Smith would make." I said, "My God, out of the frying pan into the fire.

Let her get where she wants to go!" But I wanted to thank you for your leadership. Because it's obviously a word that's tossed around a lot. But the fact that you're so organized, and disciplined, and positive about the College for the entire 18 years you've been there, it's just incredibly noteworthy. And Mr. Klasmeier has been on the Board nine years but his daughter Missy I know works for you as your chief financial officer. And so it's just a great team organization you have. And thank you --

DR. SMITH: Thank you very much. Thank you. Thank you so much.

GOVERNOR O'MALLEY: Thank you, Marty.

DR. SMITH: Thank you. Thank you very much.

GOVERNOR O'MALLEY: Okay. Are there any other questions on the remainder of the Department of General Services Agenda items?

TREASURER KOPP: I just have, I don't know who, if there is anyone here to speak about the Jefferson Patterson Park project? But I think it's a significant, just very briefly what you're going to be doing?

MR. COLLINS: I believe so, Madam Treasurer, just a second. As you indicated this just continues a pattern of outstanding work on behalf of that institution. And the item in front of you today represents a continuation of the research and discovery there. Please?

MS. SAMFORD: My name is Patricia Samford and I am the Director of the Maryland Archaeological Conservation Lab at Jefferson Patterson Park and Museum. So I am available to answer questions.

TREASURER KOPP: What are you doing right now there?

MS. SAMFORD: We are in preparation for the construction of an extended trail system at the park. And we have been doing some archaeological excavations in preparation for the interpretive elements of that trail. Excavating an archaeological site that dates to the first half of the 18th century that will be a major component of the interpretive aspect of that trail. And then once the trail construction gets started the two people that we are requesting this money to continue their employment will also be

monitoring the construction of the trail to protect and make sure that we don't destroy any of the archaeological resources that are located along the trail. And we've got over 70 archaeological sites from about 10,000 years of Maryland's occupation on the park, so we want to make sure that that information is either not destroyed or recorded in such a way that that information is not lost.

TREASURER KOPP: I'm embarrassed, I haven't looked, but do you have a website?

MS. SAMFORD: Yes, we do. It's www.jefpat.org.

TREASURER KOPP: I think it's a great, I remember when the State got the original gift. And I think what you all have done with it is truly outstanding. And I wish more people knew about it.

MS. SAMFORD: Well I invite everybody here please to come. It's a wonderful place to work as well.

GOVERNOR O'MALLEY: That's where Bernie, Senator Fowler does the wade in now.

MS. SAMFORD: It is.

TREASURER KOPP: Right.

MS. SAMFORD: We will be celebrating the 25th anniversary of the wade in this year at the park.

TREASURER KOPP: Well, it just caught my eye. I appreciate your being here.

MS. SAMFORD: Okay. Will that be all?

GOVERNOR O'MALLEY: Thank you.

MS. SAMFORD: Thank you very much.

GOVERNOR O'MALLEY: Any other questions on Department of General Services Agenda items? Hearing none, the Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it. We now will move on to the Secretary's Agenda. But before we do that I wanted to acknowledge that this is very likely the last Board of Public Works for Secretary Luwanda Jenkins, the Head of our Minority Business Development Office. She has done an outstanding job. And Luwanda I just want, Madam

Secretary, on behalf of every member of this Board I want to thank you for the progress you've made for our entire economy. I mean, we've recovered 45 percent of the jobs we lost during the recession, the rest of the country only about 30 percent. And I daresay, I would guess, I don't know this to be true, I ask members of the media to go prove me wrong, but I would guess that we are the only state in the union that actually increased our minority and women's business procurement awards during this recession at a time when we've made greater cuts than at any time in modern history in our State budget, and there were plenty of excuses for why we couldn't do this, that, or the other thing.

Secretary Jenkins put in place a performance measured system for minority business development so we would know whether we're doing better this week than we were doing last week. We never had that before. Thanks to Parren Mitchell's legacy, and that of many others in the General Assembly in both houses, we've long had one of the highest goals of any state in the union. But measuring our progress towards

achieving that goal was something we had never gotten around to. Now we do measure it. And against the benchmark of a little under, right around 19 percent at our first year of measuring this, we have now increased it to about 24 percent statewide. And among the larger agencies, the StateStat agencies that repeat on a rotating basis and repeat by the way in a timely and accurate way their MBE numbers, we are now up to 26 percent among StateStat agencies, about 24 percent overall.

So among the other accomplishments we've created inroads for Maryland minority owned businesses to obtain \$200 million in contracting opportunities with federal defense contractors, and military defense work that was all part of BRAC. We've required all 24 of our local school construction programs, which never before had minority business goals, are now following the State's MBE program and adopted the 25 percent goal.

We've partnered with the Public Service Commission to secure a voluntary agreement with 26 private sector regulated utility companies to also

adopt diversity goals in their own contracting. We've strengthened the accountability for inclusion of minority fund managers and brokers to participate in State funded and managed investment programs, an issue that I know the Treasurer takes great pride in as well. So we have achieved approximately \$181 million in minority business inclusion tied to Maryland's Recovery and Reinvestment Act funded projects. In fact, I think we were probably the only state that tracked that on a timely basis with those Recovery and Reinvestment Act dollars. We strengthened and had it all online so all 5.7 million of our citizens could see how we were doing, what we were doing, and the diversity which with we were doing it. And the inclusive nature with which we were doing it.

We strengthened and protected the MBE program through passage of key legislation necessitated by the evolving court rulings in this area. We launched the first ever MBE resource supplement to the *Daily Record* newspaper. And who could ever forget the new MBE outreach initiative MBE University to assist minority businesses with

accessing State contracting opportunities. Eight outreach events have been held to date, attended by over 1,850 MBEs and WBEs.

So Madam Secretary, thank you for everything you've done for us. We wish you well as you go on to higher education. And ask you if you have any thoughts at this, your last Board of Public Works meeting?

MS. JENKINS: Well it's been a real pleasure and an honor to be a part of this administration and the accomplishments that you listed really could only be possible because of your support and leadership. And I tell people that all the time, that's what gives us the momentum to do what we've done. And all the State agencies, this is a collaborative effort. You cannot get the minority business boat afloat without the support of so many State agencies and programs. So Maryland's track record is strong because we have such a cooperative effort.

And I look forward to continuing my service in State government. I'm going to the University System and am really thrilled to be going to Coppin

State University to continue what I have always been very passionate about, and that is serving the minority and African American community in Maryland. So that will give me an opportunity to do that. So I'm not going far and I will look forward to interacting with all of you and seeing you down here in Annapolis, and I hope to have your support in that.

GOVERNOR O'MALLEY: And you'll no doubt come back as a participant?

MS. JENKINS: I probably will. I need to get Dr. Avery down here and talk about some of the wonderful projects on tap at Coppin.

GOVERNOR O'MALLEY: Okay. Well big round of applause. Thank you, Luwanda.

(Applause)

GOVERNOR O'MALLEY: Secretary's Agenda?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. There are seven items on the Secretary's Agenda and we are ready for any questions you may have.

GOVERNOR O'MALLEY: Any questions, Secretary's Agenda?

TREASURER KOPP: I noticed that Mr. Griffin is not here. But another naming opportunity has come up in Natural Resources, which is very interesting.

Item 6?

SECRETARY MCDONALD: Right. Mr. Ken Jolly is here from the Forest Service but I don't think, I think they are having a naming ceremony for it later but --

TREASURER KOPP: Well, yeah. No, I would just point out I hadn't realized that Maryland's first State Forester, appointed in 1906, was hand picked by Gifford Pinchot, who was the great national leader in forest preservation. My family is from upstate New York and they are very keen on everything connected with him. And that we were the third state in the union to create such a position. I just had no idea.

MR. JOLLY: Yes.

TREASURER KOPP: Good for us. And for Mr. Besley?

MR. JOLLY: Yes, that's correct.

GOVERNOR O'MALLEY: And so what park are we naming here?

SECRETARY MCDONALD: I think it's a demonstration forest here on the Eastern Shore.

MR. JOLLY: That is correct.

SECRETARY MCDONALD: Ken, do you want to introduce yourself and tell them your position?

MR. JOLLY: Certainly.

SECRETARY MCDONALD: And then you can tell us what the forest is?

MR. JOLLY: Thank you, Sheila. My name is Kenneth Jolly. I am Associate Director for Field Operations in the Maryland Department of Natural Resources Forest Service. And I appreciate the opportunity to be here.

It's been a long time coming. We celebrated our 100th centennial anniversary in 2006. And at that time we kind of went back to take a look at some of our esteemed history in the Forest Service. And we dug up some of these facts about the first State Forester in Maryland, Fred Besley. And his family still owns a lot of land here in Maryland over on the Eastern Shore and manages that in a sustainable manner. And a few years ago they sold some of their

tracts to the State of Maryland and so what we wanted to do was to take some of those tracts that actually were in the Besley family that are now part of the State of Maryland's holdings in the Chesapeake Forest and name that after the first State Forester of Maryland to give that more public recognition of his contribution to sustainable forestry and the importance of forest to the citizens of Maryland.

TREASURER KOPP: So we were into reforestation more than a century ago?

MR. JOLLY: Yes, that's exactly correct.

TREASURER KOPP: That's great. I mean I, I'm going to look it up. All I know is what I see before me. But I'm very impressed that during his tenure Maryland's public lands grew from 2,000 acres to more than 100,000 acres. He was Chief Forester for a very long time.

MR. JOLLY: Yes, he was.

TREASURER KOPP: But that's still a very impressive increase.

MR. JOLLY: Yes. His work to promote forestry and the expansion of the forest and parks in

the State of Maryland was instrumental. Now in the State Forest we have over 200,000 acres just in the State Forest System, along with the parks and wildlife management areas. And of course the Governor will recall you were out in Western Maryland a little while ago and we now have all of those State Forests dual certified, Sustainable Forestry Initiative and the Forest Stewardship Council, that they are managed in a sustainable manner. And we are very proud of that accomplishment. And I know that the first State Forester, Fred Besley, would also be very pleased that we have received that recognition, one of the few states in the nation that actually has achieved that benchmark.

GOVERNOR O'MALLEY: It's very, very important for businesses in Maryland, small businesses, that are associated with the --

MR. JOLLY: That's correct.

GOVERNOR O'MALLEY: -- lumber and forestry, and woods, and the like.

MR. JOLLY: Yes, the forest products industry is number one in the western part of the State. And very important to the whole State economy.

GOVERNOR O'MALLEY: What was that, that was one of the original, what was that, owned by the Garrett family or something?

MR. JOLLY: Yes, the tract --

GOVERNOR O'MALLEY: Those woods we were in?

MR. JOLLY: -- in Garrett County was actually the first parcel that was purchased by the State of Maryland that started the State Forest System, that's correct.

GOVERNOR O'MALLEY: Right. Beautiful woods.

MR. JOLLY: Yes. Yes, it was. And is.

GOVERNOR O'MALLEY: And is. And you can check out all of these wonderful resources by going online to Maryland GreenPrint.

MR. JOLLY: That is correct.

GOVERNOR O'MALLEY: Where we have mapped out all of the open space thus far protected, as well as highlighted those spaces that need to be protected either through better zoning or through open space, or

land preservation, or agricultural preservation. That one is on AgPrint. Thanks for highlighting it, sir.

MR. JOLLY: Thank you.

GOVERNOR O'MALLEY: Okay.

TREASURER KOPP: Thank you. And thank Mr. Besley, thanks to Mr. Besley.

MR. JOLLY: Okay, thank you very much.

GOVERNOR O'MALLEY: Thank you. Any other questions on Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on now to the Department of Natural Resources. You thought that was what we were already on? Department of Natural Resources Real Property.

MS. WARD: Good morning, Governor, Madam Treasurer, Mr. Comptroller, Lisa Ward for the

Department of Natural Resources. We have 14 items today for your approval. If I could turn your attention to Item 9? It's a Rural Legacy easement we have in Mountain Ridge Rural Legacy Area. We have Commissioner Michael McKay here, who would like to say a few words.

GOVERNOR O'MALLEY: Sure. What Agenda item?

MS. WARD: Item 9.

GOVERNOR O'MALLEY: Item 9. Mountain Ridge Rural Legacy Area, 274.426-acre conservation easement.

MR. MCKAY: Governor, Madam Treasurer, Mr. Comptroller, thank you very much for this opportunity to speak upon this important issue. I think it's more of an honor for me to be involved with Speaker Taylor, then Delegate Taylor, who had started this, and to be part of ending that part of appreciation for the State and Allegany County as a whole.

I want to highlight that this is going to give us public access for educational purposes and this goes within the desires of the local landowner. And just thank you, and look forward to your approval on this. Thank you.

GOVERNOR O'MALLEY: And where is this? This is the map?

MR. MCKAY: Correct, sir. This is the map. It's actually the Scarpelli property. It's just off of the National Road, a Federal Scenic Byway. It's just outside LaVale, Maryland. The Scarpelli property has been recognized by the Federal Scenic Byways program as a property that preserves the viewshed and the character of the National Road and its integrity to the driver's enjoyment in the stretch of the highways.

Made up of a productive woodland, it's an outdoor enthusiast's paradise, with hiking as well as wildlife observation opportunities. The property also plays host to over a mile in streams with sustainable buffers that add production to the nearby Braddock Run, a tributary that flows into the North Branch of the Potomac River, but ultimately, and most importantly, into the Chesapeake Bay.

GOVERNOR O'MALLEY: Great. And this is a, and this would be an example of the GreenPrint where Allegany County is concerned, ladies and gentlemen,

and for those of you viewing online. The dark green representing those areas protected, right? The light green, those not yet protected. The area within the blue is, the blue outline?

MR. MCKAY: Rural Legacy.

GOVERNOR O'MALLEY: Is the Rural Legacy Zone, designated as such by the State and County together. Or is that simply --

MR. MCKAY: Yes, sir. Yes, sir.

GOVERNOR O'MALLEY: -- a State designation? State and County together. And this one is squarely within all the meets and bounds of that Rural Legacy Area. What did it score on the hit parade of the objective criteria we now use to evaluate the purchase of these sorts of easements and protections of this sort of open space?

MS. WARD: Governor, Tom McCarthy from the Rural Legacy program is here and can answer your question.

GOVERNOR O'MALLEY: Hello, Tom.

MR. MCCARTHY: Hello, Governor. Tom McCarthy from the Department of Natural Resources

Rural Legacy Program. Thank you, members of the Board. Governor, we do not score Rural Legacy projects individually the way that we do with State side projects.

GOVERNOR O'MALLEY: Oh.

MR. MCCARTHY: Rural Legacy areas are scored, the entire area is scored annually in the application process. And the Allegany County Mountain Ridge Rural Legacy Area scores in the top tier of those areas. But we do it as part of the annual review. And we do it that way because each county, each land trust that submits individual projects, we don't necessarily know which project they are going to put forward in what order. So it's better to score the entire area. And it helps to highlight not just the ecological value that's in the area but also the value of the area as a working landscape, for either forestry, in this case the area is mostly forested, or agriculture as some of the other areas in the State are.

GOVERNOR O'MALLEY: Got you. So the scoring is done actually on the front end by designating that area?

MR. MCCARTHY: Exactly.

GOVERNOR O'MALLEY: In essence.

MR. MCCARTHY: Yes, sir.

GOVERNOR O'MALLEY: That what you've scored is the entire area and this property is within that area?

MR. MCCARTHY: Correct.

GOVERNOR O'MALLEY: Roger. Okay. Any other questions? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move to the Department of Budget and Management.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are nine items on

the Department of Budget and Management's Agenda for today. I'll be happy to answer any questions.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes, on Item 9.

MS. FOSTER: Yes?

COMPTROLLER FRANCHOT: Please?

MS. FOSTER: Item 9 is a request for approval of a settlement in *Rosetta Demby v. Department of Health*.

COMPTROLLER FRANCHOT: Okay --

MS. FOSTER: And Christopher Gozdor from the Attorney General's Office is here to answer any questions you may have.

COMPTROLLER FRANCHOT: Excellent.

MR. GOZDOR: Good morning.

COMPTROLLER FRANCHOT: Yes --

MR. GOZDOR: Chris Gozdor, Assistant Attorney General, here on behalf of the Department of Health and Mental Hygiene. And also if you have any questions for the Department, Dr. Gayle Jordan-Randolph is also available.

COMPTROLLER FRANCHOT: Thank you for being here. And I understand it is a \$465,000 settlement brought against the State's Department of Health and Mental Hygiene by three plaintiffs, Ms. Demby, Ms. Williams, and Ms. Johnson. And having reviewed the facts of the case I actually believe that the Attorney General's Office and the U.S. Magistrate are acting in the State's best fiduciary interests. And given that the financial exposure, what it could have been, I'm very inclined to vote in favor of the settlement.

But I just wanted to take advantage of your being here to fight against the natural tendency to regard the cash settlement as the end of the story. And you know, rather than putting a case closed on it perhaps we should be doing this, but I'd just like to get your view before we file this away on the shelf. And the allegations that have been made in this case are so disturbing that I would like you to address them. The issues raised cut right to the heart of our reputation as a State that takes exceptional care of our most vulnerable people. So I think either you or the agency needs to have an opportunity to respond to

some of the accusations that were made and to assure us that swift and extraordinary corrective measures have been taken to prevent events of this nature from ever occurring again, if they did occur based on whatever has been put in front of us. I assume something happened because of the settlement. And I guess was the sheltered workshop actually operated by the State? Or was it a private contractor on the State's behalf?

MR. GOZDOR: At the time of these allegations the Eastern Shore Hospital Center, the State, did operate the sheltered workshop. But back in August of 2004 it changed hands to a contractor, someone that the State now regulates as a provider to the State for these sheltered workshop services.

COMPTROLLER FRANCHOT: And these alleged acts, or these acts, happened when the State was in charge or when the contractor was in charge?

MR. GOZDOR: While the State was in charge.

COMPTROLLER FRANCHOT: And do we have other of these sheltered workshops currently in the State?

And are they operated by us or by the private side, or
--

MR. GOZDOR: The Department of Health and Mental Hygiene no longer operates any sheltered workshops. There are some that are licensed by the State, though.

COMPTROLLER FRANCHOT: Mm-hmm. Do you know how many there are?

MR. GOZDOR: I'm not exactly sure right now.

COMPTROLLER FRANCHOT: Well I asked for this item to be deferred as a courtesy to the Maryland State Conference of the NAACP and the Dorchester County branch. And they had a lot of very severe language in the letter asking about what was going on, asking, questioning this settlement. I'm not going to read, obviously, the relevant passages. I trust you have read them. But for the record, have all these allegations been investigated? And do any of them have merit? Are you going to pursue any additional administrative, civil, or criminal actions against the alleged perpetrators?

MR. GOZDOR: The allegations have been investigated by the Cambridge Police, the Dorchester County State's Attorney's Office, the U.S. Department of Justice's Civil Rights Division, and the EEOC, and the FBI, in addition to the six years of, almost six years now, of civil litigation. I think this will close the case for these allegations by these plaintiffs.

COMPTROLLER FRANCHOT: And are you aware of whether the State is ordering remedial actions as far as the sheltered workshops it currently contracts with the private sector on? Or how exactly are we preventing this from occurring again?

MR. GOZDOR: I think that is a part of the settlement agreement. There are remedial actions that are being taken a look at by a task force that would then make recommendations, best practices, things that if we need to change our regulations we would do that.

COMPTROLLER FRANCHOT: Thank you. Thank you, Governor. I'm going to vote in favor of it because it looks like it's been carefully reviewed.

MR. GOZDOR: Thank you.

GOVERNOR O'MALLEY: Okay. Agenda Item 8 on the Department of Budget and Management Agenda, the Comptroller moves approval --

COMPTROLLER FRANCHOT: Nine, it's nine.

GOVERNOR O'MALLEY: I'm sorry, on my notes it said eight.

SECRETARY MCDONALD: It was eight last --

GOVERNOR O'MALLEY: It was eight last week?

SECRETARY MCDONALD: Yes --

GOVERNOR O'MALLEY: And what is it today?

SECRETARY MCDONALD: Nine.

GOVERNOR O'MALLEY: Okay, nine. All right. On today, February 22, Agenda Item 9, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We now move on to, any questions on the rest of the Agenda?

COMPTROLLER FRANCHOT: Thank you.

MR. GOZDOR: Thank you.

COMPTROLLER FRANCHOT: Madam Secretary, I just wanted to comment on Item 3.

MS. FOSTER: Okay.

COMPTROLLER FRANCHOT: I think it concerns -
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MS. FOSTER: Item 3 --

COMPTROLLER FRANCHOT: -- Secretary Collins but it may be your agency, I'm not --

MS. FOSTER: Item 3 is a contract to provide behavioral health services for youth at the Cheltenham Youth Facility, and also to serve as a backup services for services that are needed at Noyes and Waxter Centers. And Michael DiBattista, who is the CFO at the Department of Juvenile Services, is here. DJS, I'm sorry.

COMPTROLLER FRANCHOT: Yeah, I just wanted to, and the dollar amount for the whole project is what?

MR. DIBATTISTA: It's \$24 million.

COMPTROLLER FRANCHOT: \$24 million?

MR. DIBATTISTA: For three years.

COMPTROLLER FRANCHOT: And the, and that's going to be, but the total project costs how much?

MS. FOSTER: The total over the five years, and Mike is coming up, is \$11 million.

COMPTROLLER FRANCHOT: Yeah. Yeah, yeah, yeah. No, I'm, I'm just very pleased because I understand through the --

GOVERNOR O'MALLEY: Which item is that?

COMPTROLLER FRANCHOT: Item 3.

MS. FOSTER: It's Item 3.

GOVERNOR O'MALLEY: Item 3? Thank you.

MR. DIBATTISTA: Hi, I'm Michael DiBattista, the CFO for Department of Juvenile Services.

COMPTROLLER FRANCHOT: Excellent. Mr. DiBattista, you, my understanding is that this project is going to be bid out under the requirement that, or suggestion that it be a project labor agreement?

MR. DIBATTISTA: This is for the behavioral health contract for the Cheltenham Youth Facility.

COMPTROLLER FRANCHOT: Oh, okay. Got it. Yeah, no, okay, I'm sorry. I've been, I got a little bit confused. But my understanding is that

Cheltenham, the construction of the juvenile youth facility which has an estimated cost of \$50 million, sometime this week or in the near future is going to be announced as a project labor agreement. And I just want to applaud the Governor, and the agency, and Secretary Collins. Because I believe these project labor agreements will be good for the taxpayers. I think they will bring budgets in on time, on budget. They will, good quality work. They will employ Maryland trades members.

I know there is a controversy over in Virginia right now because they have a project agreement on one of their big transit projects and most of the workers come from Maryland. God bless WMATA. You know, they are going to get a good project, good quality. And if we do more of these in Maryland, which I hope we do, we'll significantly impact the unemployment among the building trades and get a good product for the taxpayers. So if that's, Mr. Secretary I guess I should ask you. Am I imagining something? Or --

GOVERNOR O'MALLEY: Actually, you could ask me because I told them to do it.

(Laughter)

COMPTROLLER FRANCHOT: Excellent. Then I ask you, Governor, I assume I'm right that this is coming forward? And I praise you. I think it's a great way to produce Maryland jobs at Maryland projects. And we all have visited these wonderful projects where we see out of state license plates. And to the extent we can encourage this and more PLAs I'm enormously supportive.

GOVERNOR O'MALLEY: Well thank you, Mr. Comptroller. Some of the larger projects more readily avail themselves to PLAs. Many of you might recall the big project, the Woodrow Wilson Bridge. Our side of the Woodrow Wilson Bridge had a project labor agreement. Our side was completed on time. The other side did not have one. The other side was not completed on time. And I think the other side actually also had some overruns that our side did not. And so on these larger projects I have in fact

directed the Juvenile Services on the three facilities planned --

MR. DIBATTISTA: Yes.

GOVERNOR O'MALLEY: -- as part of our capital plan to do this. So would that I had had the opportunity on some of those big projects like the ICC and the widening of I95 before they began to have been able to facilitate a project labor agreement. But those came in before my time. We also look forward to the Red Line and the Purple Line at some point and those would be of the sort of size and scope where we could see some effective use of some PLAs.

COMPTROLLER FRANCHOT: Well congratulations, because it's a, something that can have an immediate improvement as far as Maryland based jobs. And as I said, I happen to think from a public policy standpoint, properly done, you know, these are not perfect. But properly done PLAs save the taxpayers money and produce a better product. Thank you.

GOVERNOR O'MALLEY: Thank you. So, what item number was that?

MS. FOSTER: Item 3.

GOVERNOR O'MALLEY: Item 3, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Anything else on the Department of Budget and Management Agenda? No? Okay. The Treasurer moves approval on the balance of the Agenda items from Department of Budget and Management, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We now move on to University System of Maryland.

SECRETARY MCDONALD: Mr. Evans is here.

MR. EVANS: Good morning. Joe Evans representing the University System of Maryland. We have 18 items on the Agenda today. We're here to answer any questions.

GOVERNOR O'MALLEY: Any questions? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: And the ayes have it. We move on now to the Department of Information Technology.

MR. SCHLANGER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of Information Technology. We have two items on the Agenda this morning and I will be happy to answer any questions at this time.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes. I have a question on Item 2.

MR. SCHLANGER: Sure. Item 2-IT, this is a contract to implement a new Medicaid management information system for the Department of Health and Mental Hygiene. I have colleagues here from DHMH. So, Josh?

DR. SHARFSTEIN: Thank you, Mr. Comptroller, Governor, Madam Treasurer. I'm Josh Sharfstein, the Secretary of the Department of Health and Mental Hygiene. I'm joined by Chuck Milligan, the Deputy Secretary for Medicaid. This contract is for the, what we call the MMIS, which is the Medicaid management information system that actually allows us to run the Medicaid program which is a multibillion dollar enterprise, very important to almost a million Marylanders, how they get their healthcare. This is the system that allows us to handle payments, eligibility matters for providers, as well as keep track of costs and fraud.

So we have had a very old system and through an extensive procurement we are in a position to really modernize with a contract that will really allow us to better manage the money, better understand health costs and health outcomes, and provide a lot of service to people in Maryland. I think we're joined here by a number of people who are really eager for modernization of this system so that the Medicaid program can be more efficient. The companies that

have won the procurement include a Germantown based company that has provided the new MMIS in a number of states with a tremendous success so, called CNSI. I know Chuck, if there is anything you would like to add?

MR. MILLIGAN: No, thanks. I don't have anything to add. I'm available for questions.

COMPTROLLER FRANCHOT: Okay, I would, I'd also agree with you that it's terrific that two Maryland companies are participating in this. And that's, I know just has nothing to do with your procurement. But it's terrific that those folks live within our borders.

My question I guess is most of this is, of this \$300 million is going to come from the federal government?

DR. SHARFSTEIN: Yes.

COMPTROLLER FRANCHOT: Okay. So we're going to get money coming in from the feds to pay for this new system. What are we currently spending in your agency on the system?

MR. MILLIGAN: Mr. Comptroller, I don't have that figure available. The way the procurement was structured is the development of a brand new system will cost approximately \$100 million, of which 90 percent of that is federal. The rest is the maintenance and operation over the course of an 11-year contract with optional extensions. The cost of the maintenance and operation, which is really the cost that we incur now, is somewhat comparable to what we're spending now. That part is 75 percent federally matched. So the real new cost is the cost to replace a 20-year old system with a more state of the art system. And that is 90 percent federally funded.

COMPTROLLER FRANCHOT: And, but the, we're paying 75 percent. I take it the feds --

MR. MILLIGAN: It's the other way around.

COMPTROLLER FRANCHOT: I mean, they are paying 75 percent. They are going to continue to pay 75 percent?

MR. MILLIGAN: For, they, the federal government, for the development of a new system it's

90 percent federal. For the ongoing maintenance and operation it's 75 percent federal.

COMPTROLLER FRANCHOT: Okay. So it's your understanding based on that that there really aren't any savings for the State other than avoided new costs?

DR. SHARFSTEIN: And I would just say -

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COMPTROLLER FRANCHOT: Are there any efficiencies here that we're going to benefit from?

DR. SHARFSTEIN: Yes. Yes. Absolutely, yes. In the day to day maintenance of the system the costs are the same, but the big savings come in two areas. One is in the ability to track expenses like a hundred times more closely than we do now, which will open up a whole set of avenues for fraud and waste enforcement.

The second is the ability to track where we are really spending money in the Medicaid program and understand where we can intervene to reduce costs, which we really don't have in any meaningful way now.

GOVERNOR O'MALLEY: If I could interject just for a second? Mr. Comptroller, one of the areas

where we see a tremendous amount of opportunity for reducing costs and improving care is in better mapping our medical outcomes, our medical expenses. I mean, you've heard the stories time and time again of people with diabetes who have to go to the hospital time and time again, transported by ambulance, because of a lack of better preventive care up front. So in fact if you look at some of our rising costs over the last year you'll see some of them have leveled off but diabetes patients, costs continue to go up. Heart continue to go up. So the ability to have this system will not only enable us to identify aberrant patterns to indicate and ferret out fraud, and save money in that way, it will also give us an opportunity to identify the efficacy of treatments and the high cost of poor treatment, I guess, and to be able to map that.

We've never had that before. And it's been a real frustration. We're able to do it with remediation of the health of the Bay. We can't do it with remediating the health of some of our sickest citizens, ones that all of us pay for in Medicaid.

And now we'll be able to do that. If you combine this with the movement towards personalized medicine, and health IT, you're really talking about synergies and coordinations and collaborations the likes of which modern man and woman kind have never had when it comes to health.

DR. SHARFSTEIN: That's absolutely correct. And I would just add to that that one of the things the new system will be able to do, we'll be able to capitalize on some of those innovations and be able to restructure the way we pay for care under Medicaid. Right now we're locked into a very old system of payment which is very rigid. And people come to us all the time, like, if you could give us payment in this way we would organize care differently and be able to prevent illness, and you know, we'd save money. And it's not possible for us to program that into the MMIS system. So this is a lot more flexible, allow us to do a lot more things to understand and also intervene when we see a, you know, and there are plenty of opportunities to see cost --

MR. MILLIGAN: If I could just add one thing? The other I think value added that is it will make it much easier for the Medicaid program to interface with CRISP and other databases for other payers. And we can then start identifying providers who have aberrant patterns. We can do a lot more information sharing. If somebody comes onto Medicaid but they already have recent lab tests and lab results we don't have to duplicate that payment. So there's a lot of efficiencies that would come out of the ability to do interfaces with more state of the art technology.

COMPTROLLER FRANCHOT: No, and that's terrific. And I listened closely to the Governor and I think that's wonderful. But what keeps me and a lot of people up at night on this healthcare issue is much as we support universal access and coverage for everybody, how do we pay for it? Because as the Governor said, things keep going up. To the extent these are tools to help people be healthier and avoid a lot of expensive procedures, that's terrific.

I guess my question is a little bit different. We've been doing this for 20 years in house. Now we're getting up to \$300 million into a contractual relationship for someone else to create a new system and to operate it, I take it, with their own people?

DR. SHARFSTEIN: Parts of it --

COMPTROLLER FRANCHOT: I mean we're contracting, they're going to actually be operating this. And my question is, what are we spending on it right now as far as personnel and costs that are going to be supplanted by this new federally paid for program? Are there any savings? Or is this just a complete add on here?

MR. MILLIGAN: Mr. Comptroller, there are other savings. Part of, right now part of what we do is we have a variety of different contracts. We have over ten contracts that are going to be folded into this because they all tie off of the same system. They are, we have different vendors to do fraud and abuse, retrospective sort of pay and chase. We have vendors that do some call center work. We have a lot

of other vendors that are doing pieces of this that we're going to be able to generate some efficiencies by having that all under one contract. There is, there's going to be a lot of sort of administrative savings with having fewer contracts to manage and monitor as well.

At a baseline level we're also going to be able to just provide better resources. I mean, a lot of the letters of support related to this procurement are coming from provider associations and providers because they just don't feel like they are getting efficient treatment from us. So we think that there is going to be much more efficiencies out at providers' offices as well. So it really, we're going to get savings on the healthcare side in prevention and all of that. But at really no net new cost to the State for any of that.

COMPTROLLER FRANCHOT: I guess my question was, aren't we spending a lot of money on this right now? And isn't this going to replace in theory what we're doing in your agency? And aren't there a lot of, in, I mean, obviously we have a lot of people

working on this. What are they going to do when we hire these outside groups?

DR. SHARFSTEIN: You know one of the issues is that there are, the old system is written in a language that basically isn't used anymore. And as people are getting to retirement age the capacity of keeping it up is really, you know, leaving the agency. We, and the new systems that essentially all the states are using are systems that have been developed outside the state that have this proven capacity. And we're not building a brand new system for Maryland. We're taking a system that was developed by this Germantown company, and there was just an article that it's saving a million dollars a day for Michigan. We're taking that and bringing that into Maryland.

We've worked a lot on the employee issues. They are very important to us. And we have met extensively with the affected unions and there have been briefings with the potentially affected employees. And we have worked out that, we believe that there will be some functions still left at the department in terms of oversight. Some of the

employees will move there. We anticipate that there will be a modest number of positions that may be lost in the ballpark, at the State, of around 50 to 80. We have a commitment from the principal vendor that they will be able to offer positions and give people, you know, credit for the years served. So we don't anticipate that there will be anybody who will lose their job as a result of the contract. And that's been a lot of work that we've done to really understand what the implications would be. And you know, we're trying to steer a path that's fair to employees but also really provides the most value for Maryland and the program.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR O'MALLEY: Thank you. Any other questions, Department of Information Technology? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Thank you, Secretary Schlanger.

MR. SCHLANGER: Thank you.

GOVERNOR O'MALLEY: Good work. Josh, tell me who the two companies were again that are doing that?

DR. SHARFSTEIN: The prime is CSC, Computer Sciences Corporation. And then this CNSI is the sub, which is the Germantown company.

GOVERNOR O'MALLEY: Is the what company?

DR. SHARFSTEIN: Germantown, Maryland.

SECRETARY MCDONALD: It's Germantown. I kept thinking he was saying German company. But it's a Germantown company --

DR. SHARFSTEIN: It's a, yeah, Germantown company. Yes.

TREASURER KOPP: Montgomery County.

SECRETARY MCDONALD: Exactly.

DR. SHARFSTEIN: Yes, Montgomery County.
And they are a real --

GOVERNOR O'MALLEY: Well around the Civil War time there were a lot of Germans there.

(Laughter)

GOVERNOR O'MALLEY: Thank you.

DR. SHARFSTEIN: Sure.

GOVERNOR O'MALLEY: Okay. Department of Transportation?

MS. SWAIM-STALEY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Beverley Swaim-Staley representing the Department of Transportation. We have three items today. If you don't have any questions on the first two, we do have a presentation on the third item. And I believe there are other people here also to testify on that item.

TREASURER KOPP: Do you think so?

GOVERNOR O'MALLEY: Any questions? Mr. Comptroller?

COMPTROLLER FRANCHOT: Well I have a question on Item 3, but you can go ahead with your --

MS. SWAIM-STALEY: Go ahead with the presentation?

COMPTROLLER FRANCHOT: Yeah, sure.

MS. SWAIM-STALEY: Okay. Thank you. We're pleased today to bring you the selection for the

Maryland Travel Plaza redevelopment. As I am sure you are all aware, we have two travel plazas on I95 in the northern part of the State. The Chesapeake House is 37 years old, the Maryland House is 49 years old. These are among the oldest facilities that need to be upgraded along the I95 corridor. They net about \$35 million in gross annual revenue and they are very, very popular features to our traveling system here in Maryland.

For some time there has been a plan to update or replace these facilities as many other states have done that with their facilities all along the East Coast. We proceeded with an RFP a couple of years ago. The original RFP was issued in March of 2010. Frankly, after that RFP, which had been prepared over a number of years beginning many years ago, we learned a great deal about public/private partnerships. As the Board is very familiar in fact we did the Seagirt public/private partnership which was nationally acclaimed as one of the best P3 models that has been done in the country.

So I pulled back the RFP that was first issued. We had received a lot of criticism that that really was not a P3, it was much too prescriptive, not much interest in that. And using the lessons that we learned from Seagirt we went back to the drawing board and reissued a second RFP. We used examples from other states, including our neighboring state of Delaware. We in fact also brought in some of the financial expertise from the outside that we had used for Seagirt. Folks such as Laurie Mahon, who is in fact here with us today, then we reached out to other consultants to make sure again that we were putting together the best project that we had, since we set a bar pretty high with the Seagirt proposal originally.

We developed a new RFP to encourage greater competition. We wanted a customer driven focus; a performance based model; flexibility for the private sector to innovate, that's really what's at the heart of P3s; but to make sure that we had clear, concise goals for the P3.

Our objective was to enter into a 35-year concession agreement for these two travel plazas,

asking the private sector to take on the financial obligations and the risk, which is typical in a P3. We wanted to obtain new or like new facilities to replace the current old facilities. We obviously wanted to ensure that the facility design and operation would continue to provide a positive customer experience. And we wanted to make sure that there was a fair rate of return to the State and that these facilities would be transferred back to the State in good operating order.

What we have showing here for you is the rather elaborate process that we went through to manage this process. We worked very closely actually for a number of years with DLS and our budget committees in the Maryland General Assembly. I'll just point out a few of the time points here. We issued, advertised the second RFP last summer in June. And in July we had a proposers conference. Contrary to the first RFP we actually received great comments and it was very well attended, our pre bid conference. We received no complaints or questions that were not

addressed as a result of the pre bid conference and so we proceeded through the procurement.

In November the proposals were due. We had several large teams, including again some members from our private sector team, to look over the proposals. We had over 20 people on our teams working night and day, literally, through the evaluation process. We brought in the proposers for their oral interviews in December and met with each of them, and a final selection then was made late in the year, first of January. There were no best and final offers. The best provider was picked. We had a proposal that was significantly better, was very clearly the winner in all of the categories that we were looking for. And so that was the proposer that was selected, Areas, and then the final negotiations took place with Areas. And that proposal was then taken to the Maryland Transportation Authority for their approval later in January.

We did then bring the proposal to DLS. As I said, we had been working with the Department of Legislative Services throughout the last couple of

years. And a significant part of these P3s really has been working through the process. I do very much appreciate the Legislature working with us through this process as they did through Seagirt. One of the concerns that we've heard about nationally from P3s is a concern about making sure that you have the right amount of scrutiny but that the process does not take so long that you really are inhibiting the private sector from being interested in coming and doing business with the State. And I think Maryland, the Board, and along with the Legislature, we've worked very hard to make sure that we are able to review this process but that we also are able to be inviting to the private sector. So I want to thank everybody who has worked through that process.

GOVERNOR O'MALLEY: Is the Board here?

MS. SWAIM-STALEY: We do have two members of our Authority Board here today, we have Mary Halsy and Art Hock who are with us.

The partnership parameters that was laid out

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GOVERNOR O'MALLEY: What was the vote at the Board?

MS. SWAIM-STALEY: It was unanimous. We did have a couple of our members also serve as sort of financial advisors through the process.

GOVERNOR O'MALLEY: Okay.

MS. SWAIM-STALEY: So we went through that. We've also received the letters from the Budget and Tax, and Appropriations Committee confirming their review of the process as well.

The partnership parameters then are on the next page. These were the things that we were looking for. An agreement not to exceed 50 years. The Seagirt lease was in fact for 50 years but we did not think it was necessary to go that long. Obviously we wanted to retain ownership of these properties but at the same time transfer the responsibility for building, developing, and operating the facilities. We wanted to make sure that there was an adequate revenue sharing, just as we did with Seagirt. We also wanted to make sure that there was sufficient minority inclusion. We also have prevailing wage, and we also

will achieve building buildings that achieve a LEED Silver. So they will be modern facilities, much more environmentally sensitive. So those were some of the other objectives that we had.

TREASURER KOPP: Excuse me? Madam Secretary, when just reading your chart here, the P3 commission recommendation, that's the P3 commission that just reported out? And I assume, I tried to read it right, that the legislation that's before the Legislature right now incorporates these criteria?

MS. SWAIM-STALEY: Yes. We follow, as I said, because in Transportation, with having the Airport, the Port, and the Authority, we have actually had a great deal of flexibility to do P3s without additional legislation, which is under which we of course did the Seagirt transaction. But yes, working with the P3 commission this summer they actually worked --

TREASURER KOPP: Right.

MS. SWAIM-STALEY: -- to I think take some of the things that we can do in Transportation and sort of make sure that they can be done for in other

parts of the State government as well. So we really incorporated, you know, those kinds of objectives have been incorporated.

TREASURER KOPP: That was one of the questions.

MS. SWAIM-STALEY: As I said, Areas was a company that was selected. They were a clear winner so we did not need to do BAFOs. And we are happy to show you here the team structure that they brought in. We were very pleased, they are not, Areas, they are headquartered in Florida. But we are very pleased that it was a local, very strong local partnership that they brought in and I think you will recognize many of the names if you can read them on here. Clark Construction, of course, a very prominent construction firm here in Maryland. Ayers Saint Gross. We have KANE Contracting, a very distinguished minority contractor that does a great deal of good work here in the State. And a number of other small local firms, both women owned and minority as well. So we are very, very pleased with the local partnership that they brought to the table.

The transition phasing schedule we show there before you. As I said, we have two houses, the Maryland House and the Chesapeake House. These are both very busy. But we, you know, we have no choice but to make some major upgrades and replace these facilities if we want to continue to compete along the eastern seaboard. One of the things we were very pleased about with the proposal that we received from Areas, they were very creative in terms of the phasing of these facilities so there will actually be less displacement to the employees and to the opportunities to do business while they are building these facilities.

And you can see the schedule there. They would begin construction of the Maryland House later this summer. Obviously they would have to close for that period, but the Chesapeake House would remain open. So at all times one of the two facilities will remain open to serve the traveling public. And then one of the other creative features was that we can actually keep the Chesapeake House open for some

portion of the construction there because of the way they are building the new facility.

So we are very, again, a creative proposal. You see the exterior renderings here. I think very modern, well lit buildings. And I'm not going to go through all the features but there are some very significant green features to these buildings, including a green roof and some landscaping, and positioning of the buildings that will be, I think are very, very good and were extremely creative.

And there you have the interior rendering, so you can see very well lit, new modern facilities.

One of the key things with any public/private partnership of course is the risk transfer. In these very difficult times it's much, it's hard for us to keep up with the infrastructure that we need to do in our State and public/private partnerships have been used around the country as a way to achieve significant capital improvements and achieve the facilities that we need without having to make the significant cash outlays. We achieved that

with the Seagirt deal and we're very pleased to say that we believe we have achieved here as well.

The proposal that we are bringing before you, there is an initial capital investment by Areas of \$56 million. We were very pleased about that. That of course frees up financial resources for the Authority to invest in their roads, tunnels, and bridges, which of course are severely needed. There was a firm commitment to complete and build the two new travel plazas by September of 2014. We were very pleased about that. And of course, Areas is taking the risk for the design, for the construction, and for the operational risk of these facilities. There is some remedial clean up that is required on the site and they are taking the risk for that as well, very significant. They have also then over the life of the contract, they agree to pay \$442 million to \$488 million in cash. This is a significant enhanced revenue stream. It exceeds the expectations that we had set out at the beginning of this process. So again, we feel it was an excellent, excellent offer that they made.

The lease terms give the Authority the right to cancel the agreement if Areas fails to perform. And there are performance standards that are laid out as part of these agreements.

Significant for the State of Maryland, of course, is that this relieves the Authority from the future maintenance expenditures that are required for the life cycle of an asset such as this. We estimate that supports \$35 million in projected expenses which have been freed up for the Authority as Areas accepts that risk of maintaining the maintenance for these facilities. There was also relief from the major capital replacements over the years. We estimate that at the \$60 million level because they are building brand new facilities for us. And of course, there is the economic benefit of this new investment. We believe a conservative estimate of about 400 jobs, construction jobs, that will be created in the next two-year period. And as I said, many of the construction firms, I believe Clark and KANE are represented here today as well.

We believe that this achieves the second major P3 transportation project that we have in Maryland. And will continue to demonstrate that Maryland knows how to do P3s and that we are certainly available for business in the public/private partnership arena.

So the final page that we have there, we bring this award to you today. As I said, it was approved by the Authority Board, and members are here today, seven to zero. It did go through a DLS review process. And we had hearings before the Budget and Taxation Committee and the Appropriations Committee. We believe it was a very thorough and open process. We received no complaints about the process throughout the six months that we went through it. We have checked the references, obviously, to make sure that we are comfortable with the experience of Areas and other places. I have personally spoken with the Secretary of Transportation in Florida two weeks ago, who confirmed that they are very pleased with their selection and the progress that is being made in Florida. So obviously we were very pleased to hear

about that. And our Executive Secretary Harold Bartlett in fact went to Florida for two days so that he could see the facility, see the construction, and meet some of the employees to confirm the decision.

So, and as I said before, we are very pleased with this selection, and especially with the local partnerships that we have. We think they have brought in some of the strongest Maryland companies so we can be very confident of the progress. And we look forward to this frankly being as successful as our Seagirt has been.

So with that, I'll be happy to answer any questions.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And Madam Secretary, I want to salute you for your ex officio role as Chairman of the Maryland Transportation Authority, and also Executive Secretary Harold Bartlett for both of your commitment to public/private partnerships. It's a relatively new method for financing model, and as you noted, and but I think it's one that makes a great deal of sense and

allows the State to capitalize on the expertise of the private sector which often has a far more developed sense of the consumer marketplace. Obviously has a far greater incentive than does the State government to manage costs while ensuring the quality of services. I mean, that's what the private sector is good at. We're getting better, but we're not as good as they are. And so I think it's a great model that you are pursuing. And most importantly, it allows you to direct your existing debt capacity to your core mission, which is building, maintaining, repairing transportation infrastructure. So that's good.

The proposed lease and concession agreement between Maryland Transportation Authority and Areas has attracted a great deal of public attention and comes with a broad range of procedural and policy issues. Let me just, if I could, try to address them one by one.

First, it's my understanding that since technically this isn't a procurement, rather it's a public/private partnership, it's a lease and concession agreement, the dissatisfied competitors do

not have the option of taking their grievances to the Board of Contract Appeals, but rather must go directly to court. Which is what HMSHost, the Maryland based firm that currently serves as the concessionaire, has done.

I guess the question is given that we have an aggrieved vendor that is exercising its only available right of due process; and given that Host, the vendor in question, happens to be a well established Maryland firm with a highly distinguished track record on projects of this nature; and given that we're talking about a 35-year lease, which I take it is even longer than Florida's relationship with Areas, but we're talking about a 35-year lease to redevelop one of Maryland's most valuable economic assets which also happens to be the first impression that countless visitors have when they arrive in our State; why shouldn't we, from the north at least, why shouldn't we defer this award until this legal challenge has been resolved one way or another? Because let's face it, once we have signed our names to a 35-year lease there is no turning back unless

Areas has some kind of catastrophic default, which I assume they won't. Why are we, what is the status of the court situation? And from your perspective, and why shouldn't we defer?

MS. SWAIM-STALEY: Okay. And we do have the lawyers here that are handling the case. They can certainly address the legal issues. And that we have met as recently as this morning to talk about this. As you said, we did have the two firms, Areas and Host. They are both wholly owned subsidiaries of European firms, but as you said Host has a long, has been here in Maryland. And they have in fact, they are in fact the incumbent, and have had the current lease for decades.

TREASURER KOPP: Well -- yeah, I mean I think it's with Marriott --

COMPTROLLER FRANCHOT: What?

MS. SWAIM-STALEY: Yes. Right. Exactly. So they are, yes, so they are the incumbent. We, again, in conferring with the attorneys this morning, I don't really have, you know, any reason legally not to pursue this at this time. It's a, we believe a

good proposal. We believe that we have addressed all of the issues that have been made. It, as I said, was approved by the Authority and by the Legislature. The attorneys can address in a moment sort of where we are and what happens legally, but I do believe that we have a fiduciary responsibility to act. As I said, any delay is going to mean that we are not going to have the opportunity to, for them to begin the construction this summer. The jobs that are being brought that we don't have currently, frankly the opportunities have MBEs and local businesses involved in this business which we do not have currently. We have a terrific bid. The bid that Areas, proposal I should say, it's not a procurement, that was brought in was significantly better than the other proposal. Something in the neighborhood of, I think it was 50 percent lower than the Host proposal. We believe that this is a terrific opportunity and it is quite frankly such a good proposal that the Authority, we don't wish to take the chance that we would lose this. So that is why we would ask, we have brought it to the Board today. Obviously, you know, we will work with you all

to do what you see fit. But we do believe that there is not a reason not to proceed today and, again, that this is really a very, very good proposal for the State from a fiduciary responsibility.

I guess I'd also, just to add to that, be concerned because it is a public/private partnership. And as we said, and we talked a great deal about this summer and in the legislation, we certainly want to make sure that everyone understands that we are responsive to private businesses when we do ask them to invest in Maryland and to put proposals forth such as this. So with that I'd have to defer to the attorneys with regard to the legal questions. And we do have Stan Turk here from the Attorney General's Office.

COMPTROLLER FRANCHOT: I'm just so happy that you didn't include stimulus money deadline possibly going back as a --

MS. SWAIM-STALEY: No, it is not a stimulus

--

(Laughter)

COMPTROLLER FRANCHOT: -- in your list.

MR. TURK: Thank you. I will bring you up to date on the legal matters.

COMPTROLLER FRANCHOT: Thank you.

MR. TURK: And address any questions.

COMPTROLLER FRANCHOT: Who are you again?

MR. TURK: I'm sorry, I'm Stan Turk, I'm Assistant Attorney General. I represent the Maryland Department of Transportation, MdTA, and in this matter I am, because the three of you, the members of the Board have been sued by Host in your personal capacity, unless you tell me otherwise I am also representing you --

COMPTROLLER FRANCHOT: Excellent.

MR. TURK: -- in this matter.

(Laughter)

MR. TURK: On Friday, midday Friday, Host filed an action in the Circuit Court for Montgomery County. The action asked for a number of things. First, it asked for temporary, immediate relief. It asked the court to issue an injunction preventing this Board from considering this matter. That has not been ruled on. The judge advised us late yesterday that he

wanted to consider the matter a bit further. After about three or four hours of good, strong argument on both sides I think the judge wisely took it under advisement because he understood the importance.

As we sit here today our office has been in constant contact with the court. There has been no such order issued. I will tell you that earlier this morning I was told by counsel for Host, who although we disagree on many things legally, the candor between us is not one of those. And he told me, and I understand, that he had spoken to not the judge but the court clerk who said that the judge was going to sign some sort of order but we did not have the details on that. My understanding, after doing this for a number of years, I would be shocked if the court would order this Board not to consider the matter and in fact it has not done that. So I would not be quite so shocked if the court were to order that MdTA not take any further action on the contract pending an immediate hearing on a preliminary injunction. That is what, again, that's my speculation based upon my experience with these things.

I think it's important for the Board to vote up or down and not defer for a number of reasons. First, we've got a great deal here. We don't want to let Areas get away. If this thing drags through the courts Areas could walk away and we don't want that to happen. The legal effect of an approval today will not stop the litigation. Host indicated to the court and to us that they will proceed and they will be looking to, they will be looking for a declaratory judgment that the procedures followed in this procurement were illegal.

Now they do that by basing it upon a body of law which we believe is not the appropriate body of law. So I think we have the better legal side of this. Obviously, I can't predict what the court will do. But we believe that this was a legally conducted procurement. There was a lot of process here. And I think it's important to understand that the single fact that Host complains of in their complaint is that when they told us for certain that they gave us their best deal in this RFP that that, now they are saying that was not their best deal. And in fact they filed

an affidavit in court yesterday saying that essentially not, these are my words and not the affidavit, but essentially saying that they were bluffing when they told us that they gave us their best deal.

Well to them I say if you haven't given us your best deal when you told us you did, we were entitled to rely on you. If you were bluffing you did so at your own peril. But we went with the best deal, by far the best deal. There was absolutely all opportunities, many opportunities to provide MdTA with what they considered to be their best offer. And the only legal effect on the case of this Board approving is that there may be an order directed toward MdTA who will deal with that, and that should be resolved fairly swiftly. And the best part is we've got Areas locked in to this very good deal. And --

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: I hate to disagree with my own lawyer.

MR. TURK: Okay.

COMPTROLLER FRANCHOT: But you know it strikes me --

MR. TURK: It happens to me all the time.

COMPTROLLER FRANCHOT: Well it strikes me that, because I met with Areas and they seem to be a very outstanding company, and they certainly gave no indication whatsoever that they were going to try to get out of what we think is a really good deal for us. But I guess my question is, aren't these TROs, isn't that a significant legal high standard that, the fact that it hasn't been denied by the court is significant in your mind as a lawyer?

MR. TURK: I think it's more significant that it hasn't been issued by the court. It is, it is, it's not a particularly high legal standard to meet when it's such a short period of time. So courts are often very easily persuaded that a temporary restraining order ought to be issued because they think, well, it's only for ten days, maybe 20 days, and then things will resolve. So in my opinion it's rather easy to get a TRO. And the fact that the judge

was concerned enough not to, I think that tells us something.

COMPTROLLER FRANCHOT: Yeah, well, I'm like President Loh. I'm one of those public interest lawyers, in the public interest I've never practiced. But it does strike me as my impression of this TRO that the fact that the judge did not deny it I think is an indicator of significant concern on his part. But thank you for your testimony. I want to go back to the Secretary, if I could? On her issues.

Madam Secretary, you talked about how the partner was selected for this venture. How much of it was based on technical considerations, how much was based on revenue projections, and what were the specific I guess weighing of those two categories?

TREASURER KOPP: But could I just, building on that, it was my understanding in reading the RFP that there were basically three factors.

MS. SWAIM-STALEY: That's correct.

TREASURER KOPP: Is that, and just building on the Comptroller's question, were these equally weighted? Or how did those three factors --

MS. SWAIM-STALEY: There were not specifically weights assigned. But what is significant is that Areas won all three on all three of those factors.

GOVERNOR O'MALLEY: What were the three?

MS. SWAIM-STALEY: Yes, as the Treasurer said, it was the three factors were, that we outlined in the, on the goals here. That we have new or like new facilities to replace the Chesapeake and Maryland House. The facilities' design and operation would provide a positive customer service experience and a fair return to the State. So it was both on technical in terms of the facilities, the customer service experience, and the financial return.

GOVERNOR O'MALLEY: So the technical rebuild, the customer service --

MS. SWAIM-STALEY: And financial.

GOVERNOR O'MALLEY: -- and the return to the State?

MS. SWAIM-STALEY: Yes.

GOVERNOR O'MALLEY: And how did they break down?

MS. SWAIM-STALEY: Areas prevailed on all three categories.

COMPTROLLER FRANCHOT: Okay. If I could just continue my question, I personally happen to believe in this instance there is a direct relationship between technical proficiency and revenue output. In other words, the company that actually has in my opinion the most experience in this field, and actually knows what it's doing, is most likely to run a successful travel plaza and generate the most cash for the State. I make this point because the Board is being asked to reject a long time Maryland vendor that, as you said, for 25 years has been operating this. It has extensive well documented experience in the Maryland market. It has a thorough understanding of the taste and consumer preferences of travelers that visit these two plazas, and many of us in this room have gone often to these places and they are just teeming with activity. And they successfully operate, Host does, more than a hundred travel plazas throughout the country including, as I said, for the past 25 years the two travel plazas that are here.

And I don't have anything against Areas. Areas seemed like a very nice company. They came in and made their presentation. They are well regarded, apparently. They are successful. They have a lot of thoughtful insights and ideas. But, and here is the hard fact, this is a very competitive marketplace. We are signing off on the next 35 years two of Maryland's most valuable and symbolically important assets to a company that has never done business in the State of Maryland. And if its own corporate website is any indicator, the vast majority of its work has been in airports and not interstate travel plazas. I just, it strikes me as a real leap of faith.

And the question I have, because you talk about the fact that they are putting \$56 million in, but I believe Host and others were going to put in a lot more as far as the capital improvements at the beginning. And then you cite the rental or the returns that they are going to give back to the State. I take it those are guarantees? We are actually going to get \$468 million even if they run, for whatever reason, inexperience or otherwise, they run an

absolutely lousy rest stop, and the revenues go way down? They are still giving us \$450 million?

MS. SWAIM-STALEY: Well as I said, all the ranges are estimates on everyone's proposals. And they by far had the higher estimates. But we did use, we did have independent financial analysts help us with this. And we in fact prepared an estimate based on the standard of what we believe would be the results of the traffic and concessions. And modeled these offers against that. So we are, to try to do an apples to apples comparison. So --

COMPTROLLER FRANCHOT: I understand that.

MS. SWAIM-STALEY: Now you are correct, if I can address a couple of --

COMPTROLLER FRANCHOT: But yeah, sure. Please. Because --

MS. SWAIM-STALEY: As you well know, you know, an evaluation committee is not permitted to select a proposal based upon the fact that they are in Maryland, or on the fact that they are an incumbent. We have, the evaluation committee has to take into consideration and only into consideration the

proposals that are before them. And in this case it was very clear that one proposal was superior to the others. And, but nonetheless there were oral presentations, there were opportunities for back and forth to address both technical issues and the financial issues. And after those conversations a proposer was selected. Again, based upon those conversations.

Based upon those evaluations, which is all that an evaluation committee can take legally into consideration. And it was very clear that Areas was the better proposal. And then going back to confirm that they do in fact have the capability, the financial backing, et cetera, to do this. It was believed that they could. And as I said before, in terms of looking at construction, for example, they are bringing very strong local firms that we know very well here in Maryland. So again, based on what, you know, evaluation teams were legally permitted to evaluate, and the financial return, very clearly Areas was the stronger proposal. It's unfortunate in terms of, you know, yes, it was not a business that we've

been dealing with. But again, as we all understand neither incumbency nor residency is permitted to be taken into account.

COMPTROLLER FRANCHOT: Okay. But according to their own website, Areas' website, they have one foray, I guess I would call it, into the interstate travel plaza market, and that's down in Florida. Where they have a 30-year deal to upgrade or replace eight rest areas on the Florida Turnpike. This hasn't worked out particularly well, according to the newspaper accounts. The Florida project is well behind schedule. Just a few weeks ago an official from the Florida Turnpike Authority warned the company in writing that it would incur monthly penalties of \$40,000 for each month its Florida project remains uncompleted. Since the Florida Turnpike Authority is really, I guess, the only job reference that this company has, did the, I guess what is your, I mean, here we have a company, we're going to enter into a contract with them for 35 years. They have one other relationship in this area that we know of. It's in

Florida, and there's a lot of questions raised about capacity, I guess, to perform.

MS. SWAIM-STALEY: Well they do operate in many airports. And of course since we also operate BWI Airport we know there are tremendous similarities between a concession function at the Airport and this concession function. So that does not give us particular cause for concern. They do operate travel plazas around the world. It has been unfortunate that there have been, you know, representations made in the newspaper which is why I personally have followed up with the officials in Florida, and why Mr. Bartlett personally went down. And Areas is also here today and I'm sure would be happy to address those issues. But each and every one of those issues, whether they have been properly or mischaracterized in the paper, we have reached out to address.

COMPTROLLER FRANCHOT: Well did the Authority threaten Areas with a \$40,000 a month fine?

MS. SWAIM-STALEY: There is, I should let Areas speak actually to this. But what we are told by Florida --

COMPTROLLER FRANCHOT: Okay. Well when they get up here --

MS. SWAIM-STALEY: -- is that Areas is in fact, they have done a good job. The issues, they have had start up issues, as the Secretary characterized it to me, similar to what they have on virtually all other projects that they have in Florida. And they have no concerns about the completion dates.

COMPTROLLER FRANCHOT: And just following up on that, obviously the phased in construction that you talked about, there is going to be nonetheless significant downturn and loss of revenue. What penalties do we have if there are delays in construction?

MS. SWAIM-STALEY: I'll let Mr. Bartlett the Acting Executive -- the Acting. The Executive Secretary speak to those particulars on the contract.

MR. BARTLETT: Yes, we have a clause in the existing agreement that if there are delays in construction will be made revenue hold based on the projection of revenue we expected to get from Areas.

COMPTROLLER FRANCHOT: Okay.

MS. SWAIM-STALEY: And that's based on what we expected.

MR. BARTLETT: Yes.

MS. SWAIM-STALEY: We did our own revenue projections to make sure that they were consistent.

MR. BARTLETT: Based on our own growth assumptions about revenue.

COMPTROLLER FRANCHOT: And is there any independent review other, I understand you went down to Florida and you spoke to the Authority person down there, Madam Secretary. And I would just think from a Florida perspective they are not interested in getting into a particularly candid battle with their person they are locked into for 30 years. So I'm just --

MS. SWAIM-STALEY: As I said, we checked many references around the country.

MR. BARTLETT: Mr. Comptroller, subsequent to the letter that you referenced Areas did in fact meet with the Florida Turnpike Authority and they I believe have resolved those differences. The contractual milestones that they had to hit they have

in fact already hit, with the next contractual milestone being the opening of four facilities the end of December, 2012. And their current discussions with Florida Turnpike --

COMPTROLLER FRANCHOT: Okay.

MR. BARTLETT: -- have verified that they will hit those dates.

COMPTROLLER FRANCHOT: Madam Secretary, if I could just continue on the Maryland based businesses that are going to be in these travel centers? Could you give me a, some comparison of the competing claims about who is going to use more Maryland business? And I noticed the Southern Maryland Oil does the gas business currently and Areas is going to use someone I think from Pennsylvania?

MS. SWAIM-STALEY: We have, we've shown in our, the team structure, and again Areas is here with many of their partners today so they can certainly talk about the details. I believe it is ten local partners that they have brought as part of their partnership, and covering all aspects from the engineer, architecture/engineer, construction, into

operation of the facilities. But again, they are here and it would probably be best to address the specifics

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COMPTROLLER FRANCHOT: Okay. And on this BAFO issue, I know it is not a procurement so there is no BAFO but --

MS. SWAIM-STALEY: Well we could have had a best and final had we felt that the proposals were close. But again, because it was so significantly clear that Areas had the superior proposal in all categories there was no need to go back and do that.

COMPTROLLER FRANCHOT: Right. But nonetheless you went back to Areas despite their, I take it, their victory in your mind overall, you still went back and negotiated some significant changes, I take it?

MS. SWAIM-STALEY: Well as we, as we always do in any procurement once you select the winning proposer you always see if you can quite frankly go back and squeeze an even better deal for the State. So I mean that's, we really, although it's not a

procurement we in fact did follow the same kinds of process that we would had it been a procurement.

COMPTROLLER FRANCHOT: And what about Starbucks and these other groups that aren't going to be at these travel plazas now, is that something I should ask Areas about? Or is that something you guys looked at?

GOVERNOR O'MALLEY: And Roy Rogers.

(Laughter)

COMPTROLLER FRANCHOT: Yeah.

MS. SWAIM-STALEY: Each contractor brought in their own, each proposer brought in their own network of businesses that they would be providing. And obviously each one had a different, you know, different set of restaurateurs and concessionaires that would be part of the, but again if you have a particular preference, you know, if you would let Areas know that and I don't know if they, you know, have the flexibility to attract some other folks as well. But that was just one of many parts of the evaluation process.

COMPTROLLER FRANCHOT: I mean my concern, much as I like the model the problem here is that we're feeling our way through this now. And obviously there's some legislation that's pending that will clarify the protections for the taxpayer. I don't begrudge the claim that Seagirt is terrific and this might be another one, but then again it might not be. So I'm torn a little bit on this. Because the Airport concession you talked about some time ago also included Host and when I was in the Legislature I remember writing a letter like these folks had written, legislators had written, to the Board. And because the question is, you know, once it's approved nobody is ever going to go back.

I mean, can you imagine us sitting here or somebody trying to figure out whether in fact BAA is delivering a better product than Host would have at the Airport? You can't possibly figure it out because it's lost in a massive financial detail. And but so that's, once it's approved it's out there for 35 years. And I, to the extent it's got a court challenge I think that is the only due process

fallback right now. The fact that a temporary restraining order was not rejected by the court, that to me is significant. And so I would like to see this deferred. And will probably reluctantly vote against it if it is pushed through. But, you know, it's no reflection on you --

MS. SWAIM-STALEY: Oh, I understand.

COMPTROLLER FRANCHOT: -- I think you and Mr., and the Board, et cetera, have tried to work as well as you can. I just think that there, given the lack of experience, and given the fact that everything we're going to get for the State is dependent upon them having a really good operation --

MS. SWAIM-STALEY: Right.

COMPTROLLER FRANCHOT: -- like Host does now, I think it's up in the air. And if it's, they're only two-thirds as good as they say they are, what recourse do we have?

MS. SWAIM-STALEY: Well I appreciate your concern but I'm not a lawyer so I do rely upon the attorneys who, as I said, who have assured me that the best course of action would be to proceed. I mean, I

think any delay as I said not only prevents us from proceeding with what I think we've all acknowledged is a terrific proposal, you know, depending upon the length of delay obviously we would have to go back and actually pay a higher price to the incumbent. So it's, you know, it's unfortunate that we're in this situation where the protesting company is also the incumbent. But I believe that nonetheless we do have a very good proposal. And again, as exercising my fiduciary responsibility, which I'm required to do, you know, that's why I'm here today.

TREASURER KOPP: Could I --

GOVERNOR O'MALLEY: Madam Treasurer?

TREASURER KOPP: First of all you mentioned, I know you set it out, but I'd like to go back for a moment to the way in which you compared apples to apples. The way you set up, you or the Commission, set up the, the model. I mean, I've read it all about the normalization modeling so that you can compare things. But I think the newspapers don't portray it that way. I would like to hear from you exactly how

we do know that you, that you are comparing each of them fairly, the two vendors?

MS. SWAIM-STALEY: And I'm going to ask the Executive Secretary to talk about that.

MR. BARTLETT: Thank you, Madam Secretary.
Jones Lang LaSalle --

TREASURER KOPP: Yes.

MR. BARTLETT: -- which is an internationally recognized expert in retail and real estate consulting, developed a model for us so that we were not relying upon growth projections from the proposals. For example, if one proposal really suggested a very, very high volume of fuel to be sold, and another one suggested a lower volume of fuel to be sold, it would distort the return to the State. So in fact the same level of fuel was put into this model for every single proposal and all we really did was apply the cents per gallon that each proposal said they would give us against a constant amount of fuel.

A similar approach was done on the retail side, where traffic projections and the correlation of traffic to capture rates of motorists and the sales

promoters were put into a model such that each person's projected return to the State would be applied against the same base.

TREASURER KOPP: Okay. So you set out the bases for comparison and then they fed what their rate would be?

MR. BARTLETT: Right.

TREASURER KOPP: Right. That was my understanding, but I --

COMPTROLLER FRANCHOT: Could I just interrupt here?

TREASURER KOPP: Yeah.

COMPTROLLER FRANCHOT: Because my central point here is that we're entering into a 35-year relationship with a company that's never operated travel plazas, as far as I can tell, other than they've got a contract in, you know, these roadside ones. And I don't think they are the same as an airport concession. This is a unique business. Delaware has a site right across the border, and it's highly competitive. And people can choose what rest stops they stop at. And all I'm suggesting is that as

much as that model, and I understand it's comparing apples to apples, what happens? Is there a chance, even a small one, that this company has a performance problem based on its lack of experience? And the revenues are down, and therefore the dollar amounts we get are a lot less than if we'd stayed with Host?

MR. BARTLETT: Well you are correct --

COMPTROLLER FRANCHOT: Which has a proven record.

MR. BARTLETT: You are correct, Mr. Comptroller, that the only travel plazas that they currently operate in the United States are the eight travel plazas on the Florida Turnpike. But worldwide they operate about 140 travel plazas. I believe that's the number. So they have a pretty significant track record worldwide.

The dilemma we found ourselves in is if we debate about growth, contractually I can't enforce growth. But what I can enforce is the return on what we get for each of the things we sell. And that became really the basis for the differences between the proposals.

MS. SWAIM-STALEY: I do want to make a distinction here as well. Just as this is a new model for the State, we're going from the standard lease model where we own the facilities, and we continue to maintain them, and we lease to Host, that is in fact sort of the more normalized model. So I believe in terms of public/private partnerships I think that Host does, they have one new agreement in Delaware and in one other state. But again, I think we need to talk about, again, comparing apples to apples, you know, comparing their operation within the public/private partnership models as opposed to comparing, you know, long term lease obligations. Because there is a little bit of a distinction. So I just wanted to make sure that that's clear.

COMPTROLLER FRANCHOT: Sorry --

TREASURER KOPP: No, I, I --

MS. SWAIM-STALEY: Because in fact the new facilities in Delaware is one of the reasons that we are very concerned that we also have new facilities to remain competitive.

TREASURER KOPP: I have another question of the attorney, of my attorney, actually. The potential litigation, of course right now there's the question of the temporary restraining order which has not been granted. But of course then if it's not granted you can go on. You can appeal. Or if it is granted then it only, I mean, a TRO is only giving time for a future suit, right? For future litigation?

MR. TURK: Well ordinarily a TRO, what would follow is a hearing on a preliminary injunction.

TREASURER KOPP: Right.

MR. TURK: Which would stay whatever, or whatever it has to say, until conclusion of the full blown trial.

TREASURER KOPP: Right. So when the Comptroller was asking about time, what timeframe really are we talking about to let the entire legal process run its course?

MR. TURK: Well quite frankly I think it could take some time. Because as I said, we think that Host has brought this claim, the basis of their claim, on the basis of inapplicable law. Now should

the trial court agree with that, we would have to take that to an appeal. So it could be a significant amount of time until the entire matter is resolved.

TREASURER KOPP: And what is this --

MR. TURK: So deferring, the question is defer till when?

TREASURER KOPP: And a significant amount of time means weeks? Months?

MR. TURK: Well I, months or years.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: But a one, but a one-time, but a two-week deferral isn't going to hurt anything one way or the other? Unless Areas decides that after all this work they really can't offer us a deal that's twice as good as the closest competitor?

MR. TURK: Well a two-week deferral really just, I don't think it helps. It couldn't hurt either way. I know that Areas, by the way, will tell you something quite different. And that the, that the daily cost could be as much as \$20,000, \$25,000 a day. This is a significant construction project. And we that do construction claims know that even a few a

days of delay results in significant claims. So a two-week delay, that could turn into some money. I can't predict how much. But it could, it could turn into claims against the State.

TREASURER KOPP: Thank you --

MR. TURK: On the other hand, if the contract is approved and signed, if there are delays caused by Host as a result of the litigation that's between Host and Areas.

GOVERNOR O'MALLEY: Mm-hmm.

TREASURER KOPP: Could I go back? One other question, Madam Secretary, that has been sent to us, among many, is the question of the 35 years. How did you all decide on 35 years?

MS. SWAIM-STALEY: I may actually ask Laurie Mahon, who is our P3 sort of expert, who deals with these nationally to talk about her experience. I will tell you that it's testimony that we received over the summer in P3 and conversations with the Legislature in the past that if you're going to do public/private partnerships certainly 30 years is sort of viewed as a minimum. Because at the point of a public/private

partnership you're asking the private sector to come in and make a significant investment in your State. They obviously need enough time to have a return on that investment. Otherwise they are not going to come. Obviously from the State's perspective we try to make them as short as possible. But it's sort of finding that --

TREASURER KOPP: Well that's why the 50-year max.

MS. SWAIM-STALEY: -- place. Right. So in Seagirt we actually, there was some who said well you're going to need to do 75 years. And we said we don't want to do that, we'll do 50. So we've actually been fairly conservative in terms of the time of these leases. And I don't know if Laurie has anything to add, but she's been teaching me about these things across the country and we've been working with folks across the country on how to do these.

TREASURER KOPP: So 35 is between 30 and 50.

MS. SWAIM-STALEY: Yes.

TREASURER KOPP: Okay. I must say this is all, but I've spent a lot of time on the P3 Commission sitting there and listening to this stuff.

MS. SWAIM-STALEY: And we thank you.

TREASURER KOPP: Thank you. Governor, I don't know anything about deferring but we do have folks from Host here today.

MS. SWAIM-STALEY: Host and Areas are both here.

TREASURER KOPP: And we do have folks from Areas today. And I think it would make sense to hear them.

GOVERNOR O'MALLEY: Okay. It's now 12:15. There has been much mused about a motion to defer. Is that right? I think we're all going to do this again two weeks from now. You know, better to know now I would think. I mean, it's 12:15.

COMPTROLLER FRANCHOT: I would move to defer two weeks to allow us to get a clearer view of the court.

TREASURER KOPP: Yeah, we do have a bond sale in two weeks. But that's okay we can put it aside until afternoon.

GOVERNOR O'MALLEY: Okay. All right.

TREASURER KOPP: Let me just say for the record, I think it would be worthwhile to hear from the folks who are here now --

GOVERNOR O'MALLEY: All right.

TREASURER KOPP: -- even if you defer.

GOVERNOR O'MALLEY: Let's hear an opening --

TREASURER KOPP: But I have no, I don't want to rush people through and apparently that's what this would be. I see the Comptroller is packing up.

COMPTROLLER FRANCHOT: No, I'm not packing up.

TREASURER KOPP: Oh.

GOVERNOR O'MALLEY: You were just, you were merely shuffling?

COMPTROLLER FRANCHOT: Yes.

TREASURER KOPP: Okay. Shuffling. I mean I just, since it's fresh in our mind, the presentation, the background, wouldn't that make sense?

GOVERNOR O'MALLEY: Sure. How about gentlemen, want to give us an opening or something? Shall we begin with Areas? We want to hear from you for five or ten minutes, and then hear from, and then hear from HMS?

SECRETARY MCDONALD: We have Mr. Rabell from Areas and Mr. Fricke will be next from HMSHost. If you could introduce yourself for the record, please?

MR. RABELL: All right, yes. Good afternoon. My name is Xavier Rabell. I'm the Areas CEO. First of all, I would like to take a moment to thank Governor O'Malley, Treasurer Kopp, and Comptroller Franchot for giving Areas and our Maryland based team the opportunity to be here and to speak in front of you.

We are really excited about the opportunity and we are thrilled and ready to invest in Maryland and bring two of these amazing new travel plazas and everything that comes with it, including jobs and increased revenue to the State of Maryland.

For more than 40 years Areas has built a reputation for excellence in providing food, retail,

beverage, and services to the global and the local traveling industry, and that specifically in the travel plazas business. Let me address your comment. We had started the company running service plazas, so it is in our DNA to run service plazas as a core business.

We currently operate 70 airports, run operations at 70 airports, and 160 service plazas around the world. We have a lot of experience. We are running 12,000, different locations and employees, more than 12,000 people.

In the U.S. we started operations in 2007. It's true, we are a young company in the U.S. And right now we are running operations at 11 airports, and since 2009 running successfully eight service plazas on the Florida Turnpike.

We came here to Maryland to participate in a fair competition. We built an amazing team. We partnered with local and experienced companies. We put together an unmatched proposal and we were ranked first on the three criteria based on the RFP. Not

only were our designs and operations far superior, but our financial proposal far exceeded our competitors.

Now unfortunately it seems that our competitor is using his best efforts to delay this process, to reap the benefits of continuing operation in the travel plazas. In fact, they are trying to penalize us for having the best proposal. A delay as you know, and you were mentioning before, will make us significant additional costs in design, in construction, based on the schedule that we proposed, and probably it could delay the whole project. And more importantly to you, to the State of Maryland, it would affect additional revenues and to have a new and state of the art facilities in these new service plazas.

I would like to urge you not to delay the decision. Moving forward would allow our 30 Maryland based partners to create jobs in the State and putting people back to work.

I am so proud to say that our proposal, as has been mentioned during the presentation of the Secretary, will generate more than 400 new

construction jobs, and more operational jobs, than what exists today. Our project will have the best level marketing program in our industry based on the experience that we have, which includes bus driver, business drivers, and other additional frequent business advantages.

Most importantly, on behalf of Areas and on behalf of our Maryland based team we commit to you that we will deliver the highest revenue to the State. We are committed to building this project with Maryland based companies like ASG, Clark, and so on. We are committed to achieve at the last the 20 percent of minority participation. We are committed to offering our employees the same or better benefits that they have right now. And we are committed to being a good partner with the State of Maryland and our reputation speaks for ourselves.

In closing, we work hard. We compete fairly. We present the best proposal. We were ranked number one in all the categories and there is no reason to delay this process. We hope to have your

support to become your partner on the I95 travel plazas. Thank you.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Thank you.

TREASURER KOPP: Mr. Rabell, could I ask you about the question of delays in Florida?

MR. RABELL: Sure.

TREASURER KOPP: What is the situation actually?

MR. RABELL: All right. The Florida project has two milestones right now. Several, but two big ones. One was to start construction of four service plazas in the first phase. That was November, 2010. We did it. The second milestone is these four service plazas need to be done by the end of this year, December, 2012. And we will do that.

During the construction we have presented weekly reports to the Florida Turnpike showing the schedule. One of them they show delay, we have already addressed these potential delays in the future and right now we are on track. So we haven't lost any deadline. It's only a matter of upgrading the

schedule that we provided to the Turnpike. So there is no delay based on the contract that we signed with the Florida Turnpike.

TREASURER KOPP: Okay, thank you.

MR. RABELL: Okay. Do you have any other questions? No?

GOVERNOR O'MALLEY: Thank you.

MR. RABELL: Okay, thank you.

GOVERNOR O'MALLEY: HMS?

MR. FRICKE: Governor O'Malley, Treasurer Kopp, Comptroller Franchot. I must say it's great to be back here in Annapolis. I've spent more time, as I was joking last week, here than when I was a student at the Naval Academy. And so it's nice to be back.

As you know, my name is Tom Fricke and I have the great privilege of being the President and CEO of HMSHost. A tremendous company, very successful company, with longstanding roots in the Maryland community. I thank you for your time today and the opportunity to discuss the decisions in front of you.

There's a lot of things at stake. We have a thousand employees of HMSHost that are in these two

facilities that we have great concern for. We have 47 Maryland companies that we will partner with not just during the construction but also during the operating of the facilities that will have financial impacts based on the decision you make today.

The financial decision you make is worth close to half a billion dollars for the State. But if you get it wrong you live with that decision for 35 years. And the travelers on the Maryland Turnpike will be encountering these facilities until the year 2047, to put it in perspective.

While those issues are certainly important I think what's more important to me and what should be more important to you is the kind of business environment you want to create in the State of Maryland. And the decision you make today is what promotes that environment. And we have to ask, is this going to be the kind of State where business is conducted fairly, with strict processes, with transparency? And is it the kind of State where companies are going to want to invest and operate?

In the past few weeks we've met with dozens of people here from Delegates to Senators to staffers discussing this decision. Let me be clear, I too am not an attorney. I thank God everyday for that. I've heard today that the proposals that we put forward lost on every category. While I'm not an attorney that is a case I would love to have in front of a jury. I don't want to discuss the merits of the case today. I think there are obviously different assumptions and plans in each package, and the individuals who review them are going to make their own decisions around whether they are valid and whether they have merit.

Our position on the proposals is clear and I think you have all seen it. We're comfortable in our beliefs and we stand by over 100 years of experience, and the experience that we have in operating 100 travel facilities in the U.S. today, and hundreds more overseas but we don't particularly feel that's relevant. But I do take comfort that there is a jury that will rule on this, and we await their verdict. And that will be the consumers and the travelers on

the Maryland Turnpike in time. And we stand comfortable with what we've told you today with respect to our proposal versus the competition's.

As I stated earlier, the question I put to you today is really how as a State do you want to treat your business community? And to answer that question I think you need to think through whether this was a rigorous and well communicated process, and that if all competitors were treated fairly in that process.

Now I'm relatively new to the State having been gone for a few years, but coming back I did read about Lieutenant Governor Brown's Commission on Public/Private Partnerships. And in it they highlight and stress that it's important that the process be fair, and that the process be transparent if these interactions and this model is going to work. And we agree. And as you know there are several pieces of legislation pending today that are really going to help deal, put some structure and fairness and transparency around those processes.

But today I think you need to step back, and I think you need to ask yourself whether the process that you are reviewing today has met that standard. And we don't think it has.

At HMSHost we respond to dozens and dozens of RFPs every year, in the airport environment as well as on the toll road environment. We lose a few, but we win more. We're very fortunate. I know it was raised last week, and I just want to stress again to you that when we lose a protest, when we lose a bid, filing a protest is not a matter of first course to us. And in fact in 100 years as far as I can tell through the record search this is only the second protest we filed. Now that would represent thousands and thousands of RFPs. So why are we protesting now?

I want to be very clear, at HMSHost we love competition. We really do. A battle fought and lost is a learning experience for us, and as a company it makes us better. But it is a learning experience only if that battle is fairly contested. As I discussed with you today, and I think you may have heard, this process lacked virtually all of the structures that we

typically encounter in other states and with other RFPs.

As you know, there was an RFP issued several years ago. We were the only company to respond to it. And having spent a million dollars in that response found it pulled the week before it was due to be submitted. Despite uncertainty in the process that was being brought forward, we decided to continue with the second bid and were told in the pre-meetings that the process would follow the guidelines that were posted on the MdTA's website guiding P3s. When the decision was announced a few weeks ago, and from what little we've been able to gather from the lack of material that's been brought forward to us from MDOT, we began to question how that process was conducted. Critical elements, or what we were told were critical elements in their concern around these facilities that were brought forward in the first RFP were missing. A competitor appears to have had an opportunity revise its bid, and based on last Friday's press conferences revised it again. It appears that both the State's consultant and the project manager specifically --

TREASURER KOPP: Could you, what is it exactly you are talking about?

MR. FRICKE: Well apparently there was additional capital money put, announced last Friday in the press conference that would go to these sites.

MS. SWAIM-STALEY: No --

TREASURER KOPP: Well, at least that's one problem solved.

MR. FRICKE: Yeah, well, we can go back and check the records of the press conference. The second element for successful P3s in the Lieutenant Governor's panel was transparency. We have requested score sheets. We have not received them. And typically it is very common for us to see how bids were assessed, and scorings and weightings. So this is not an unusual request. We've seen them in every other bid I've been involved in. We've asked to see the rules that have governed the process. We haven't seen anything. And I was not at the TRO hearing yesterday, so my counsel is here. We were told that in fact yesterday for the first time that the guidelines that were posted on the website weren't

applied. And when we asked what guidelines were used there were none brought forward. So we still don't quite understand how the process was put forward, what was put forward.

And we continue to be confused. I understand concerns about Areas walking away. The proposals, the RFP we saw said that we can't pull a proposal if it was disputed. So I'm not sure why we're not allowed to pull our proposal if it's disputed in our case, but Areas can. Furthermore, I don't understand the construction delays because we don't turn over occupancy to these sites until September 1. And no one has come to us about construction on our facilities while we are trying to operate them. So I'm not quite sure, and again I'm just confused by what I'm hearing today and the process that was brought forward.

And now we're seeing this attempt to push the agreement through without really allowing time to discuss concerns when in fact I don't think two weeks really does hurt the process.

This is a big contract for sure. We understand the financial stakes are significant. But I think there is, what is at stake is far, far bigger than just this contract alone. Thank you.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Thank you. Okay. So we'll have, I mean, I've never been accused of not allowing ample time here at the Board of Public Works. So we will allow ample time for this. There's been a --

COMPTROLLER FRANCHOT: Motion to defer two weeks.

GOVERNOR O'MALLEY: -- motion by the Comptroller to move to defer this matter for two weeks. Seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

TREASURER KOPP: Governor, could I just --

GOVERNOR O'MALLEY: -- and the ayes --
sorry.

TREASURER KOPP: -- it's okay. But there have been some, I know Mr. Fricke is concerned. I think there are some general concerns. It's hard to pin down exactly what they are. And I know you have walked through today, and the administration has, the process that was used.

MS. SWAIM-STALEY: Mm-hmm.

TREASURER KOPP: I think it would be worthwhile for you once again to put maybe in writing, because we don't have to go through this whole thing next time, the exact process that was used, how the normalized modeling, excuse me, worked. This is a P3, it's not a traditional RFP. But there are laws under which it's being administered, and we have them. I know that there is a bill before the General Assembly that incorporates the recommendations of the Commission chaired by the Lieutenant Governor and on which we both served. I believe this conforms to them. If there are differences, however, we should know that. And in general, this can go on forever, but to the extent there are specific questions which were put before us, and I tried to get to some of them

like the question of the, of what the situation is in terms of the delays in Florida, what the situation is regarding pay and benefits for employees. You have told us before but maybe you should make it clear to the public what you are doing to try to help the employees if in fact this goes through, and exactly how many people we are in fact talking about. Because I hadn't heard about thousands before. Just in general, just to try to clarify. And then a decision has to be made. But you hate to have these vague sort of great concerns hanging out.

MS. SWAIM-STALEY: If I could just, to address? Yes, we will absolutely do that, Madam Treasurer. And the, I think that Areas, I don't know actually if he had a chance to say it today, but they have actually committed to giving priority to hiring the existing employees from the facility. And in fact their proposal would allow less downtime than the other proposal. So we think that that's significant.

We will continue to work. We've turned over with our attorneys all the information that the attorneys have deemed that we can turn over, as has

been requested. We obviously will continue to do that. I do just want to clear up two things.

We did not complete a solicitation last year so we do not know who would have competed. So I'm not sure where that statement came from. And again, I just want to reiterate we did not receive any complaints about the process during the many, many months that the process took place until the incumbent was unfortunately not the winning proposer. So we'll, we'll be happy to continue working with you all to provide you with whatever information you need over the next couple of weeks.

GOVERNOR O'MALLEY: Okay. And the issues have been all, I mean, have been framed up pretty well for next time. So you'll be prepared, and go back and review the tape on that. There was a motion. There was a second to defer it two weeks. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. This matter will be deferred for two weeks. Is there, are there any questions? Is there any questions?

SECRETARY MCDONALD: Next meeting is at the Treasury Building for the bond sale. So March 7th, this meeting, all these people will come to the Treasury Building instead of the State House.

GOVERNOR O'MALLEY: Is there a single question about any of the other matters on the Agenda? Okay. Hearing none, the Treasurer moves approval of the balance of the Agenda for the Department of Transportation, seconded by the Comptroller. All in favor signal by saying, "Aye." All opposed, "Nay."

(No response.)

GOVERNOR O'MALLEY: The ayes have it. That concludes our meeting.

(Whereupon, at 12:37 p.m., the meeting was concluded.)