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P R E S E N T

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HONORABLE NANCY KOPP, Treasurer;

SHEILA C. MCDONALD, Secretary, Board of  
Public Works;

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BEVERLEY SWAIM-STALEY, Secretary,  
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LISA WARD, Land Acquisition and Planning,  
Department of Natural Resources;

ZENITA WICKHAM-HURLEY, Special Secretary,  
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 and welcome to the Board of Public Works. Today is April 18, 2012. I want to congratulate Freeman Hrabowski for making *Time Magazine's* top 100 most influential people. Freeman is our leader of University of Maryland Baltimore County and does an outstanding job, as do so many of the talented students that are attracted to UMBC, a great university. So congratulations to Freeman Hrabowski. Mr. Comptroller, Madam Treasurer, any opening thoughts?

COMPTROLLER FRANCHOT: Thank you, Governor. I just wanted to indicate to you and the Treasurer that we are marking today the anniversary of the passing of William Donald Schaefer, my great predecessor, one of our State's legendary figures who served on this Board both as Governor and as Comptroller. And as I reflect on his many great achievements frankly the warm weather makes me think of how he helped put the infrastructure in place to

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make the trip to Ocean City so much easier for all Marylanders.

TREASURER KOPP: Reach the Beach.

COMPTROLLER FRANCHOT: Reach the Beach.

Remember the old network of, and remember his insistence, you are right, Madam Treasurer, Reach the Beach. He also, a little less remembered perhaps but just as important, he helped literally pave the way to Western Maryland with the completion of Interstate 68. Those of you that have been out there and wonder whether you're going to get to Cleveland before you get to Garrett County, it's a long way. And Governor Schaefer opened that up. And millions of people have used those roads to escape for summer fun to Deep Creek Lake or come to Ocean City, and come home with memories that will last a lifetime.

But unfortunately as you all know, it's not a particularly well known issue but we're going to make it a little more visible, for Maryland families summers and the chance to make more memories have been

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cut short with schools now starting before Labor Day. Those of you who are not in school don't realize this, but it used to be a couple of days before Labor Day, then it was a week before Labor Day, then it was two weeks before Labor Day, now it's three weeks before Labor Day. Pretty soon we're going to have our kids back in school at the end of July.

Not only does this cut into the opportunity for Marylanders to spend more time together as a family but it also has significant negative economic impact on the regions that rely heavily on the tourism trade. For example, Ocean City businesses miss out on the chance for millions of dollars in economic activity. A busy summer in Ocean City, Deep Creek Lake, and the State's other tourist destinations is critical for these small businesses that provide jobs, tax revenue, and community services for their areas.

Losing the last seven to 10 days in August is a huge hit that can often mean the difference between staying open or having to close up shop

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permanently. Right now school calendars are filled with half days and full days off that I believe could be shifted to accommodate starting the school year after, after Labor Day without losing any of the 180 mandated school days. The school system, as the Governor appropriately comments frequently, is rated the tops in the country. And our teachers and administrators and support staff are among the most talented in the country. I'm confident they can adjust the school year in order to provide for a start after Labor Day. It would be a win for Maryland's families and our economy. Over the coming months I hope we can review this issue with all the stakeholders and craft legislation that would once again let summer mean summer.

Governor, thank you.

GOVERNOR O'MALLEY: Thank you, Mr.

Comptroller. Nancy, what about spring? Should we let spring --



TREASURER KOPP: Let spring be spring? I'm not sure. But I actually don't have I have a great deal of control over whether summer is going to be summer or spring is going to be spring. It's going to happen.

But I would, I would like to mention that the Comptroller and I were just saying, noticing the passing of a former colleague, the late Senator Walter Baker from Cecil County who chaired the Senate Judicial Proceedings Committee for it must have been about 16 years, I think, about four terms. A man, a conservative Democrat. I must say the delegates from Montgomery County did not always agree with the Senator from Cecil County. But a man of integrity and decency and a good person to work with and a very good spokesman for his people. And I know he will be sorely missed. I will just note the passing.

I think I also should point out that later on the Secretary's Agenda, Governor, is the property tax, State property tax recommendation from the

Commission on State Debt, which I chair and on which the Comptroller and the Secretary sit. It will be coming up, Item 7, later on. We are recommending that the property tax stay as it is now, at 11.2 cents for every hundred dollars of assessed value. Thanks to the economy, to the low interest rates, to the premiums which investors place on Maryland bonds, we have gained enough this year so that despite concerns a year ago there will be no need for general funds next year, and indeed there are no general funds in the budget to pay interest rates because the property tax and the funds in the bond annuity fund cover it entirely.

But I would simply point out that keeping the rate as it is now, keeping it stable, does allow us to continue to invest in our schools, in our public facilities, take advantage of the low interest rates, and help build the community for tomorrow. I think the capital budget, the capital budget is strong. I look forward to reading in the newspaper when the

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operating budget is reformed to be as strong and responsible as the capital budget is. That was a little bit of editorializing.

GOVERNOR O'MALLEY: As do I. Let's, I also want to express my condolences to Senator Baker's family. I had occasion to meet with him in his home. We had a great conversation there in his family room back there overlooking the little creek that ran behind it. A very decent man.

We are joined by Senator Mac Middleton from Southern Maryland. And I understand, Senator, that there is an item that affects the Charles County Volunteer Fire Department? So why don't we take that one first in deference to the Senator, who has an important responsibility to play in getting our operating budget back on track? I want him to spend the balance of his morning --

(Laughter)

MS. WARD: Good morning, Governor.

GOVERNOR O'MALLEY: -- with the Senate President and his colleagues. So I don't want any more time wasted here, Senator. Your leadership is needed. Good morning.

MS. WARD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Lisa Ward demonstrating DNR.

GOVERNOR O'MALLEY: Let's call the DNR items, in fact why don't we, one and all?

MS. WARD: We just have one item today, which is an amendment --

GOVERNOR O'MALLEY: Oh, perfect.

MS. WARD: One and all. One and only, teaches us not to run just one anymore. Just one, it's an amendment to a conservation easement.

GOVERNOR O'MALLEY: Senator?

MS. WARD: If I can call --

GOVERNOR O'MALLEY: Senators?

MR. MCCARTHY: Good morning, members of the Board. Tom McCarthy with DNR. I'm happy to have

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Senator Middleton here to speak on this conservation easement amendment. And I'll be happy to answer any questions that you may have.

SENATOR MIDDLETON: Mr. Governor and Treasurer Kopp and Comptroller Franchot, I was actually getting withdrawal symptoms after the 90-day session and I saw this little item on the Board of Public Works so I decided I would come back and, you know, get a fix.

(Laughter)

SENATOR MIDDLETON: So it's a pleasure being here this morning. I'm here in full support of the transfer of the property. If you've ever been to the western part of Charles County, and I know Governor you have been there, it's the most rural part of Charles County with thousands and thousands of acres of forested land. And it's good to know that a lot of that is under perpetual easements. And you know there's always a risk, especially now with this drought season, it's a fear and I'll let our

volunteers and firemen speak for themselves, but there's a fear that anything could happen that would spark a fire. And when you have thousands of acres you know that your first response is your fire departments. And this transfer from out under an easement of approximately two acres would allow the Marbury Volunteer Fire Department to do an expansion, would allow for a helipad. These thousands of acres that we have, when you look at the numbers of volunteer fire departments that we have around the county, we have several. But that area, the western area, we only have two that really are in active service.

So this transfer is really important. I think Tom McCarthy has laid out the case very, very well and I'm here again on behalf of our delegation in Charles County in full support of this project. And I'll be happy to answer any questions that you may have.

GOVERNOR O'MALLEY: Okay. I think we're okay. Are you okay? The Comptroller moves approval -  
-

COMPTROLLER FRANCHOT: No, no, hang on.

GOVERNOR O'MALLEY: Sorry.

COMPTROLLER FRANCHOT: I love Senator Middleton. But for me the problem here is not the issue before us. I'm going to vote for it, and I have no, I have confidence that everybody is looking at it. My question is, what's the precedent? I mean, we've got a fire department in Charles County going to a parcel of land on the Eastern Shore. No? Where is it? In Charles County.

TREASURER KOPP: It's in Charles County.

COMPTROLLER FRANCHOT: But it, I guess help me understand how this deal came about and what the precedent is for other perhaps less appealing analogous development projects to suddenly start appearing before us? What is the, who, did we purchase this property? Or was it donated?

MR. MCCARTHY: In fact, Mr. Comptroller, the way that this project developed, the Marbury Fire Department approached the owners of the property, the Heartwood Forestland Fund, who currently own the property which is under the Glatfelter easement. The Glatfelter easement of course is a very large easement which was purchased in the early 2000s. They were looking to expand their operation and Heartwood informed them that they were subject to a conservation easement and that they were not certain that the Fire Department would be able to get this parcel due to the restrictions of the easement.

Both Heartwood and the Marbury Fire Department approached us in summer of 2010, I believe, and laid out the case for their expansion. And over the next several months we at the Department of Natural Resources consulted with our Attorney General's Office, we consulted with our Forest Service. We looked at the terms of the conservation easement. We looked at the fact that this was going

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to be a Fire Department with expanded capabilities for fighting fires in Maryland, in Charles County. The State has a significant investment in the land around the Fire Department that is encumbered by this conservation easement and is being used for sustainable forestry.

As to the precedent, we, this is not the first amendment of a conservation easement that we've done. Generally speaking we do one or two requests for amendments a year. Sometimes we agree to the amendment, sometimes we don't. Generally speaking many of the amendments, people come to us asking for more development rights. Their parents or grandparents have put their property under easement, they want to build another house. Those are amendments that we generally do not allow.

In some cases we allow amendments to clarify terminology for allowed uses. For example, the Board considered an amendment in November of last year to allow for solar panels on a piece of property. We had

determined internally that the solar panels were allowed for all of the uses on the property except ironically for the one use that the landowner had proposed, which is a very unique use, a research parcel for Washington College. And we determined that that was in the spirit of the conservation easement and that we'd allow it.

So we, there is, this is not a precedent setting amendment by any means. We have a very rigorous process that we look at when we consider these amendments. Among the things that we consider is whether it serves a valid public purpose? Whether there is an alternative site that is feasible? If it is supported by the local government? Does it maximize the use of concealment methods? Is it acceptable to all the grantees on the easement? And you know, some other factors including whether there is going to be mitigation on the parcel? In this case of course Charles, the Marbury Fire Department is going to be restricted by the Charles County

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Development Code. Anything that they do on the parcel is going to have to be mitigated by the terms of that Code. And we went through these criteria and we determined that they fit all of the criteria.

In addition to that they, the amendment itself is not diminishing the enforceability of the conservation easement on the remainder of the property. This two-acre parcel, less, 1.99-acre parcel, is still under the conservation easement. It's still encumbered. We are able to enforce all of the other restrictions in the easement. When we were negotiating with the Fire Department we worked very hard to make sure that the only uses that are being allowed are the uses which the Fire Department specifically needs to carry out their mission. Any other uses, such as signs, such as dumping, you know, provisions in the easement that prohibit dumping, all of those terms are still in the easement and are still enforceable.

In addition this, this proposed use is the only use that this parcel will be able to, that the Fire Department will be able to use. If, and I can't stress this enough, that the easement is still perpetual. And if in 150 years, 200 years the Marbury Fire Department decides that they want to relocate, that they want to get a bigger site and they move off of this site, the only thing that this piece of property can ever be used other than a Fire Department is a forest. It has, it will either, they can either choose to reforest the site when they leave or they can allow it to naturally reforest itself.

COMPTROLLER FRANCHOT: Okay. Well I have a lot of confidence in Senator Middleton, and it sounds like you have put this to a review. But it does raise some unintended consequences, I could imagine, down the road if this became a less scrutinized path. But are you saying that, what kind of structures are going to be on this piece of property --

MR. MCCARTHY: There are going to be structures that directly support the Fire Department's mission. Chuck Burroughs, who is the President of the Marbury Fire Department, is here and he can speak to exactly what the structures are going to do on the project.

MR. BURROUGHS: Good morning. Currently we have about a 14,000 square foot building, and we intend to add about 7,000 square feet to it. Mainly it's going to be apparatus space. We have, when we first moved into the station 20 years ago we only had a couple of, two engines, a tanker, a brush truck, and an ambulance. And since then we have acquired another rescue boat, we have a career EMS unit in the station 24 hours a day. So we need extra space for that. Our intent is to add onto the existing building. We're not looking to build another structure, or other structures, if you will.

COMPTROLLER FRANCHOT: But you are going to do a helipad?

MR. BURROUGHS: When we say helipad, an area to put a helicopter down. Yes. We don't really have, in that immediate area is not an area really large enough to put a, to do a Medevac. So we are, when we do the development as far as parking and all we plan to put an area out there that would be able to accommodate a helicopter. Yes, sir.

COMPTROLLER FRANCHOT: And other storage tanks and things like that? Are those planned?

MR. BURROUGHS: We're looking to, we're looking to try to get a 50,000 gallon tank. Again, we're at a, it's a pretty high elevation for that part of the county and there are really no lakes close by in that vicinity of Pisgah. So to get water we have to truck it in from quite a ways away. So if we had a fire in one of the local churches or the adjacent property, the Glatfelter property, we would have to truck it in from elsewhere. So we would like to try to get a pretty large water storage tank on site there.

COMPTROLLER FRANCHOT: You understand my concern is not with you guys? It's the --

MR. BURROUGHS: Oh absolutely, sir.

COMPTROLLER FRANCHOT: -- if someone comes 20 years from now with a big development project that isn't as scrutinized as this is. So thank you for reassuring me and I'm happy to vote for it.

MR. BURROUGHS: Thank you.

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?

(No response.)

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

SENATOR MIDDLETON: Thank you very much for your favorable consideration. Have a great day.

GOVERNOR O'MALLEY: Thank you. Spend your morning --

SENATOR MIDDLETON: And we will work on the budget.

GOVERNOR O'MALLEY: -- spend your morning well.

SENATOR MIDDLETON: I will. Thank you very much.

GOVERNOR O'MALLEY: Thank you, Senator. Thank you for your leadership this session on --

SENATOR MIDDLETON: Thank you. It's a pleasure working with you.

GOVERNOR O'MALLEY: -- the septic, and on the flush, and on the stormwater, on the capital budget. So many positive things we had. On the health insurance exchange, on the health disparity zones. All these progress points we hope to celebrate one day soon once we get the tarp off the sculpture.

SENATOR MIDDLETON: I'm pleased to be a part of it.

GOVERNOR O'MALLEY: Thank you, Senator.

SENATOR MIDDLETON: Thank you.

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GOVERNOR O'MALLEY: Thank you. Okay --

SECRETARY MCDONALD: Secretary Schlanger has the Information Technology Agenda because we have a guest from the Public Safety Department.

GOVERNOR O'MALLEY: Okay. Secretary Schlanger, we're going to go to IT, DoIT.

MR. SCHLANGER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of Information Technology. This morning we have six items on our Agenda. I would call your attention to Item 3-IT. This morning we have Secretary Maynard from Public Safety, who is going to talk to us about a contract for cell phone managed access services, which will help eliminate illegal cell phone use in our prisons. Mr. Secretary?

MR. MAYNARD: Thank you. Governor O'Malley, Madam Treasurer, Mr. Comptroller, Gary Maynard, Secretary of Public Safety and Correctional Services. As you probably know, cell phone use in prison by inmates has become a significant national issue for

corrections in this country over the last five years. Inmates who smuggle cell phones into prisons have been able to continue communicating with persons on the streets, and in some cases committing crimes while in prison. We believe that cell phone use in prison allows organized gang activity, which leads to unsafe prisons.

In 2007 when Governor O'Malley made illegal possession of cell phones by inmates a priority for our department, we found 741 phones inside our prisons that year. Last year we found over 1,300, not because there were more getting in but because we've become much better at finding them. There is no one single solution to beating the problem of cell phones inside the prisons. Over the last five years for Maryland slowing the number of cell phones coming into the prisons has involved several components. And if I could I'd like to run through just a brief power point? Targeting cell phones, it's been a

national issue, five years. Every state now is

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realizing it. We were one of the first states that recognized the dangers of cell phones in prisons. There is no single solution. Intelligence is important. Interest capabilities of stopping phones coming in through electronic devices and walk through metal detectors. Innovative approaches, prosecutions, we've really upped the prosecutions. And as you can see the intelligence capabilities, we know more about gangs because of the cell phones that we get. We analyze data from cell phones now and find the connections between gangs.

We were one of the, we were the first states to train our own cell phone sniffing dogs that can find cell phones. They found over 400 through 2011. We invested through the Governor a grant, \$1.1 million in technology for walk through metal detectors, for x-ray machines for packages coming in, and for lost chairs, which are the body orifice scanning devices where inmates sit in a sort of a seat and this will run radio signals through and detect anything they

might have metal in their body. Also we've had really good prosecutions, about a 64 percent conviction rate on inmates that are found with cell phones.

As you can see starting in 2007, 741. We kept getting more intensive on our searches. We got up to about 1,400 or 1,500, and 1,600 in 2009. Then we started looking more closely at cell phones coming into the system. Not just finding them inside, but starting to, we got the technology to keep them out. As you can see the numbers start going down. The important thing for me is the item on the bottom there, phones found outside that we detect before they get in. That number has increased almost 25 percent over the past year.

It has an impact on the way a prison is run, not only the safety of people on the streets but also the safety of our staff and other inmates. As you can see from 2007 into 2011, a 60 percent drop in inmate assaults on staff, and almost a 40 percent drop in

inmate on inmate assaults which is one of our key performance indicators.

Even with all these efforts we still have those signals that get in. We've tried the jamming technology that is illegal under federal law, so the next best is a managed access system. We held a demonstration in 2009, had several vendors come in. Tecore was one of the vendors that came in. You can see their equipment demonstrated there, a couple or three years ago.

Tecore, the recommended vendor here, is a Maryland based company in Columbia, Maryland. It allows for very simply it, as opposed to jamming, which stops all signals, it allows signals to come in. It captures those signals. It analyzes the signals in a millisecond. If it's an authorized number it lets it go through without the receiver knowing it was analyzed. If it's not an authorized number it blocks it without the person knowing that it was blocked. They just feel like, seems like a dropped call. And

the person who was called never knows that that call was coming in.

Their system, the Tecore system has been successfully deployed in the Mississippi Department of Corrections over the last couple of years. That's the first state, we would be the first state to use that technology. The managed access does not violate federal law, it's consistent with federal law.

And I'm here today to recommend for the Board's approval a contract with Tecore Networks of Columbia, Maryland in the amount of \$1.99 million to provide for a 90-day set up of their equipment, a 60-day pilot, and then a three-year contract of a system that has the capability to effectively eliminate illegal cell phone use within our prisons. And I am subject to your questions.

GOVERNOR O'MALLEY: Any questions?

TREASURER KOPP: I just have one, this is very impressive, Gary, I just have to say.

MR. MAYNARD: Thank you.

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TREASURER KOPP: It's great progress even before this.

MR. MAYNARD: Yes.

TREASURER KOPP: Working up to this.

MR. MAYNARD: Thank you.

TREASURER KOPP: A 60-day pilot, and then if it's successful deployment of this system to this one site? Or --

MR. MAYNARD: Yes. Yes. Yes, ma'am.

TREASURER KOPP: And successful meaning you show technically the ability to work?

MR. MAYNARD: Yes. Technically it would show that there were not signals getting in that should not get in, that there would be no signals going out that should not get out. And they can, that can be proved.

And we picked MTC, the old penitentiary, the Metropolitan Transition Center now, because it is one of the more difficult prisons to operate in. It's right in the middle of Baltimore on the streets and --

TREASURER KOPP: Is this the one that was one the list of historic buildings?

MR. MAYNARD: It probably is. 1870's --

TREASURER KOPP: Yeah.

MR. MAYNARD: -- even before that.

TREASURER KOPP: Even before, I think maybe part of it going --

MR. MAYNARD: 1812.

TREASURER KOPP: -- yeah, exactly.

MR. MAYNARD: -- yes.

TREASURER KOPP: Just in time for the bicentennial.

(Laughter)

MR. MAYNARD: Yes, sir.

COMPTROLLER FRANCHOT: Is someone from Tecore here?

MR. MAYNARD: I'm not sure --

COMPTROLLER FRANCHOT: If they aren't tell them I'm very appreciative --

MR. MAYNARD: Yes.

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COMPTROLLER FRANCHOT: -- presence in Maryland and I'm delighted to see them --

MR. MAYNARD: Absolutely.

COMPTROLLER FRANCHOT: -- winning the contract. And just for, I'm sorry I was outside for a minute, but the, their ability to separate authorized from unauthorized cell phone use?

MR. MAYNARD: Yes, sir.

COMPTROLLER FRANCHOT: I take it the cell phones will still stay in the prison --

MR. MAYNARD: Well --

COMPTROLLER FRANCHOT: -- because, you know, people are going to keep them under their pillow or whatever. But through this --

MR. MAYNARD: There will usually be --

COMPTROLLER FRANCHOT: -- innovation you separate the --

MR. MAYNARD: Yes. Yes, sir. I was --

COMPTROLLER FRANCHOT: How do they do that?

MR. MAYNARD: Well very briefly, the technology allows for them to capture signals, radio signals that come in. We give them a list of authorized numbers, and that could be people who live, it could be fire department, 911, anybody who is authorized numbers. As those signals come in they are captured by the technology. The technology in a millisecond analyzes that signal, recognizes that number that's authorized, let's it go through without the receiver or the sender knowing that it was analyzed. If it's not an authorized number then it stops it, it blocks that number, it doesn't get in. The sender doesn't know. They think it's a dropped call, that's all they see. And the person that the call is going to never knows that it was stopped. And the same thing applies to signals going out. So if there were cell phones in prison they would become without value very quickly.

COMPTROLLER FRANCHOT: Well I really salute the Governor for bringing this thing. And this sounds like national product.

MR. MAYNARD: It will be.

COMPTROLLER FRANCHOT: Because I know everybody is upset --

MR. MAYNARD: Right.

COMPTROLLER FRANCHOT: -- with the other alternative which is I guess jamming --

MR. MAYNARD: Right.

COMPTROLLER FRANCHOT: -- the whole network.

MR. MAYNARD: Absolutely, which is illegal.

TREASURER KOPP: Does this allow you access actually to the messages?

MR. MAYNARD: Yes. The messages could be analyzed, yes.

TREASURER KOPP: So you can actually use that --

MR. MAYNARD: Yes.

TREASURER KOPP: -- for one hopes --

MR. MAYNARD: For intelligence. Right.

TREASURER KOPP: -- preventing violent crime. But whatever.

MR. MAYNARD: Right.

TREASURER KOPP: And that's you? Or is that the company that has that access?

MR. MAYNARD: That would be us. It would be made available to us. We currently have Cellebrite equipment, that we can take a cell phone, take the sim card out, plug it into the equipment. It will analyze all the data to include photographs and text messages. So we currently do that. We have two Cellebrite machines. We have staff that work on that continually, getting intelligence. So this would just be a supplement to that in terms of intelligence.

COMPTROLLER FRANCHOT: And this is in place in other states?

MR. MAYNARD: One state, Mississippi. We'd be the second state that has this technology.

COMPTROLLER FRANCHOT: And Mississippi it's at Parchman, which is a 10,000-acre farm so it's a little different situation. This would be right in the middle of Baltimore and the old penitentiary. And if it can be done here effectively then with the Parchman demonstration and here could be done rural or urban.

GOVERNOR O'MALLEY: It's always good to be the best at doing something second.

GOVERNOR O'MALLEY: Okay. Gary, thanks very much. And I know this has been a long, hard technical slog involving interactions, often frustrating, with the federal government. I also want to thank Senator Barbara Mikulski for her leadership, and the Byrne JAG grants that went into allowing this innovation to move forward even with a stymied policy on blocking the signals. So if we're successful in doing this here, and making the connections, and saving lives, hopefully other states will follow suit and we'll have an effect even beyond our borders.

MR. MAYNARD: Absolutely.

GOVERNOR O'MALLEY: Great. Thank you.

MR. MAYNARD: Thank you.

GOVERNOR O'MALLEY: Any other questions on the Department of Information Technology Agenda items.

TREASURER KOPP: Is there anyone here from MPT?

GOVERNOR O'MALLEY: -- My Public Television. Or Nancy's Public Television, come on up.

TREASURER KOPP: No. I just wanted to say that it looks like in fact you are going through all the procurements and finding the problems and bringing them to us, and I appreciate it.

MS. BOUCHER: Thank you.

GOVERNOR O'MALLEY: Okay. 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.)

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GOVERNOR O'MALLEY: And we now move to --

MR. SCHLANGER: Thank you.

GOVERNOR O'MALLEY: -- the -- thank you, Secretary Schlanger. Thank you for your good work, Elliot, on this as well. Innovation is hard, but important. Collaboration is the new innovation. Right, Secretary Foster?

MS. FOSTER: Right.

(Laughter)

GOVERNOR O'MALLEY: And consensus is the heart of any collaboration. A penny saved is a penny earned. Early to bed and early to -- no.

(Laughter)

GOVERNOR O'MALLEY: All right. Let's go to Secretary's Agenda. What do we have here?

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 20 items on the Secretary's Agenda this morning, one report of emergency procurement. Item 7 is the annual setting of the property tax rate, as the Treasurer already

referred to. And also Item 6 is an African American Preservation Heritage Grant for which we have the grantee, the proposed grantee is here as well.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: On just Item 7.

SECRETARY MCDONALD: Item 7?

COMPTROLLER FRANCHOT: And this is the item that the Treasurer commented on earlier and I'm happy to join her and the Governor in supporting this proposal to keep Maryland's current property tax rate of 11.2 cents per hundred dollars of assessed real property value.

But I just wanted to go on record as noting that we've talked about this a lot at this table, about the struggles that Maryland taxpayers are having, and the economic recovery which is tentative. And as a colleague of the Treasurer's on the Commission on State Debt I just want to indicate to everyone that we have some significant problems looming on the horizon. According to the tables that

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have been presented to Commission members by staff the Governor and General assembly will have to raise \$246 million in general fund appropriations in fiscal year 2014 just to meet our debt service obligations while keeping the property tax rate at current levels.

That's \$246 million in '14. They would have to generate another \$311 million in general fund appropriations the following year, fiscal year 2015. And then \$395 million and \$440 million in the two years after that. That's \$1.4 billion in new additional taxpayer dollars that will be needed over the next four years just to service the State's debt. And those are taxpayer dollars that obviously we don't have a lot to spare right now.

The alternative course of action would be for this Board to vote next year to raise the State's property tax rate by about 3.8 cents, a 34 percent increase. If we stay on this trajectory we would be obligated to raise the property tax rate up to 6.7 cents above the base in fiscal year 2017, which would

be a 60 percent tax increase. Which to put it mildly is a nonstarter from my perspective.

It's not my intent to initiate a debate over an issue that's still a year off into the future, and I'm aware that these figures are perspective and subject to change. But given that this Board is so often forced into a reactive posture I do believe it's important that we be proactive in acknowledging that this issue is out there and will have to be addressed in a meaningful way over the next year.

And as one who has been in Annapolis for over 25 years I do believe there's a natural tendency to treat capital money as somewhat less tangible than operating budget dollars, and thereby apply less scrutiny to those dollars. I would hope that this would serve as another sobering reminder that there's no such thing as free money. That there are serious fiscal and economic ramifications that come with excessive capital debt and we need to remain very, very careful in the coming years to distinguish

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between responsible investment and unnecessary and frivolous spending. There's a difference. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. Madam Treasurer?

TREASURER KOPP: I had not intended to make a speech, and I have no talking points on this. But I would say only that the Capital Debt Affordability Committee, on which the Comptroller and the Secretary also sit, reviews this every year. We have criteria that have been in use for a number of years that have the, I believe, support and understanding not only of the rating agencies in the investment community but of the Legislature and the supporters that A, the State ought to be investing in our future, in our schools. More than 60 percent of the capital debt goes to education, the schools, the universities, the community colleges, and the hospitals and prisons and other community buildings. You have to continue investing.

When you borrow money, as you do for a mortgage, over the long term you do pay for it over the long term. Maryland, because it's been recognized as having a responsible and prudent system has always obtained among the lowest of all interest rates so while you do have to pay for borrowing money, there's no question about it, Maryland has paid less than most other borrowers. When it does make these investments the Capital Debt Affordability Committee publishes every year its report and lays out its projections for the next 15 years. There are no numbers that are surprises that haven't been made public, that aren't on the website, and aren't all over.

Traditionally in Maryland in the past the property tax and the general fund together, and premiums on bonds and other, some other slight revenue, have gone to supporting the capital debt and budget. For the last several years there has not been any need to call on the general fund as there was in the beginning and there was for a number of years in

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the early part of 2002 and on. But it may be that again we are going to have to share between the property tax and the general fund. The system is built on that.

That remains, however, for next year. The numbers that are in the projections I will remind you are extremely prudent. That is conservative numbers in terms of assumptions such as there will be no premiums when there have been premiums equivalent of about \$75 million, slightly more than a penny on the property tax brings in.

The property tax was raised by Governor Ehrlich to 13 cents for a number of years and then was reduced to 11 cents. The fact that it may have go back and go to the level of the Ehrlich rate and general fund in order to support these investments is something to scrutinize. And you are absolutely right. We are going to have to continue to look seriously at it. But Maryland will I believe continue to make prudent investments in our future. We will

continue to pay our debt. We will have a property tax that is reserved for nothing other than supporting this capital debt. And if we continue on this prudent path, and the operating budget remains under control, balanced and prudent, then we will retain the AAA bond rating and be able to built our schools, our roads, our capital construction at the lowest price possible. And I think that ought to be a very widely discussed and accepted public goal. That's my view.

GOVERNOR O'MALLEY: Thank you, Madam Treasurer. Maryland should cover now about 80 percent of the jobs we lost during the Bush recession. The national average is about 39 percent. Last month home values went up instead of down for the first time in three years. We're coming as a nation, we've now put together 25 months in a row of consecutive positive job creation. And while it never happens, you never regain what you've lost as quickly as you would like it's the first time we've put together that many months of positive job creation in a row as a nation

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since 2005. Is there anything else on the Secretary's Agenda we need to discuss? Okay.

TREASURER KOPP: Well I was curious about Item 16.

GOVERNOR O'MALLEY: Sixteen?

SECRETARY MCDONALD: Okay, Item 16, we have Anne Raines from the African American Heritage Preservation Program and she has the grantee, the Mt. Gilboa AME Church renovation. And we have the Reverend Anna Mosby, perhaps? Yes, we do have the Reverend. Thank you.

MS. RAINES: Good morning, and thank you. I won't say anything except to introduce Reverend Anna Mosby from Mt. Gilboa AME Church.

REVEREND MOSBY: Good morning.

MS. RAINES: Good morning, Reverend.

REVEREND MOSBY: To Governor O'Malley, to Comptroller Franchot, and to Treasurer Kopp. I do first of all bring you greetings from our Bishop, the Second Episcopal District Bishop Adam Jefferson

Richardson. Most importantly I'm speaking this morning on behalf of the officers and members of Mt. Gilboa AME Church.

For those of you that may not know, Mt. Gilboa is actually the oldest active African American church in Baltimore County. The structure itself is 182 years old. It was built in 1830 by freed African American residents of Maryland. It was the replacement for an earlier log cabin chapel which was actually where Benjamin Banneker worshiped. And all of us know that Benjamin Banneker is the first African American man of science and a son of Maryland. The building is on the National Historic Register and in 1977 the State of Maryland placed an obelisk on the property in honor of Benjamin Banneker.

Beyond that, the building in the late 1800's and early 1900's served as a one-room schoolhouse. It's two levels and so the lower, the ground level was a schoolhouse and then the upper level of course was the sanctuary. And actually we have a member whose

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grandfather attended school there so we're very proud of that.

Most recently the Church serves the community as a house of worship. And we continue to uncover historic information that we think is important to the residents of Maryland. The project that we're here about this morning, our goal is for window restoration and preservation and it really is a first step in reviving and keeping the building as it should be and historically appropriate. We have consulted with and will utilize of course professionals in the restoration process.

Above all of that what I would say to this body is that this is an opportunity to ensure that our historic buildings and our history are alive and thriving for future generations. Far too often our history is lost because it's either oral history that we've not written down or we simply have allowed buildings to simply crumble and then it's too late to restore them. And I think when we lose that history

we lose a sense of pride in the accomplishment of our forefathers and our foremothers. And through this restoration process State residents, and visitors to the State, will see Mt. Gilboa not as an old building on the side of the road but an example of the hard work, commitment, and tenacity of our ancestors. And I believe for that we can all be proud. I thank you for your consideration.

GOVERNOR O'MALLEY: It's a great project.

TREASURER KOPP: Thank you. Thank you.

GOVERNOR O'MALLEY: Very good.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: Okay. Anything else on the Secretary's Agenda? 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: It's unanimous. Thank you very, very much for bringing this together.

REVEREND MOSBY: Thank you, Governor. I appreciate it.

GOVERNOR O'MALLEY: Thank you. All right. We move on to, we already did DNR, correct? Every single item on DNR?

SECRETARY MCDONALD: Every single of the one item, right.

GOVERNOR O'MALLEY: Department of Budget and Management.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are eight items on the Department of Budget and Management's Agenda for today. I would like to withdraw Item 3, and I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Any questions, Department of Budget and Management? 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 to the University System of Maryland.

Joseph?

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

GOVERNOR O'MALLEY: Mr. Evans, which one is  
your favorite?

MR. EVANS: All of them.

COMPTROLLER FRANCHOT: I have a, it's a, I  
do have a question for you.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Sorry to give you a  
constituent job when you're up here. But one of my  
neighbors is very involved with the, some kind of  
human computer interactive network over at the

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University of Maryland. Could you have someone take a look at that and get back to me as to what the program is? I was walking my dog this morning and she tapped my shoulder and said, "This is very important." So if you could possibly locate it?

GOVERNOR O'MALLEY: What does she want to know?

COMPTROLLER FRANCHOT: She's involved in it somehow, but she was very, she basically wanted to bring it to my attention. And I've never heard of the Human Computer Interactive College Park Project but --

GOVERNOR O'MALLEY: Looks like --

(Laughter)

MR. EVANS: I'm looking for College Park.

COMPTROLLER FRANCHOT: I'm sorry, she wrote it out for me but I don't have it with me. So maybe I'll give you a call.

MR. EVANS: Could I contact your office and get more information?

COMPTROLLER FRANCHOT: Thank you. Yes --

(Laughter)

COMPTROLLER FRANCHOT: -- I apologize. I'm speechless. Move approval.

GOVERNOR O'MALLEY: 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 on now to Department of Transportation.

MS. SWAIM-STALEY: Good morning. For the record, Beverley Swaim-Staley representing MDOT. We have 15 items this morning. Item 1 has been withdrawn. And we're happy to answer your questions.

GOVERNOR O'MALLEY: Any questions, Transportation?

SECRETARY MCDONALD: Well we have speakers -

-

TREASURER KOPP: There seem to be some people interested --

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GOVERNOR O'MALLEY: Okay, this is the cab thing? Anyone want to be heard on the cab contract?

MS. SWAIM-STALEY: It's Item 15.

GOVERNOR O'MALLEY: Item 15.

TREASURER KOPP: Okay.

GOVERNOR O'MALLEY: Yes?

MR. ROBINSON: Good morning, Governor O'Malley, Treasurer Kopp, Comptroller. My name is Bishop Robinson for the record. I'm here to hopefully prevent us from ever having to come back here again until five years from now, that is if we can get the support of the Board on this contract award. With me today is Mr. Gil Abramson. He is our NLRB lawyer. We have Mr. Saied Esfarjani. He is the proprietor and owner of BWI Taxi. We also have, who is not actually with us but who also supports us, is Mr. Neal Janey who is a representative for the cab drivers at BWI Taxi that support getting the award from this Board for the concession on this particular contract.

I want to be brief. I don't want to rehash a whole lot of issues and things that have already been hashed out through documentation and letters and responses and all that kind of thing. But I just, before, you know, we go to the next speaker I just wanted to comment on two things. The two things that I wanted to comment on are the idea of expectations.

In this particular case I'm talking about driver expectations. And the fact that BWI Taxi, and any other concessionaire that gets this contract, is really heavily regulated in terms of the fact that MAA has terms and conditions in the contract that we as the concessionaire are bound to abide by. We can't change them. We can't negotiate them. They have to be followed per the specifications in the contract. We're also regulated by Anne Arundel County Cab Company. We're regulated by various other statutes in the Code with regard to operating this concession at BWI Taxi. And I might point out that we do abide by



all of the terms and conditions of the contract and the regulations that we have to abide by.

And sometimes when you manage an organization, and this is a very diverse organization in terms of different cultures and different religions and different races and sex and all those kinds of things which, you know, we again are bound by the contract to abide by and we do comply with our obligations in that area. But one of the things that's very difficult to regulate are people's expectations.

Sometimes you just have to use the word no. And some of the issues that have arisen as a result of this contract or bid are about people's expectations. Now one thing I can say about BWI Taxi Management is that over the last 15 years they have worked very closely with the drivers to meet their expectations where possible. But when the expectations counter, I guess, kind of are in opposite to the contract that we

have with MAA our hands are tied. We can go no further.

A couple of instances would be the stand fee. The stand fee is what the MAA contract tells us it is. We don't get to negotiate that. Shift preferences. Sometimes drivers want to work day shift, or some other preference of shift. Now we're obligated to provide 24-hour, seven day a week service, 365 days a year to the traveling public out of BWI. So we can't always accommodate a driver's request for a preferential shift.

One last example I would like to point out is the idea of some drivers want to be treated as employees. There have been three State court actions regarding whether or not BWI taxicab drivers are employees. In all three State level cases it has been declared and decreed by the court that they are independent contractors.

When you can't meet a person's expectations, a driver's expectations, there are two remedies that I

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know of right away that can be done. Since these are at will contracts each party, BWI or the driver, can terminate the contract with cause or without cause. But what they can't do, and we can't do, is we can't change our contract with MAA and we can't change our contract with the drivers if it means that it's inconsistent with the contract that we have with MAA.

There were a couple of questions that were - - that kind of concludes my comments. But there were a couple of questions that were brought to my attention. But before I do that there is one other group I would like to point out. In addition to the lawyers that I spoke about, and Mr. Esfarjani, there are also a number of cab drivers here. And if you are in support of getting this award would you please raise your hand? GOVERNOR O'MALLEY: It looks unanimous.

TREASURER KOPP: They are in support --

GOVERNOR O'MALLEY: You know what they told me, Mr. Robinson, when I was practicing and trying

cases? My father used to say when the judge is going in your direction you might just want to wrap up.

(Laughter)

MR. ROBINSON: I think that was excellent advice, Governor. And I am going to wrap up and transition to the next speaker, who is Mr. Gil Abramson.

GOVERNOR O'MALLEY: Okay. And Paul, I probably should have asked you to give us some context here before we go to our next speaker. Can you, from the, this is an MAA contract, right?

MS. SWAIM-STALEY: Yeah.

GOVERNOR O'MALLEY: Okay.

MR. WIEDEFELD: Good morning.

GOVERNOR O'MALLEY: You want to just give us kind of the nutshell?

MR. WIEDEFELD: Sure. Good morning. Paul Wiedefeld, Executive Director of BWI Airport. The nutshell is basically we need high quality customer service, safe cab service 24/7/365. So, and we also

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look for revenue. This is a revenue contract for us. And so that's basically what we've been, that's what we've sought. We've got four very strong bids of some very strong companies. Yellow, for instance, and a few others. And the current bidder, the current vendor put in a very strong bid and we are recommending that bid.

GOVERNOR O'MALLEY: And you think this will improve service?

MR. WIEDEFELD: It will. We've actually instituted some things, for instance we've worked with the Maryland Tourism Education Foundation to create a driver education program at a community college, for both tourism, safety, and also defensive driving for instance. We maintain a fleet of no more than six model years old, for instance. We monitor very closely the condition of the cabs all the time as well just to make sure it projects very well the image of the Airport. We also monitor and make sure that the service is there like that for people, so we don't

have any people waiting. And again it just fits into our whole easy come, easy go model at BWI.

GOVERNOR O'MALLEY: Okay. And this was an extension, right? Wasn't there an extension of the incumbent, and then we rebid this?

MR. WIEDEFELD: Yes.

GOVERNOR O'MALLEY: And all sorts of other -  
- okay.

MR. WIEDEFELD: Right. The Board last year, there were two key issues we had last year. One was focused around the ACDBE portion and we had no issues this time with that issue. And then the second issue dealt with basically the number of jobs and making sure that people didn't lose their jobs. So in the bid that we put out there, basically, we kept the exact same number of drivers that we have today in this current bid. And the other thing that we did is we held the current ratio between leased vehicles and owner operated vehicles the same. That's a huge impact on the individual drivers, if they were an

owner operator and then they had to lease a vehicle. So we kept that exactly the same to try to minimize the impact on the individual drivers.

GOVERNOR O'MALLEY: Okay. All right. Mr. Comptroller?

COMPTROLLER FRANCHOT: I just want to compliment the Secretary and also you, Governor. I know this is the third time this thing has come back and it's had some adjustments. And I think it's for, my, Mr. Robinson mentioned expectations. My expectation is what the Governor mentioned, how do you improve customer service and make sure that the drivers are friendly, and knowledgeable, and competent? And understand that they are kind of ambassadors for Maryland? And if they are, if they are not acting like that it's a problem for us. Because it's a hugely successful international Airport. And my concern, frankly, is that there's so much revenue coming into the Airport that we're going to have some cutbacks as far as quality service. And

I was glad to hear you say no, that you are going to see improvement. But the main thing is just, you know, we're serving the public out there. And I appreciate all of the workforce adjustments that have been made. But right now the emphasis I hope will be on making members of the public feel like they are getting a really good professional service without anything else. So thank you. I, that's my expectation. I know you guys have other things internally. But do you do surveys of the flying public as far as their view and experience? Or do you do any kind of secret shopper investigations where you actually get in the, send someone out to get in the cab and see what the customer service level is?

MR. WIEDEFELD: We actually do a few things. You know, at the Airport we monitor literally the roadway 24/7. We have people there that monitor everything we provide out there, whether it's Super Shuttle, limo, bus, whatever. So we're constantly looking at it from that perspective, just interacting

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with the customers. The second is basically we do surveys roughly every quarter, if not more, where we actually go out and talk to people do actual physical surveys. And it's not only on taxi, to be frank. We do across the board, you know, on everything that we do out there. And we monitor that. And we benchmark ourselves against other airports to see where we need to improve.

COMPTROLLER FRANCHOT: Well I would love to see some of your --

MR. WIEDEFELD: I'd be glad to get you some.

COMPTROLLER FRANCHOT: -- employees go out and jump in a cab. Because once you get in a cab and you end up wherever you end up you're not subject to, I take it, surveys. And just make sure that everyone is aware in their training that a smile goes a long way.

MR. WIEDEFELD: I agree.

COMPTROLLER FRANCHOT: Thank you, Governor.

GOVERNOR O'MALLEY: Sure.

TREASURER KOPP: I, could I, well I think the Comptroller raises a really interesting point which is how do you survey, how do you survey the passengers who are going into the city? Or into --

MR. WIEDEFELD: We're, they are, because they come back to the Airport at some point.

TREASURER KOPP: So you only do do the ones coming to the Airport?

MR. WIEDEFELD: Right. So basically we are canvassing the entire Airport. So we're catching them both ways. So what was your experience coming, what was your experience leaving? And you know, we have a whole series of questions.

TREASURER KOPP: But if it was somebody who was away and just coming home to Bethesda or Baltimore, unless they took the initiative, or they were staying at a hotel and you worked with the local, the rest of the local hospitality team, it wouldn't be as easy to find out.

MR. WIEDEFELD: No. But we tend to catch people, we ask them on this trip and other trips what has been your experience here? Because again, we're sort of trying to monitor. So we do, I think we get a good sampling. But I think I'll take your suggestion and start sending some people out there on mystery trips and things of that sort.

COMPTROLLER FRANCHOT: I'm sure it's great. If it isn't it's, you know, everybody is, if you give a little bit of clear direction, correct me if I'm wrong with the company, people sometimes make adjustments.

MR. WIEDEFELD: Now, I mean, and the other thing I, just so you do know, I do monitor every customer complaint we get at the Airport. And this is not one that is high. It does not, I do not get customer complaints.

TREASURER KOPP: I've only, I've had very good experience actually personally, too.

COMPTROLLER FRANCHOT: Great. Thank you, Governor.

GOVERNOR O'MALLEY: Okay. Yes, sir?

MR. ABRAMSON: Gil Abramson, Jackson Lewis, LLP. I am going to take the Governor's advice, except for a couple of sentences, and if there are any questions. Just to report on the status of the matter pending before the National Labor Relations Board, the question under the National Labor Relations Act of whether drivers are independent contractors or employees has been pending before the National Labor Relations Board in Washington since November 1, 2010. When the Board decides the issue it will decide the issue and everybody will move on from there. But the matter is within the jurisdiction of the National Labor Relations Board and the federal courts. If there's no questions I'm taking the Governor's advice. Thank you.

GOVERNOR O'MALLEY: Anybody else want to be heard on this? Okay, several people. Neal Janey, how are you?

MR. JANEY: I'm fine Governor, good morning.

GOVERNOR O'MALLEY: Good morning.

MR. JANEY: Governor O'Malley, Comptroller Franchot, Treasurer Kopp, my name for the record is Neal Janey. I represent the BWI-Marshall Airport Taxi Drivers Coalition. That's a coalition of over 200 of the independent taxicab drivers. Of course I will follow the Governor's admonition and I will be brief.

Those cab drivers have sent to you a document representing their statement in support of the contract award. My understanding is that it has been executed by over 200 of the independent cab drivers. And of course it because of the action of the Board last year in ordering the rebid of the contract that we are here today.

I just want to read the salient part of that statement, which I think should be stated on the

record. "Your action saved the businesses of over 200 independent taxi drivers who service the patrons of BWI-Marshall Airport. We are among the thousands of Maryland small business owners who everyday depend on the revenues from our small businesses to earn our livelihoods, feed and support our families, educate our children, and pay taxes." That would conclude my statement.

I have here Mr. Clinton Buise, one of the leaders of the coalition, who has asked to address the Board.

MR. BUISE: Good morning. My name is Clinton Shorty Buise. You can call me Shorty if you want to. I'm a BWI taxicab driver at the Airport for the last past 18 years. In the 18 years I've been here I've been under the leadership of Mr. Alan Robinson. And for 16 years I've been under the leadership of Mr. Alan Robinson and Mr. Saied Esfarjani. Two great men whose character and reputation is impeccable. They know how to treat

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another man like a man. So I'm here today in support of ATM, along with 250-plus drivers who signed the petition that we sent to you all. Did you get it? That you got. And we've got about another 25 or 30 more drivers who didn't sign because they didn't know what they were signing. So they didn't, I have a young lady here, right here, right now, our only female driver. She didn't sign the petition because she didn't get a full, good understanding. Which is understandable.

And I want to say today that this company, ATM Taxi Management, is qualified. They have the best knowledge. They have the best value to receive this contract. Mr. Robinson has over 30 years of sidewalk dispatching. That's not easy. We are number one in sidewalk dispatching. So I want you to take that into consideration and realize that you have the best company serving the Airport.

And all the things you said, Mr. Comptroller, about friendly, kind, respectful,

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knowledgeable, knowable, we are all of that. I don't have a GPS system because I know where I'm going at all times. And I want to thank each and every one of you here today for allowing me to speak before you. Thank you . May God continue to bless you.

GOVERNOR O'MALLEY: Thank you. Anyone else?

MR. ROBINSON: One last speaker, Governor. That's Mr. Saied Esfarjani. He's the proprietor for BWI Taxi.

SECRETARY MCDONALD: There's one last speaker in favor but you do have a speaker opposed who signed up.

GOVERNOR O'MALLEY: Right, I see him. We have established eye contact.

MR. ESFARJANI: Good morning. I'm glad I have these people supporting this contract. Good morning, Governor. Good morning, Comptroller, and Madam Treasurer. My name is Saied Esfarjani and I am owner of BWI Taxi Management.



First I want to say thanks to the Board to give me this opportunity to speak. Also I want to say thanks to MAA for the hard work they have done for the last two years toward this concession contract.

From the very beginning BWI Taxi Management had a great relationship with MAA and we are in good standing and we paid all of our obligation to MAA on time. In fact, we have delivered our monthly guarantee fee, hand delivered to MAA every month during this number of years. BWI Taxi Management not only has a good relationship with MAA, has with the drivers also. We have over 324 drivers from different countries having different cultures, experiences, and backgrounds. We have the best record of customer service and we have offered these drivers different programs.

The drivers who are driving for us can take advantage of payment plan for their back payment in case of they have a hardship. They can take advantage of free interest loan from the company. We have an

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open door policy for them. Also we are scheduling meetings with them to listen to their ideas, needs, and concerns. We are happy to know that the majority of the drivers have signed the satisfaction letter supporting this company.

On top of that this company continues to have a strong relation with the customers thanks to our drivers and their service. We have had the best record of customer service as well as customer satisfaction and the lowest customer complaint rate. Example, last year we had 348,000 we served. 348,000 customers, with a complaint rate of only .001 percent.

Today your yes vote would be in the interest of the riding public and our drivers. And we continue to have the best service for the riding public. Thank you for your time and your attention.

GOVERNOR O'MALLEY: Thank you, Mr. Esfarjani, sir.

MR. ESFARJANI: Thank you.

GOVERNOR O'MALLEY: Do you want to speak?

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SECRETARY MCDONALD: We have two names, we have Mr. John Singleton and Mr. Samson Yemenu who called to oppose the award.

MR. SINGLETON: Good morning. This is Mr. Yemenu. This is Ms. Green, an associate in my firm. My name is John Singleton. I've been before the Board here several times on this issue. It seems to be a regular type of thing so I'm glad to see you again and I wish you all the best.

I want to try and go through a couple of things which I think are inaccuracies about what has been represented thus far. And this is not just your issue, and I appreciate the difficulty of this. Because this is an issue that has faced many airports throughout the United States and continues to do so, both in the share ridership programs such as Super Shuttle and in the taxi driver contracts, which are all concession contracts and are all revenue contracts in which the State participates.

This contract that BWI Taxi Management has had they have had for over 15 years, as you know. And it has turned over on various occasions because of reasons that there was something wrong and we had to extend the contract, and we had to bring it back, and back and forth, and back and forth, and back and forth.

The essential elements of this are that it is funded in part by the Federal Aviation Administration, who puts a great deal of money into this contract. And as a result of their participation they require a certain thing. They require that 15 percent of this contract be awarded to ACDBE contractors. Not DBE, but ACDBE. And the difference being that ACDBE stands for an Airport Concession Disadvantaged Business Enterprise contract.

Within the State of Maryland there are at the present time only three certified ACDBE contractors. In fact, for the other contract, Super Shuttle, the ACDBE participation is by drivers who

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have been registered as ACDBE and were not even aware of it. But I'll stick to this contract for the moment. It is our position that this contractor is not qualified for a variety of reasons. One of which is that their guarantor in this thing, which is BWI Taxi, LLC forfeited their corporate papers several years ago. So they are no longer, if I read this paper correctly, from Maryland Department of Taxation and Assessments, that they forfeited their charter, they can no longer be a guarantor. And it should have been obvious to MAA if, on minimal inspection, that they cannot possibly be the guarantor of the \$1 million that's required. Further it says they own 75 percent of the assets of that corporation, which in fact I went before the NLRB in that proceeding, and they testified that they didn't.

Those are somewhat minor things. During the period of time which we have gone through these contracts the MAA has increased their share of the revenue to 17.5 percent, from 15 percent.

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When faced with all of these things, and you know I've been back and forth, back and forth, and trying to find what way can we do this? Because the problems were that you are trying to run an airport. These are your ambassadors. These are your people who are first line people who are greeting the residents of the State of Maryland and you want them to have a good experience. And yet I have all these people, 300 and some odd people, who are complaining either that they have tried to form a union because they were dissatisfied with the working conditions, or tried to be independent contractors.

So let's first face that question. Because you have had several people come up here and represent they are independent contractors, and in fact that is how that contract is bid. And you have two Assistant Attorney Generals here, Louisa Goldstein and Ms. Janice Salzman, who would take that position. Yet at this very same time I am desisting Department of Labor, License, and Regulation in oral arguments

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before the State Board of Appeals that these same exact drivers are employees within the meaning of Maryland State law and are entitled to unemployment benefits, are entitled to workers comp benefits, are entitled to the rest of the things that Maryland State workers are. So you have one part of the Attorney General's Office saying one thing, and you have another part saying another thing. And it seems impossible until that question is determined whether or not, not federally. I am leaving the NLRB alone because the NLRB in a decision rendered in this case, BWI Taxi Management, case no. 5RC16489, that they were in fact employees within the meaning of the law.

So all this sort of, well I've got a petition here, I've got a petition there. You can't do that under federal law. You can't come behind someone else's and say, "Oh, well, I have more people than you do and we'll upset and overturn this thing." This is on appeal. This is pending. And the implication for that is this. That if you award this

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contract to anybody, regardless of whether BWI Taxi Management, whether it be ABC Corporation, that, if that corporation becomes a successor to this they have a legal obligation to recognize that union as the bargaining representative and they are no longer independent contractors.

My point to MAA throughout this whole thing has been that they failed to investigate. The drivers set up their own corporation, went to FAA, they said, "How do we do this?" And FAA provided them a simple book called *Guidance in Bidding ACDBE Contracts*, which I have. And they said, "Set it up as a joint venture and this is how you do it, this is the way in which we calculate ACDBE credit." And they did it exactly as the FAA requires. And I will let you know during this contract period from 2009, if you look at the 2009 legislative audit, Department of Transportation was fined \$7 million for violations of the exact same things I'm just talking about. \$7 million. That's a lot of money. And exactly the same things. So I'm

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saying, "Oh, okay. Well we tried to set it up so that these people would actually have a say and each could be an independent contract and set up each was to be certified as a DBE."

At the present time you, and I brought this up to you, Mr. Comptroller, that at the present time you do not receive payroll taxes for any one of the 341 people who work there. Not a single person there is covered by workers compensation. If they get into an accident, what happens to the person in the cab? What happens to the cab driver? What happens to all of these people? There is no answer because we haven't followed the rules. And if you simply followed the rules you will not wind up in those situations which are courting disaster.

I'm asking that you reject this. That BWI is not a qualified bidder in this instance because they have not met the requirements, they do not have a guarantor. They do not have ACDBE requirements because they can't possibly because I have the list of

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ACDBE people in the State and they are not. And so they have asked for a waiver, is my understanding.

And saying we can't find ACDBE contractors and I believe that there are ACDBE contractors available.

And I will leave it at that. I know that I've gone on at great length and --

GOVERNOR O'MALLEY: Yeah. We're kind of retrying the whole thing, here. It's been about an hour. I mean we just, we're not, we try to strike the balance here of being courteous and respecting the dignity and right of every person to have their say. But we're not really equipped to serve as the National Labor Relations Board, or the relitigate matters involving whether someone is a certified DBE or those things. So I'm, I mean, if you are looking at us and we're looking back at you like we're not really equipped to do, we're just going a little far afield here. This wouldn't be at this point if we weren't, if we hadn't already cleared some of these hurdles.

Your avenue is more likely a court of competent jurisdiction after these proceedings.

MR. SINGLETON: And I ask to do this, is I'm asking you to balance the rights of these over 300 people --

GOVERNOR O'MALLEY: Yes, sir.

MR. SINGLETON: -- not as against any laws, or against anything else, but what do you need as a State?

GOVERNOR O'MALLEY: Mm-hmm.

MR. SINGLETON: And what these people need as people, as citizens of the State? And I'm --

TREASURER KOPP: Governor? Could I ask a question?

GOVERNOR O'MALLEY: Sure, absolutely.

TREASURER KOPP: You raise a very interesting question about the waiver. And I wonder if Mr. Wiedefeld or his attorney could address that specific question that you raise? You suggest you are doing this, and you don't know. Paul?

MR. WIEDEFELD: The BWI Taxi did not request a waiver. The goal for ACDBE was 15 percent on this contract. They came in with 24.88 percent. They are a certified firm through the MDOT certification process, you know, that's established for all contracts.

TREASURER KOPP: Okay. Thank you. I'm sorry. I thought your question deserved --

GOVERNOR O'MALLEY: Anything else? Do you want to wrap up by saying anything else? No?

MR. SINGLETON: I know, truly I do understand that this is not the Board to litigate any of these issues. And all I'm really trying to do is make you aware that there are a lot of issues and that this isn't, you know, last time we went through five years of extension after extension. And I'm asking you to say this time let's take a very close look at this before we wind up in the same situation. Because I remember there was a time that Judge Carroll Byrnes, on Baltimore City Circuit Court, after the second time

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this came before him with the DBE thing he said, "Don't you dare come back a third time." And I'm, you know, my desire is not to litigate this for the rest of my life. I actually have other things that I'd like to be doing. But I do think it's something that with certain attention paid to certain things that have been raised it can be resolved fairly, not easily but it's something that can be resolved. And I think I had brought up to you before the fact that, wait a second, something is wrong when you have two departments of the Attorney General's Office taking absolutely contrary positions that were not getting, you get 17.5 revenue to MAA but you get zero in payroll tax, in any other type of tax. And you can check for yourselves. And this is a contract that has revenues of well over \$18 million. So --

COMPTROLLER FRANCHOT: Well the flip side of shutting up when the judge is going with you, I guess, is to keep talking. But I appreciate, Mr. Singleton, your points. I'm not in agreement with you now

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because I think some adjustments have been made. But I certainly appreciate your advocacy.

MR. SINGLETON: Yeah. Thank you very much. I really appreciate your time.

GOVERNOR O'MALLEY: Thank you, Mr. Singleton. How many others? Yes, sir?

MR. YEMENU: Yes, sir. My name is Samson Yemenu. I am a, I was a BWI taxi driver last year but I'm not a driver any longer. I got fired from the driving a taxi by BWI Taxi Management.

One thing I want to ask if you will that MAA to respond on is the guarantor, BWI Taxi, not Airport Taxi Management, is forfeited or not. It is still a guarantor for a \$1 million performance bond. And it is still operating as Airport Taxi Management for all those leased taxis, the 43 leased taxis are under that name.

After I say that I want to go, I would like to go back to the June 1, 2011 transcript, on page 51.

It reads, Mr. Robinson, the attorney for BWI Taxi

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Management said, and I quote, "I just wanted you to have a visual idea of what I am getting ready to go into next, which is a quantitative analysis that we used based on Dulles business model. What that means, what does it mean to the State? It appears as though you get almost \$1 million more in revenue. But if you look at this chart," he was showing the chart, and quote, "that I have done for you you will find that where that revenue comes from is on the back of drivers. The drivers at the second chart, the drivers end, on the operator drivers. If you look at the second chart we, where it says lease fee increase of \$84 for 70 additional cabs, because it would take 70 additional leased cabs to get to the amount of leased cabs that Dulles is proposing. Then you are looking at another, that is \$1.2 million that these cab drivers have to pay in addition over the four-year term of the contract. If you look at this new thing, which BWI doesn't have which is called the communication fee, that is another \$1 million over and

above what lease cab drivers pay at the Airport right now. So in all a four-year period, probably, \$2.3 million is a result of increasing fees because of these new fees that have been imposed on the drivers."

As I said earlier you know drivers like anybody else in the State and the country are facing rising costs. They are facing high gas price. And now you want to slap onto them another fee, two other fees. You know, drivers at the Airport have families. They have mortgages. They have children in school. And if we keep adding fees after fees after fees then it is not the State going it. It is Dulles Airport Taxi doing it. Then you are making it very difficult for the people to survive, to economically thrive and to keep their business. Given these additional fees I would predict that most of the drivers who are currently working at BWI would not wish to work for Dulles Airport because they would have to pay more fees."



"Now you can see the numbers and I want you to go down to the fourth chart. Let us say you took out the increase fees, the increased lease fee. Then BWI," --

At this point Treasurer Kopp are asking questions. Mr. Robinson --

GOVERNOR O'MALLEY: Are we reading, sir I don't mean to, but we're losing your train of argument.

MR. YEMENU: What I'm trying to get --

GOVERNOR O'MALLEY: Are we reading a transcript from a prior proceeding?

MR. YEMENU: Yes, sir.

GOVERNOR O'MALLEY: Well we've been through the prior proceeding.

MR. YEMENU: Okay.

GOVERNOR O'MALLEY: And we need to, I need to ask you if you could to summarize --

MR. YEMENU: Yes.

GOVERNOR O'MALLEY: -- and make your argument to us, if you would please?

MR. YEMENU: My summary is that last year here BWI Taxi Management bid for \$6.1 million and Dulles was \$7.1 million. And this year BWI Taxi Management is bidding \$12.1 million. So now here they were arguing last year that drivers cannot pay \$1 million more than what they are supposed to pay because they have all these issues that I just read. So now the question is, how are these drivers are going to pay that additional \$6 million? And they have families, they have mortgages, they have to live, they have to survive, they have to exist as a business. And that's where I'm trying to get to.

GOVERNOR O'MALLEY: So your point is that the negotiated fee and the payment they are making to the Airport Authority will have to be passed on and absorbed by the drivers so this couldn't possibly be a legitimate bid?

MR. YEMENU: Exactly.

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GOVERNOR O'MALLEY: Okay. Mr. Wiedefeld, what do you say to that?

MR. WIEDEFELD: A few things. Contractually there is only three fees that the current vendor can charge. The stand fee, which is \$169 per week which has been --

GOVERNOR O'MALLEY: Set?

MR. WIEDEFELD: That has been set, and set in the contract. It cannot be changed unless we change it. And it's been set that way since 2007, so it hasn't even risen since then. The other is for leased vehicles. They do have the ability to lease, again, only 50 percent of the vehicles. They establish that based on market rates. The other charge they can have is for what is called second drivers, which are sort of back up drivers if someone takes a vacation. And I believe there's 20 or 21 of those drives and they can set a fee for that. That's it. They can charge no other fees or it's a breach of contract.

The other thing that's driving these numbers is if you recall last time we had reduced the number of drivers, which then reduces the collection from the stand fee. So we're up from 250 to 324, so that generates dollars. The other thing that we've done is we added another year to the contract. So you can't compare the previous contract numbers. They just don't, they don't compare.

And the other thing, to be frank, I also think there was a lot more competition.

GOVERNOR O'MALLEY: Mm-hmm. Okay.

MR. YEMENU: May I come back?

GOVERNOR O'MALLEY: Who wants to have the final word? Oh, there's somebody else behind him. Oh, well, maybe we'll postpone this and come back next time. Do you want to wrap up, sir?

MR. YEMENU: Yes, sir. Mr. Wiedefeld just said that \$169 is fixed. That's what I have already said before, \$169 for everybody. 324 drivers. Then there will be generated \$14 million in five years.

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GOVERNOR O'MALLEY: Yeah, we've --

MR. YEMENU: But the fact of the matter is different.

GOVERNOR O'MALLEY: Okay. Well sir, thank you. We appreciate your testimony.

MR. YEMENU: Yes, sir. Yes, sir.

GOVERNOR O'MALLEY: There is one last person that wants to be heard in opposition and -- sure, Mr. Singleton.

MR. SINGLETON: I'm so sorry.

GOVERNOR O'MALLEY: That's okay. Hey, it's free form here.

SECRETARY MCDONALD: You need to be at the, sir you need to be at the microphone if you are going to speak.

GOVERNOR O'MALLEY: You need to come to the microphone so we can --

MR. SINGLETON: I just want to note the courage of this man, because he came here as you know several times.

GOVERNOR O'MALLEY: Right, I know. Thank you. I appreciate that.

MR. SINGLETON: And he got fired for his testimony here last time.

GOVERNOR O'MALLEY: Mr. Singleton, I appreciate your argument. I appreciate your advocacy, and I have no doubt that you'll take this up in a competent court of jurisdiction.

MR. DUNCAN: Governor, Mr. Comptroller, Madam Treasurer, my name is John Duncan. I'm Vice President of Business Development for Regency Taxi, one of the unsuccessful bidders in this contract. We were actually runner up. I'm not here with any consultants, lobbyists, people that work for me or anything, I just wanted to bring out one point for your attention, potentially for the next round five years from now if this contract is approved. Is that the current service is great, our services are great, that's what our proposal says. And that's what it is. That it's a bid, not a proposal. You are technically

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qualified, and then it's whoever offers the highest amount of money.

We base the amount of money that we submit in our bid off of information that is given to us by the MAA and by the incumbent contractor, who provides the statistical data for ridership. From our debriefing with the MAA when we were not awarded the contract we were told that they were aware that the information was not audited and has never been audited since the incumbent contractor has been a contractor for the passenger count information. I just think that that's a big point. Roughly half the revenue that you are gathering, I think it was brought up that 270, what is it? 275 of the vehicles are owner operators, independent operators, and 49 are owned by the company. That is roughly the half and half of the revenue that you gain. You get half the revenue off of the \$169 a week from the independent operators, and the other almost half of the revenue that a company makes off this contract is off of the lease drivers of

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the 49 vehicles, where that data is impeccably important.

That's just all I had to say. And I appreciate your time and understand its value.

TREASURER KOPP: I think that's a very good point you raise. It was my impression that it had been audited. Is that --

MR. WIEDEFELD: Yes, it's been audited through the years.

TREASURER KOPP: Thank you.

MR. WIEDEFELD: It was a full audit in 2008 and we did a review of just that very issue of how many cabs come in and out of the Airport in a three-month period in late 2010 through 2011.

TREASURER KOPP: Thank you.

MR. WIEDEFELD: And the numbers were appropriate.

GOVERNOR O'MALLEY: Anything else on this matter? Any other questions on this matter?

Comptroller? Treasurer? The Comptroller moves

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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. For the balance of the, I'm sorry, Department of General Services Agenda items.

MR. COLLINS: Now?

GOVERNOR O'MALLEY: Sure.

MR. COLLINS: Good morning, Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has 16 items on our Agenda. Items 10 and 15 have been revised. I'll be glad to answer any questions you have on the items.

GOVERNOR O'MALLEY: Any questions? Mr. Comptroller or Madam Treasurer? None?

TREASURER KOPP: Governor, could I just ask

--

GOVERNOR O'MALLEY: Sure, Madam Treasurer.

TREASURER KOPP: -- Secretary Swaim-Staley?

I don't have a problem with this, doing on this one, could you find out if there is only one woman cab driver?

MS. SWAIM-STALEY: I will.

TREASURER KOPP: Thank you.

GOVERNOR O'MALLEY: All right. Madam Treasurer moves approval of the DGS items, 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. Thank you, that concludes our meeting. Thank you all.

(Whereupon, at 11:52 a.m., the meeting was concluded.)