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HONORABLE NANCY KOPP, Treasurer;

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Planning, Department of Natural Resources;

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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

LIEUTENANT GOVERNOR BROWN: The May 5th meeting of the Board of Public Works. I am not Governor Martin O'Malley. I am Lieutenant Governor Anthony Brown presiding at the request of the Governor, who is in Chicago, that is where the Bio Conference is, receiving an award for Bio Governor. And that's his commitment to our life sciences, bioscience sector in Maryland. And we're proud of the partnership that we have with the private sector and State and local government in supporting that industry which creates many jobs in the industry, and the many indirect jobs that are created in support of and in connection with that industry. So an award, a recognition, duly deserved, I believe. So he's unable to be here today.

I think the Agenda is not too lengthy, so we shouldn't be here too long. But before we start with the Agenda I'd like to ask my colleagues if they have any opening remarks. Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you. Thank you, Lieutenant Governor. And I was with you last night in

College Park for the 90th birthday celebration of Governor Marvin Mandel. And I got a chance to say a few words, and I reminded everyone that back when Governor Mandel was reforming State government he created the office of Lieutenant governor.

LIEUTENANT GOVERNOR BROWN: Yes, indeed. I thanked him profusely last night, there.

LIEUTENANT GOVERNOR BROWN: Yes, indeed.

COMPTROLLER FRANCHOT: I also reminded Governor Mandel that the other recommendation was to get rid of the office of Comptroller.

(Laughter)

COMPTROLLER FRANCHOT: So I was really glad that one, personally I was glad he didn't succeed. But I was struck by the, obviously Governor Mandel's legacy is so broad in so many different areas and he continues to be such an active advisor. But I was particularly struck by the crowd, the large number of people that were there that I don't think will ever get together in one room again. You know, it wasn't just the fact that there were people that were political opponents that

were sitting side by side. It was really a Maryland Manual come to life. And I was very moved by the incredible talent. And I guess that's a testimony to Governor Mandel, that everybody came together. But I felt it was especially --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

COMPTROLLER FRANCHOT: And also I met yesterday with a group of Greater Washington business leaders for a discussion of the Washington region near term economic outlook. My counterpart from Virginia and from the District of Columbia were there to comment on their recent poll, or survey, of regional executives that was being released to the public. This is once again the Washington area, but it includes a good chunk of Maryland.

And the basic conclusion was that economic conditions in the region are good and are going to continue to improve in the Washington area. Businesses were reporting that revenues and sales were increasing and they look to further increases in months to come. A clear intent to reinvest in their businesses by



purchasing new equipment and computer technology, by rolling out new services and product lines. And it was quite good news for the region and our State. Business leaders who are optimistic and feel good about the future are obviously more inclined to fuel the economy through job creation and business spending. And this was in real stark contrast to the December report that I also attended. So in the Washington region things are looking up.

I do think there are appropriate reservations that we should have about the current conditions. They continue to express a lot of concern about challenges securing financing and credit. And the interesting statistic in the survey that jumped out at me was that 77 percent of the businesses surveyed in the Washington area expressed strong concern that the ongoing fiscal challenges facing the region's governments, State and county particularly, could have a negative effect on the economic growth. So they are looking, in addition to their own situation and jobs creation, they are looking very closely at State government and county

governments. And all from a very practical and kind of nonpartisan discussion.

So I was encouraged by that. It mirrored the feedback that I receive regularly from business owners who sit on my own business advisory council. I've met with business leaders throughout the State. We have a, with the Treasurer we have an Economic Advisory Forum that I think very successfully assists the Board of Revenue Estimates in our forecasting times. So this is an ongoing dialogue with the business community. It provides us some real time information by those who are responsible for making payrolls and turning profits, competing in the marketplace. It's invaluable, frankly, to me and I believe others who sit in positions of fiscal responsibility.

And so later on in this month of May I'm going to visit all twenty-three Maryland counties and Baltimore City for a series of discussions about the state of the economy. I'm going to sit down for informal and candid conversations with folks from various sectors of our economy. From market drivers in

the defense and life sciences industries, to farmers, shopkeepers, and small community banks. We're also going to speak with those from labor and the faith and nonprofit communities to learn how they've been affected by the nation's economic downturn, how they're making ends meet today. I also expect to hear how businesses and families alike have made it through tough times by turning over every rock for efficiencies and cost savings. And I look forward to hearing some of those innovative ideas and putting them into practice in my own agency, in my own office. And I know we can build an even stronger foundation for Maryland's future with everyone's input.

And I would like to recognize the fact that the Governor was not at the birthday party last night, but it was because, as the Lieutenant Governor says, he was in Chicago receiving the Governor of the Year Award from the Maryland Biotech Conference. And if Vice President Biden were here he'd be able to say that's a really big you-know-what deal.

(Laughter)

COMPTROLLER FRANCHOT: But congratulations to him. Thank you.

LIEUTENANT GOVERNOR BROWN: Thanks, Mr. Comptroller. Madam Treasurer?

TREASURER KOPP: I just want to add my congratulations to the former Governor. I think I may be the only one here who actually served with Governor Mandel when I was first elected. And he really was a man who knew government, and knew the budget, and really cared about it. And his first Lieutenant Governor, Blair Lee III, the real Blair Lee, actually knew the budget just about as well as our present Lieutenant Governor did. And was really I think, while he was not the very first Lieutenant Governor certainly was the first in modern history and I think really laid down a very strong foundation for an important office.

I actually was not there. I was California. I was at a family wedding, and then at a meeting in California where the land of biotech was recognizing the fact that Maryland is a national leader. I was amazed at the number of people who came up and said,

"You know, how is it going around 270? I understand Baltimore is," and they really are very much aware of Maryland as a biotech leader in a way that I think they would not have admitted a few years ago.

The other very interesting thing, California, of course, is have some very serious fiscal problems. And everything is being cut, including the higher education system which was known as one of the very best in the world. I met two gentlemen whose children who were applying to college this year. They both were leaders, actually, in the biotech community in California. And both of the children were applying to the University of Maryland and hoped very much to get in as their first choice. And I just smiled.

(Laughter)

TREASURER KOPP: I said, "Yes, yes, we do place a great premium on education in our State." So it was very beneficial and a beautiful springtime, and good to be here.

LIEUTENANT GOVERNOR BROWN: Thank you, Madam Treasurer.

TREASURER KOPP: Thank you very much for the

--

COMPTROLLER FRANCHOT: Also, I'd like to  
congratulate the Treasurer on her wedding anniversary.

TREASURER KOPP: Oh yes, thank you,  
Comptroller. And I'd like to congratulate the  
Comptroller on his wedding anniversary.

COMPTROLLER FRANCHOT: We share the same day.

TREASURER KOPP: To different people.

LIEUTENANT GOVERNOR BROWN: Wow, that's  
great.

TREASURER KOPP: And recognize the gentleman  
who chaired the committee that both of us served on.  
And while it's not the anniversary of our service it's  
always a great pleasure to see you, Delegate Conway.

DELEGATE CONWAY: Good to be here, thank you.

LIEUTENANT GOVERNOR BROWN: Trivia question,  
does anybody know the name of the first Lieutenant  
Governor that served in Maryland in the 1860's?

COMPTROLLER FRANCHOT: Oh no, no.

LIEUTENANT GOVERNOR BROWN: There was a break

from 1860 to, like, the 1970-something. The name is, his name was Chris Cox. And if you remember the line up in the contest in 2006, when I saw who my opponent was in the Lieutenant Gubernatorial race I thought we were doomed. Yes, okay. Let's start then with the Secretary's Agenda, please. Why don't we do this? I'm sorry. If it's okay, why don't we jump to DGS' Agenda. We've got the Chairman of the House Appropriations Committee is here. I understand you're here for Item 15 on the DGS Agenda. So why don't we jump to that, this way we don't have to hold you up. I know you may have other business in Annapolis, or you may need to run back to take care of business on the Eastern Shore. And we appreciate your commitment and your dedication during our ninety-day session and in between. So why don't we go ahead and do that.

MR. COLLINS: Yes, sir.

LIEUTENANT GOVERNOR BROWN: DGS, Secretary Collins?

MR. COLLINS: Yes, sir. Good morning --

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. COLLINS: -- Mr. Lieutenant Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has twenty items on our Agenda today. We are withdrawing Item 10-LT. And I'd be glad to answer any questions on any of the items before you.

I'd just like to mention, Mr. Lieutenant Governor, that out of the constructions items that we have today, construction and maintenance, we have maintained a little over 26 percent MBE outcome. And we were able to create fifty-two new jobs for the State of Maryland with these items.

LIEUTENANT GOVERNOR BROWN: Great. That's fantastic.

MR. COLLINS: Item 15?

LIEUTENANT GOVERNOR BROWN: Let me take, and Item 15, why don't we ask the Chairman of the House Appropriations, would you like to speak to Item 15? That's the note that I got, and I assume that you do.

DELEGATE CONWAY: Very much in support, Governor, and Comptroller, and Treasurer. This is a really great project for a very rural area of Wicomico



County, Parsonsburg Volunteer Company. They've been in a building that goes back to the twenties. They can no longer renovate it, and they've outgrown it due to development in the area.

But one of the things, it's not just the fire company. It's what they do in outreach for the community as a whole. And when they made plans to build, after looking at all potential possibilities of renovations which they could not do to that building, they decided to address a need that had been brought to their attention on many occasions, that of a community center. So in addition to the fire company, the actual building for the department itself, they're adding a community center for the Parsonsburg area which I hope on dedication that all of you will come down to see the importance of legislative initiatives.

These are the small contributions that the State makes to worthy needs that have been identified. But in the process of doing that for a small amount of money, you leverage multitudes of volunteer service, community activism, building materials, all kinds of

items in addition to dollars. And at the same time we meet an identified need.

This is a project that I've been very proud of, proud to work with. And we have Steve White and Carol Fisher, the Chief of the Volunteer Fire Company at Parsonsburg here with us. Steve, and Carol? These folks have worked hard to get this match, and even harder to raise the money for the entire project. And we have had an outpouring of support. So that's great. Thank the State for their contribution because it has truly been a catalyst.

LIEUTENANT GOVERNOR BROWN: Thank you, Mr. Chairman. Would you care to address the Board? It's your option.

MR. WHITE: Unless anybody has any questions, I think Norman spoke very well. I just would like to say the fire volunteer companies in the State provide a lot of service to the community and the citizens of Maryland. It's not just when there's a fire or accident, but it's the education to the youth. And we want to do in Parsonsburg an after school program for

the youth, and prevention and stuff. Their value is just unmeasurable. But thank you for supporting us.

LIEUTENANT GOVERNOR BROWN: Thank you.

COMPTROLLER FRANCHOT: I just wanted to say that Chairman Conway is a State leader because he's Chair of the whole committee so everybody in the State approaches him and asks him for help. But if I had a dollar for every time somebody on the Shore said to me that Norm was going to take care of something, and that's just the way they phrase it, I'd be a rich man. And it's, I want to just compliment the Chairman on his advocacy for the Shore, not just the Lower Shore, the Mid Shore, but Upper Shore, all of it. And I'm delighted that we're able to partner with you.

MR. WHITE: And it's great to have Norm in the State of Maryland. It really is, he's a great person, a great leader.

COMPTROLLER FRANCHOT: Thank you.

MR. WHITE: And we're lucky to have you all down here.

LIEUTENANT GOVERNOR BROWN: Thanks for coming down.

TREASURER KOPP: There are a number of groups, including children, hard of hearing children in Bethesda, we wouldn't tell the folks on the Shore, who are eternally grateful to the Chairman. Imagination Stage, and some others, that helped integrate children into the community all over the State.

I'm going to be very blunt. We hear a lot about earmarks. We hear a lot about pork projects. And I think it's very good to have an opportunity, as we actually did at the last meeting, to point out that we are talking about things like this, \$250,000 for a \$2 million project dedicated to equipping and maintaining the Volunteer Fire Department. And I think the idea of having the community center and the programs there is terrific because it helps those people who participate also to identify with community service, and the volunteer firemen. So it builds up a community as well as providing services to the kids.

So it's a great project. And I move approval.

LIEUTENANT GOVERNOR BROWN: Thank you, Mr. Chairman. Before we do that, on the move approval, I do have a question about another item.

MR. COLLINS: Yes, sir?

LIEUTENANT GOVERNOR BROWN: Item 5.

MR. COLLINS: Item 5?

LIEUTENANT GOVERNOR BROWN: Yes.

MR. COLLINS: Weight Inspection Station?

LIEUTENANT GOVERNOR BROWN: Yes.

MR. COLLINS: State Police?

LIEUTENANT GOVERNOR BROWN: Yes, right. So can someone just describe briefly what this, what the service is that's being provided?

MR. COLLINS: Yes, sir. And we have representatives from the State Police Department who are very involved with this.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. COLLINS: But, and it just is, it, this contract will provide ongoing maintenance and repair for the weight stations that you see on the interstate,

where trucks and buses are weighed. And this is a maintenance contract to continue that service for a five-year period. It is proprietary equipment so this is why this particular one is a sole source item.

LIEUTENANT GOVERNOR BROWN: Okay. And I've seen that, I see that also on a Department of Information Technology, they're going to be talking about proprietary information and limitations on MBE. I just, I need someone to talk to me and address the Board on the real barrier that proprietary information presents to MBE participation. I recall back in my days as a practicing lawyer when we dealt with intellectual property, business proprietary information, and things like that, there are legal arrangements that can be established that provide access and protection and redress if proprietary information is used in an impermissible way, you know, to compete with, or what have you. So I just need to hear more. Because my concern is that the world will become more and more proprietary, and then less and less MBE friendly. So can someone please speak to

that? And what thoughts and considerations have gone into establishing protections for proprietary information while at the same time expanding opportunity to MBEs in Maryland?

CAPTAIN DOFFLEMYER: Good morning, Lieutenant Governor.

LIEUTENANT GOVERNOR BROWN: Good morning.

CAPTAIN DOFFLEMYER: Captain Dofflemyer, Maryland State Police. I'm not your sole person for that answer. But I did bring a gentleman with me that could probably answer, or address for your issues that you bring up.

LIEUTENANT GOVERNOR BROWN: Thank you.

CAPTAIN DOFFLEMYER: And I want to introduce Mr. Ron Pramatta from the State Police. He's a meteorologist in charge of all the scales --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

CAPTAIN DOFFLEMYER: -- in weigh stations and that type of facility.

MR. PRAMATTA: Good morning.

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. PRAMATTA: The equipment that we have, Maryland went to a NTEP State in 1992. And the scale equipment that we had prior to that wasn't necessarily NTEP approved but it was grandfathered in. Through the updating, which we started doing through thirteen facilities, one at a time because of budgetary reasons, we looked at different equipment to put in. We put out on a general bid, it went to DGS. And from that we were pleased with the equipment we got from Mettler Toledo, which was low bids at the time. As it went on, and reduction in personnel, and because of new technologies, we began to automate these systems so that it took less people to run the facility.

The heart and soul of the scale house as far as weight violations is a weigh in motion system. With the weigh in motion system you reduce the amount of vehicles that you put over the static scales and it increases the flow of traffic because we were queuing them on the main line, had to shut down the facility for safety reasons to clear the main line. So we started looking at the new technology, in that there



was a limited amount of vendors that made weigh in motion equipment.

We knew the technology was there, asked for a system to be designed that took care of identifying the overweight because of the various bridge formulas and problems that personnel have to come online to recognize an overweight vehicle. Because it could be overweight on axles, spacings, all this is a factor in what damages the roads. Mettler Toledo designed this system to our specification on for identifying this. It even has an eight-head control head that it releases the trucks, or tells them to pull on, and automatically identifies overweights.

The system worked good. Our revenues went up. When we first put it in we seen a 40 percent increase in overweights. We tried to -- excuse me?

MR. COLLINS: Quickly. Just go quickly.

MR. PRAMATTA: Well --

LIEUTENANT GOVERNOR BROWN: So what is the contract for?

MR. PRAMATTA: The contract repairs --

LIEUTENANT GOVERNOR BROWN: Is it for the equipment? Or is it for the equipment, and operating, and maintaining the equipment? What is it for?

MR. PRAMATTA: It's the maintenance for the equipment, and to repair the equipment. If, they have actually signed in under this contract to repair it when it breaks down, to maintain, to do the maintenance on the equipment. And it is, it's even inclusive of lightening strikes.

MR. COLLINS: And Mr. Lieutenant Governor, I think you, and I'll ask Elliot Schlanger to talk more about the IT item. But in this particular case, first of all we do very few sole sources. But this is one in which there are almost no subcontracting opportunities in this particular work.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. COLLINS: So this is why we had to go with this company and this contract to maintain its equipment, and we bringing it to you as a sole source item today. So we do very few of these. But in this case this one vendor has to provide all the services to

this particular equipment, that's why it's a sole source. And it's not to say that there aren't minorities who work for the company. But in this instance this is the only company that can provide services to this equipment.

LIEUTENANT GOVERNOR BROWN: Okay, I don't have any further questions. I appreciate that. Anybody have any questions?

COMPTROLLER FRANCHOT: No, I think it's a perfectly valid point. It's not really your contract, that we're talking generically here about the fact that, you know, we are seeing I think quite a few contracts where the MBE is sacrificed to the, you know, unique proprietary either relationship, or its software, or equipment. And the Lieutenant Governor makes a valid point. I guess we mostly, as you say, satisfy what little MBE we can through peripheral contracts. And, you know, outside the main contract. But I think he raises a valid point and someone ought to, maybe it's the Secretary of IT or something, should help us think that through.

MR. COLLINS: Well I think, Mr. Comptroller, this administration, certainly with your assistance, has gone way beyond the past in terms of creating primes in places where we never saw it before. But Maryland's MBE program is essentially a subcontracting program which, as you know, we have made outstanding progress here. But thanks to the good help of the Secretary next to me we have been creating many MBE primes in many instances, which we haven't seen before. But your point is well made.

LIEUTENANT GOVERNOR BROWN: And you're saying that there are no subcontracting opportunities in this --

MR. COLLINS: In this particular one, no.

LIEUTENANT GOVERNOR BROWN: Okay. I don't have any further questions. Anyone have questions or comments on that item or any other item on the DGS Agenda? Seeing none --

COMPTROLLER FRANCHOT: Move approval.

LIEUTENANT GOVERNOR BROWN: -- move approval by the Comptroller, seconded by the Treasurer. All

those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: "Nay."

(No response.)

LIEUTENANT GOVERNOR BROWN: None. So the DGS Agenda is approved. We'll now return to the Secretary's Agenda. Thank you very much, Mr. Secretary, Mr. Chairman, and good friends and neighbors from the Eastern Shore.

SECRETARY MCDONALD: Good morning, Lieutenant Governor, Madam Treasurer, Mr. Comptroller. I can give you a little piece of history as an aside before I introduce my Agenda. Ms. Marion Boschert was sitting at this table --

TREASURER KOPP: Right.

SECRETARY MCDONALD: -- when Governor Mandel was at the Board of Public Works. So there was somebody here at this table. (Laughter)

LIEUTENANT GOVERNOR BROWN: So you were here -

SECRETARY MCDONALD: It was fifth grade, 1970-

LIEUTENANT GOVERNOR BROWN: -- you were here when public school construction began to be brought before the Board? Because that's what he did. Yeah. But the State was funding 100 percent, I understand?

SECRETARY MCDONALD: She was reminiscing about that very school --

LIEUTENANT GOVERNOR BROWN: 100 percent of school construction funded through the State, yes indeed. Can we go back to that, Madam Secretary?

MS. FOSTER: Absolutely not.

LIEUTENANT GOVERNOR BROWN: Absolutely not.

(Laughter)

LIEUTENANT GOVERNOR BROWN: And just because I'm full of factoids today, Governor Mandel also led the effort in establishing public funding for our private or independent colleges and universities, today known as the Sellinger formula. But that started under Governor Mandel.

TREASURER KOPP: Also implemented the reorganization of the entire State government,

modernizing it. There used to be many, many boards, commissions, little agencies, brought into cabinet secretariats, and creating the Department of Transportation.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: Which was almost unique, then, to have all the modes. And of course, the next subsequent Governor was the Secretary of Transportation until rebelling.

LIEUTENANT GOVERNOR BROWN: I wasn't clear whether the Transportation Trust Fund was established during Governor Mandel's tenure?

TREASURER KOPP: Yeah.

MS. SWAIM-STALEY: It was.

LIEUTENANT GOVERNOR BROWN: Yeah, so that's -

MS. SWAIM-STALEY: It was really landmark nationally, at the time.

LIEUTENANT GOVERNOR BROWN: He probably did more to reorganize government than --

TREASURER KOPP: He did.

LIEUTENANT GOVERNOR BROWN: -- any modern governor, yeah.

TREASURER KOPP: I think he did.

LIEUTENANT GOVERNOR BROWN: But note, most noteworthy, and probably where all of his sort of leadership and managerial acumen and skill and ability came from was his two years of service in the United States Army from 1942 to 1944.

(Laughter)

TREASURER KOPP: And not to mention experience as the Speaker of the House of Delegates.

LIEUTENANT GOVERNOR BROWN: Yes. Yes, indeed. So, anybody else have any facts they want to share?

(Laughter)

LIEUTENANT GOVERNOR BROWN: Okay --

SECRETARY MCDONALD: Thank you, Governor. We have --

LIEUTENANT GOVERNOR BROWN: Thanks for getting us started.



SECRETARY MCDONALD: We have sixteen items on the Secretary's Agenda. We have two reports of emergency procurement. Item 7 is a recommendation for multiple wetlands licenses. And on that Item 7 I am going to withdraw one of the recommendations. I am withdrawing Queens Landing Community Marina, license 10-0191. And Queens Landing Community Marina will return at a later date. If you have any questions, we'll answer them for you.

LIEUTENANT GOVERNOR BROWN: Did we have to have a motion to withdraw, or no?

SECRETARY MCDONALD: No.

LIEUTENANT GOVERNOR BROWN: Okay. Any questions, comments, concerns, from the members?

TREASURER KOPP: Questions have arisen, I think, about Item 8.

SECRETARY MCDONALD: Okay. Item 8 is a wetlands license recommendation for DEENAH LLC in Baltimore City. Do you want the Wetlands Administrator to give you a background on it, or --

TREASURER KOPP: I think a background, and

going through, one of the questions that was raised, I know this was before us, was whether it had received all the approvals of the City, the State, Corps of Engineers, whatever mitigation plans there are, and most particularly this question of the, was it scrap metal, whether scrap metal will be stored there, whether there is inspection, and periodic inspection or testing enforcement, to make sure that all the regulations that are in place in fact are followed.

MR. MOORE: Okay, good morning members of the Board. I'm Doldon Moore, Wetlands Administrator. The item is DEENAH LLC, and it's for the construction of a multi-use marine terminal for loading, offloading, and storage of bulk materials and liquid cargo. It will be comprised over the State waters of a construction of piers, platforms, catwalks, mooring and breasting dolphins, including mechanical dredging of two ship berths adjacent to the proposed piers. It's Patapsco River and Curtis Bay. It will result in 1.75 acres of tidal waters being shaded. And the request is also for the mitigation fee in the amount of \$262,500 to be

dedicated to the Maryland Artificial Reef Initiative, which is managed by the Department of Natural Resources.

This item was Item 4 on the June 3, 2009 Agenda and it was pulled at the request of the City to the Department of the Environment with correspondence stating that at that point in time the plans that were being proposed by DEENAH were not in agreement or compliance with the City's ordinances and laws. Subsequent to that I understand the applicant has worked with the City and on March 19, 2010 received a letter to Mr. Setzer, Department of the Environment, from Thomas Sirsaw [phonetic] that basically, it states that their plans, being DEENAH, meet all requirements and are in compliance with all of Baltimore City's applicable laws and regulations and were ready to issue their permits and recommend that MDE does the same.

What I understand, I can be corrected, we do have people representing the applicant and also people in opposition today, what I understand is the point of contention is the storage of scrap metal in the Upland

area, which is an item that, you know, is not regulated by the Board. And I understand from speaking with the applicant's representatives and so forth that there will be no storage. And this had to do with critical areas compliance issues. And again, the City has stated that it is in compliance with all their regulations. Also, there is a standard condition within the wetlands license that says you have to be in compliance with all federal, State, and local laws. Also, the Army Corps of Engineers has issued its approval of the project.

I can't speak to the terms of inspection and so forth, and I don't know if the Department's representative can either. That sounds to me more like it would be probably a zoning issue for the City, since it is their ordinance.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: I mean, does the Coast Guard have to support it? Have to approve of it?

MR. MOORE: The Coast Guard is one of the reviewing agencies.

TREASURER KOPP: Yeah.

MR. MOORE: With the federal government.

They do have the review, and I can't speak if they, you know, weighed in under the federal public comment or not. This facility is basically a rebuild of a facility that's been there since 1922, I believe --

TREASURER KOPP: Right. Right.

MR. MOORE: -- on it.

TREASURER KOPP: I just wondered, because in your material it says, "If the USCG approves the application they will require," and then went on to what they would require. And it was the "if" that made me wonder what the status was.

MR. MOORE: The Corps would not issue if the Coast Guard has concerns on it.

TREASURER KOPP: Okay.

LIEUTENANT GOVERNOR BROWN: Do we need to hear from the City, or are you okay?

TREASURER KOPP: Yeah, I would, is someone from the City here?

SECRETARY MCDONALD: We have, oh I don't know

if anybody from the City is here. We have people requesting to speak in opposition, and we have the applicant, DEENAH.

TREASURER KOPP: I understand. Is anyone from the --

SECRETARY MCDONALD: I don't think there's anyone, is anybody from the City here?

MR. MOORE: No.

SECRETARY MCDONALD: But we, all we have from the City is --

TREASURER KOPP: We have the letter from the City.

SECRETARY MCDONALD: We have a letter from the City --

MR. MOORE: Yes.

TREASURER KOPP: -- and my question --

SECRETARY MCDONALD: And we do have a copy of their, of their ordinance --

TREASURER KOPP: Yes.

SECRETARY MCDONALD: -- in the file. And an ordinance concerning zoning, junk or scrap, storage in

yards, council bill 09-0368. We have that.

TREASURER KOPP: Which prohibits the storage?

SECRETARY MCDONALD: Right. And that was from '09, that ordinance which prohibits it. And then in 2010 we have a letter from Baltimore City saying, to the Department of the Environment saying that DEENAH's work complies with all of Baltimore City's applicable laws and regulations. So we go with usually what the City says about if they're complying with the City laws.

TREASURER KOPP: Right. My question was whether it's inspected and enforced?

SECRETARY MCDONALD: Do you, does anybody know from the City --

TREASURER KOPP: And I gather no one except the City can --

MR. MOORE: I would --

SECRETARY MCDONALD: Does anybody from DNR or MDE here know, would know the answer to the question about the City? All right. Does DEENAH or DEENAH's counsel know if they're going --

MR. MOORE: Yes --

MRS. JONES: The Army Corps of Engineers --

SECRETARY MCDONALD: Can you come up to the podium and introduce yourself for the record, please?

MRS. JONES: I'm Lisa Harris Jones. I'm here on behalf of DEENAH. And the answer to the question is that the Army Corps of Engineers is the one that would do inspections on behalf of, on behalf of the State with respect to if there is storage.

TREASURER KOPP: They would, they would also look at the scrap metal --

MRS. JONES: It would be the Army, it would be, my understanding is that the Army Corps of Engineers would do those inspections.

SECRETARY MCDONALD: Mr. Moore, do you think that's accurate? Because we're talking about storage upland, on the land --

MRS. JONES: There's not going to, well the reality is that there will be no storage on the property. We've worked with the City, through the Planning Department, the Housing Department, the



Baltimore Development Corporation, and even through the City Council because there was an ordinance that was introduced and passed to ensure that there wouldn't be any storage. There will not be any storage, and that's why we got the approval from the City, and that's why we're here today.

TREASURER KOPP: Would it be possible, I don't doubt that, and I don't doubt that. But I think it would be good to have in the record a response to my question, if you could get it from the City, just to say that not only is it the ordinance, but they periodically inspect or enforce --

MRS. JONES: He can explain the inspection process better than I can. This is John Reece from DEENAH.

TREASURER KOPP: Yeah. But I'm talking about that inspection. Not the, not your --

SECRETARY MCDONALD: The City's inspection --

TREASURER KOPP: -- water oriented inspection.

LIEUTENANT GOVERNOR BROWN: Yeah, you're

talking about the inspection --

TREASURER KOPP: Scrap metal, right.

LIEUTENANT GOVERNOR BROWN: -- to ensure that scrap metal is not unlawfully stored anywhere on the site.

TREASURER KOPP: People are concerned about it.

LIEUTENANT GOVERNOR BROWN: Yeah.

TREASURER KOPP: And it ought to be easy enough to do some spot inspections to make sure the ordinance is enforced. I assume they do that, but I, but there's nothing that specifically addresses that. And I think it would be good to have --

LIEUTENANT GOVERNOR BROWN: That's a code enforcement issue.

TREASURER KOPP: Yeah. Yeah.

LIEUTENANT GOVERNOR BROWN: And no one from code enforcement or the City is here to speak to their program and what they might or might not do on these properties.

TREASURER KOPP: But I'm quite sure that the

Mayor will see that her agencies enforce the ordinances of the City.

MR. MOORE: For the record, if I might correct it, the Army Corps would inspect the construction over the water, not upland. So would the Department of the Environment during construction. Again, the City would be on the scrap metal issue and any noncompliance on the zoning issues, which I think we could easily, you know, get correspondence from them.

TREASURER KOPP: I would think it would not be very difficult to have for the record an indication from the City that yes, this is their ordinance. That yes, it's being followed. And yes, we do spot inspections to ensure that it's being followed.

SECRETARY MCDONALD: And you, grant the license or hold it? Granting --

TREASURER KOPP: No, no --

SECRETARY MCDONALD: -- it contingent on it's --

TREASURER KOPP: Yeah, no, I just think, I

have no doubt that that's so.

SECRETARY MCDONALD: Right.

TREASURER KOPP: I've been told orally that's so. I'd like to see it in writing.

LIEUTENANT GOVERNOR BROWN: I know I should know the answer to some questions before I ask it, but I don't. You indicated that some people are here in opposition. I don't want to open the floodgates, but have they signed up?

SECRETARY MCDONALD: I think it's just one person, yeah, one person.

LIEUTENANT GOVERNOR BROWN: Have they requested to speak?

SECRETARY MCDONALD: A Mr. Al Barry did request to speak.

LIEUTENANT GOVERNOR BROWN: Mr. Barry, are you here?

SECRETARY MCDONALD: And that's the only name. He's on behalf of Export Enterprises LLC.

LIEUTENANT GOVERNOR BROWN: And if you could maybe take no more than two minutes, if that's

possible. Or if not, then tell us how much time you need and --

MR. BARRY: Three or four minutes, plus whatever questions you have.

LIEUTENANT GOVERNOR BROWN: Three sounds good.

MR. BARRY: Okay.

(Laughter)

MR. BARRY: My name is Al Barry, I'm a professional land use planner in Baltimore City. I was actually with the Planning Department in Baltimore City when the critical area program was adopted by Baltimore City in the late eighties. I've been in private practice since 1995 and involved in a variety of development issues, both in environmental matters as well as development matters.

I'm here today on behalf of Export Enterprises LLC. They are a loading facility that uses pier ten in Canton, that does load scrap metal, and was only involved in loading that scrap metal after a very rigorous review process with the City that did not

involve storage.

I'm here today to recommend because of some of the questions that were raised here that perhaps this could be deferred for a month. Because there is no one from the City to explain exactly what the inspection procedure will be. We would not want the Board to be indirectly authorizing something that's going to become an enforcement problem for the City later on. Over the last year representatives of DEENAH and Joseph Smith & Sons, which is a very prominent scrap metal dealer in Prince George's County, have been going to community meetings saying that they are going to try to open up a scrap metal recycling facility on this property. And while the wetlands license may not deal with that we do think that that facility, if it were to become an enforcement problem for the City, would not create a level playing field for the other scrap dealers in Baltimore that have to fall into this new City critical area regulation. We don't think a month's deferral would be particularly onerous. And we feel that the questions that were raised are

significant enough that a month's delay would allow the City to clarify that for our clients as well as the rest of the people interested in this.

LIEUTENANT GOVERNOR BROWN: I have a question. Do you know whether that property is, the zoning permits scrap metal storage?

MR. BARRY: No. In fact, the industrial zoning of the property has not changed at all. But in 2002, because of a severe problem in Baltimore City with an out of town scrap metal dealer that was using a pier to transfer metal back and forth, later a lot of that had to be cleared out of the Harbor, the City prohibited scrap metal dealers from this industrial zone, just strictly prohibited it. And that, because of the application that was made by DEENAH and Joseph Smith there was a concern that there may be some ways of trying to get around that law. And so the storage was, clarifies that there is no storage.

LIEUTENANT GOVERNOR BROWN: Okay, let me just, hold on. Yeah. So, yeah. So what I think I'm hearing is, I mean just on a yes or no, I mean, does

the zoning on that property permit the storage of scrap metal?

MR. BARRY: No, it does not. And I would only add that there is an email in your file which we reviewed yesterday between Doldon Moore and Howard Freedlander which basically implies that, however I'll just quote from it. "However, it can be transported to and from the facility, or placed in containers that can be shipped out of the facility." To me that indicates putting it in containers and stored on the site is something that would be prohibited. But that's an open question and that's why I think a deferral of this for a month would be in order.

LIEUTENANT GOVERNOR BROWN: Well let me just say this. That it's my basic thinking that you really are talking about a zoning enforcement issue. And that may or may not be clear, but would be clarified through, number one, what actions are occurring, what activities occur on the property, what actions the City takes or doesn't take, and then if necessary, and I'm not promoting litigation, clarification in the courts.



But to ask us to defer this because of sort of unresolved, unknown enforcement of a different provision in the law, and it happens to be City law, I'm not sure that that's something that we would be doing.

TREASURER KOPP: Well I mean I, you're saying scrap metal, somebody might construe the ordinance to permit scrap metal being stored in a container that would otherwise be illegally stored?

MR. BARRY: That's, well I'm just reading what the email, from the file.

TREASURER KOPP: Well, I mean I'm not a lawyer, but I would think you can't do indirectly what you can't do directly.

LIEUTENANT GOVERNOR BROWN: Yeah.

MR. BARRY: Well I realize that, it is a zoning matter in Baltimore City. But I would, perhaps if the Board does not see fit to defer this that perhaps they could make a little more explicit in their granting of the approval of compliance with the City's critical area legislation as opposed to a generic all

local laws and --

TREASURER KOPP: Well, I mean my assumption, and I mean this is a serious question. I assume that when we do this there's compliance with all appropriate State, local --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- and federal laws and ordinances.

SECRETARY MCDONALD: Mr. Moore can come up. He, yes, the MDE does --

TREASURER KOPP: And a violation of that is a violation of the law. I mean, that's what I've always assumed with all of these. Am I wrong?

MR. MOORE: No. Within one of the special conditions that's outlined, it states that it has to be in compliance with the Chesapeake Bay critical areas law. That is in the license.

LIEUTENANT GOVERNOR BROWN: Yeah.

COMPTROLLER FRANCHOT: Let me --

TREASURER KOPP: And any, I mean, otherwise it's, I mean they're just breaking the law --

LIEUTENANT GOVERNOR BROWN: Mm-hmm. Mr.

Comptroller?

COMPTROLLER FRANCHOT: So if we defer it for a month, what's the damage there?

MR. MOORE: I would have to have the applicant state.

MRS. JONES: We've deferred it for a year. I mean, this issue came up in June of last year. And my client has worked with the City, again, we've worked with the City of Baltimore, their Planning Department, their Housing Department, we've complied with every area of the law and that's why we're here today. There will not be storage on the site. And we've worked with the attorney that just spoke. Actually, we worked with him because he represented the competitor that didn't want my client to be able to operate at this facility. At the City Council he had a different client and it was the competitor. But the reality is, is that we've done everything in accordance with the law. He's making the assumption that after we get our permits and we move forward that we're going to break the law. And

that's what, I don't know what a deferral for an additional month, is to look at a crystal ball and say we're going to break the law. My client does not intend to break the law. We're in compliance with the law. We will not be storing. There's no need for a month deferral, we've had a year.

LIEUTENANT GOVERNOR BROWN: Okay. Any other questions or comments on, from members?

COMPTROLLER FRANCHOT: Yeah, I just wanted to, I mean, obviously nobody's interested in the law being broken. But wasn't the City, there's nobody from the City here?

MRS. JONES: I would argue that the City sent a letter in that explained that we've worked with them through a year process to ensure that we comply with the law. We've paid our, I think we've paid over \$400,000 in fees in order to get to the point that we're here now. We've done everything that we were supposed to do. And again, there won't be storage. It's an issue that only counsel, this counsel has brought up. And we're not going to be storing. And

it's clear within the record what we intend to do and we're in compliance with the law.

TREASURER KOPP: We do have a letter dated March 19, 2010 from Mr. Stoser [phonetic], the Director of something.

MRS. JONES: And in order to get to that letter the Baltimore Development Corporation was involved, we did several community meetings with the communities that directly or indirectly affected by our facility, we had hearings within the Planning Department, the City Council. I know I'm repeating myself but I don't know what a month deferral would do but only slow down the process of getting us to get started with our facility.

TREASURER KOPP: No, except I would, I mean, I gather that this was the issue. And I really do think it would be useful for the record, although it seems almost insulting to you and I apologize to you and your clients, but I think it's a good point that was brought up. If we could simply have for the record some indication from the City of how they enforce this

ordinance? Because we do now have on record, both in writing and orally, the company's pledge to obey the law.

LIEUTENANT GOVERNOR BROWN: Yeah. And that makes sense. And just to, I mean, the purpose of the letter from the City is not to inform the decision of the Board which we're ready to make today, but to provide us with information that we will be able to use as a Board, our institutional experience, our knowledge, our memory, as we act on similar cases that arise. I mean, no case before the Board of Public Works is precedent. But they certainly broaden our understanding of the work that we do. So in that regard we'll ask the City to do that. But I think we're ready to, do we need to act on this one separately? Or are we just ready to move this Agenda?

TREASURER KOPP: No, we can, unless --

LIEUTENANT GOVERNOR BROWN: Okay. And we're on your Secretary's Agenda, right?

SECRETARY MCDONALD: That's correct.

LIEUTENANT GOVERNOR BROWN: Okay. A motion

from the Treasurer, a favorable motion, a motion to approve, seconded by the Comptroller.

TREASURER KOPP: It doesn't have to be from the Treasurer.

LIEUTENANT GOVERNOR BROWN: What's that?

TREASURER KOPP: It doesn't have to be the Treasurer? I just, I noticed the Governor flips back and forth unless there's an objection and I guess since you did raise an issue I should have started with the Comptroller. But you'd be seconding it anyway --

TREASURER KOPP: Oh, thank you, thank you.

LIEUTENANT GOVERNOR BROWN: -- so you'd be implicated --

(Laughter)

LIEUTENANT GOVERNOR BROWN: Okay. So I think I have a motion and it's seconded.

TREASURER KOPP: Yeah.

LIEUTENANT GOVERNOR BROWN: All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Secretary's Agenda in its entirety is approved. Thank you.

MR. MOORE: Thank you.

LIEUTENANT GOVERNOR BROWN: And we'll move now --

TREASURER KOPP: Could I just make another observation?

LIEUTENANT GOVERNOR BROWN: Yes.

TREASURER KOPP: Having gone from the fire department on the Eastern Shore to the wetlands project in Baltimore City, that one of the things I remember Governor Mandel telling us years ago, and has repeated many times since then, that one of his favorite aspects of being Governor was service on the Board of Public Works because you get insight to the problems, the people --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- and events throughout the State, in every community --



LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- of every part of the State. And it really is a wonderful education --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- on top of everything else.

LIEUTENANT GOVERNOR BROWN: Sure. I agree completely with him. Okay, so why don't we go to the Department of Budget and Management, right? You're next up, Secretary Foster? You and your Agenda? Good morning.

MS. FOSTER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. There are eight items on the Department of Budget and Management's Agenda for today and I'll be happy to answer any questions.

LIEUTENANT GOVERNOR BROWN: I have a question on Item 5. If someone could describe that?

MS. FOSTER: Okay.

LIEUTENANT GOVERNOR BROWN: And then also, in your description, in your presentation, if you could elaborate on the no MBE participation?

MS. FOSTER: Okay. So this is Brian Wilbon, he's the Deputy Secretary from the Department of Human Resources. And this is a contract for them to extend the term to allow for a new procurement to be completed and a new contract to be awarded for genetic testing services. So, Brian?

MR. WILBON: Well good morning, members of the Board. As noted, I'm Brian Wilbon, Deputy Secretary, and with me is Sandy Johnson, our procurement officer. This contract does paternity testing for child support establishment. It basically determines the paternity of a child that we are attempting to establish child support on. We were before the Board in April to extend this contract with the anticipation that we would be here today awarding the new contract. Upon the debriefings for the award there was some flaws identified with the recommendation. The recommendation would have been not in the best interest of the department nor the State, both financially and unfair to the vendor. And we made a decision to pull the contract back and to reissue

based on an IFB. If you would like more specific details about the flaws I can have my procurement officer step up. If not, we can go to the point about the no MBE.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. WILBON: And so, can you address the MBE?

MS. JOHNSON: The MBE?

MR. WILBON: Mm-hmm. Step up, Sandy Johnson, our procurement officer.

LIEUTENANT GOVERNOR BROWN: Hi, Ms. Johnson.

MS. JOHNSON: Good morning, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. Yes, there's no MBE goal in this particular procurement because there's no subcontracting opportunities.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JOHNSON: So as such there's no MBE goal.

LIEUTENANT GOVERNOR BROWN: So let me ask you this on the subcontracting opportunity issue. Is that a finding that is made during the procurement process? Is that, do we accept representations on behalf of prospective vendors? Do we investigate whether there

are subcontracting opportunities? Tell me a little bit about that.

MS. JOHNSON: What happens is when the program decides that they're going to do a procurement, they actually look at what all is necessary to perform the services. And then they look to see if there are any subcontracting opportunities. And what they do is they go into the MBE website and look at all the services that they're talking about doing, and look to see if there's something that can be subcontracted.

LIEUTENANT GOVERNOR BROWN: MM-hmm.

MS. JOHNSON: If there isn't then they also put that information before an MBE review committee, and then the committee looks at what they've determined are the services that are necessary. And will look to see if there's possible MBE opportunity, well not MBE, but subcontracting opportunities out there. And in this particular case, this particular, the vendor for this particular one will only do what they call buccal swabs. And then they'll have those tested.

LIEUTENANT GOVERNOR BROWN: What's that?

MS. JOHNSON: Buccal swabs is when they go in and they swab the mouth with a swab.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JOHNSON: And they send that out to be tested to establish paternity.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JOHNSON: And so in this particular case that's all that would be necessary, is to do the swab, and send it off to a lab to be tested. And the firm that gets this particular contract will do all of that.

LIEUTENANT GOVERNOR BROWN: So I mean, for example, I've seen in landscaping contracts that they'll subcontract out the purchasing or acquisition of the landscaping stock. And then, you know, the landscaper does the installation, the maintenance, or whatever. Just a hypothetical example. I mean, I've been before the Board and I've seen that, and that's how they've achieved it. So why in this case wouldn't the department say, "Have you tried to subcontract the procurement of those swabs?" Or have you, you know, or any, I'm just, you know, or anything else? I mean, to

what extent do you push back on the prime and say, "No, you know what? You may not have in the past, but we don't, explain to us why you can't sub out something?" And you identify something to them.

MR. WILBON: So one of the things that the department does even before we go forward with a solicitation is this review committee that Ms. Johnson references. We have that discussion internally. We also work with the Governor's Office on Minority Affairs to see if there's other recommendations of how we could potentially use MBEs. In this particular case, because of the chain of custody is responsible to that vendor, to maintain that that swab is in fact tagged to this individual, since in this case we're establishing something critical in child support collection, paternity, like who the father is, the group has agreed that there may not be an MBE opportunity in this particular contract. But we do at the department look for ways to find MBEs on all the work that we're doing. Whether that's directly priming with MBEs or any subcontracting opportunities.

LIEUTENANT GOVERNOR BROWN: Do you know offhand what your department's MBE performance has been in the last reported period?

MR. WILBON: The last year I think was --

LIEUTENANT GOVERNOR BROWN: And what the trend line is? Are you getting better? Are you flat?

MR. WILBON: Actually we've approximated the 12 or 13 percent level.

MS. JENKINS: They are currently approaching 14 percent as of your February number.

LIEUTENANT GOVERNOR BROWN: And it's trending up?

MS. JENKINS: DHR's number has been about the same. I think your all time high has been about 16 percent last year, and it fluctuates depending on the volume of contracting activity. 16 percent, I believe, is your high point.

LIEUTENANT GOVERNOR BROWN: I mean, you've got a big budget.

MR. WILBON: Mm-hmm.

LIEUTENANT GOVERNOR BROWN: You have a lot of

opportunities and I know you're, you know, committed to the program.

MR. WILBON: Mm-hmm.

LIEUTENANT GOVERNOR BROWN: And I, so I'm not questioning that. I would just encourage you to go back and, not, I'm not saying to go back on this contract. But as you move forward, I mean, to really begin getting a little more granular and drilling a little bit deeper because we've got to move numbers.

MR. WILBON: Absolutely.

LIEUTENANT GOVERNOR BROWN: And we've got to find opportunities to move numbers.

MR. WILBON: Will do.

LIEUTENANT GOVERNOR BROWN: Yeah. Okay. That's all I had. Anybody else have any questions on that or any other item for the DBM's Agenda? Oh no, I did have one more. Or no, well does anyone else? And then I'll come back? No? Thank you very much on that item. Is Steve Martino here?

MR. MARTINO: I am.

LIEUTENANT GOVERNOR BROWN: Where are you,



Steve? Okay. Well, welcome to Maryland. This is our new Director of the Maryland Lottery coming to us from Kansas, where you were Director of the Kansas Racing and Gaming Commission. I know you've already met the Treasurer and the Comptroller. We haven't met. I want to say great meeting you. Welcome to Maryland. Good luck and God speed in everything you do.

MR. MARTINO: All right, thank you very much.

LIEUTENANT GOVERNOR BROWN: Great.

(Applause)

COMPTROLLER FRANCHOT: He also wanted to say don't mess up.

LIEUTENANT GOVERNOR BROWN: Don't mess up.

(Laughter)

MR. MARTINO: Understood.

LIEUTENANT GOVERNOR BROWN: Okay, anything else on Secretary Foster's Agenda? Okay. Hearing nothing, the Treasurer moves approval, seconded by the -- no, the Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none,  
Secretary Foster, Congratulations.

MS. FOSTER: Thank you.

LIEUTENANT GOVERNOR BROWN: Your Agenda has  
been approved. Let's go to the University System of  
Maryland.

MR. STIRLING: Good morning, Lieutenant  
Governor, Madam Treasurer, Mr. Comptroller. I'm Jim  
Stirling for the University System. We have thirteen  
items on today's Agenda and I'll be happy to address  
any questions you might have.

LIEUTENANT GOVERNOR BROWN: You know what?  
I'm sorry for a second here. Okay, let's do this. The  
Agenda item has already been approved, but I'd still  
like to have an explanation. So if the Calvert County  
folks are still here please don't leave. Okay? I  
mean, it's already been approved, and you know, we're  
not going to go back and withdraw an action here. I  
missed it, though.

SECRETARY MCDONALD: It's number eight.

LIEUTENANT GOVERNOR BROWN: It's the same?

I'm sorry, can you, yeah --

MR. STIRLING: That's fine.

SECRETARY MCDONALD: Do you want me to have the DHR people come back up? This is for Item 8 on Secretary Foster's Agenda?

MS. FOSTER: Okay.

LIEUTENANT GOVERNOR BROWN: And again, I'm looking at a, if someone could just briefly explain this contract. And you're under 5 percent MBE participation, and it's legal services. I know we have a very diverse bar in Maryland and yet we're only doing 5 percent on MBE participation. So can someone talk to us about that?

MR. WILBON: Specifically to the MBE participation?

LIEUTENANT GOVERNOR BROWN: Yeah, really specifically about the MBE, right.

MR. WILBON: So I'll ask --

LIEUTENANT GOVERNOR BROWN: I'm sorry, that's

Item 8.

MR. WILBON: Sorry, Brian Wilbon again for the record. Item 8-S, which is the modification to provide legal services, to extend the term by six months to allow Calvert County DSS to maintain legal services for its clients. Synda will address kind of the MBE process that they are taking at the local level to encourage or increase the MBE participation on this contract. But this one here was specifically, we've had an increase in the number of cases. Where we've needed CINA attorneys in this local jurisdiction and that increased the cost. It's a transactional type contract and that's why we're requesting the extension, also to allow the time to do a new RFP. But Synda, would you address --

MS. BUCKMASTER: The MBE, yeah, piece of it.

MR. WILBON: Introduce yourself first.

MS. BUCKMASTER: Synda Buckmaster, Business Manager at the Department of Social Services in Calvert County. The original MBE goal was 5 percent. The vendor herself is an MBE and an SBR both. Her

services, or the things that she uses the MBE subcontracts for, are supplies. Computers, shredding, things like that. She hasn't had a terribly high demand over the last three years for that. She has documented every effort that she's made and every available opportunity to put funds into the MBE community, so.

LIEUTENANT GOVERNOR BROWN: So is this a situation where, I mean, so you've got an MBE who is basically the prime?

MS. BUCKMASTER: Correct.

LIEUTENANT GOVERNOR BROWN: And there are, you know, a lawyer is not subcontracting to other lawyers to provide the service, and there's only so many legal pads that you've got to buy during the course of a year.

MS. BUCKMASTER: Exactly. Exactly.

LIEUTENANT GOVERNOR BROWN: Is that what we're talking about?

MR. WILBON: That's correct --

LIEUTENANT GOVERNOR BROWN: Yeah, okay.

Because I'm just looking at this, I was wondering why then, perhaps it would have short cut my questioning, and maybe even would have helped me avoid it, if next to MBE participation on the materials it says that there is a prime and sometimes it doesn't. And so it didn't tell me that there was a prime here, so I --

TREASURER KOPP: I think that would be very helpful.

LIEUTENANT GOVERNOR BROWN: Yeah.

TREASURER KOPP: And actually, it would be helpful for the public, too, when they see these things.

SECRETARY MCDONALD: Would you, excuse me, I was trying to find information about this. What would --

TREASURER KOPP: When the prime in fact --

SECRETARY MCDONALD: Well that's what we're trying, we do now have a policy that it would say 100 percent participation.

MS. FOSTER: Right.

LIEUTENANT GOVERNOR BROWN: Right. You

didn't do it here.

MS. FOSTER: Right.

SECRETARY MCDONALD: Well, we're not sure that she's a certified MBE. That's what I'm --

MS. BUCKMASTER: Yes, she is.

SECRETARY MCDONALD: She is --

MS. BUCKMASTER: She is, yes.

SECRETARY MCDONALD: -- a certified MBE? Well, if it is concluded that it is a certified MBE I would work with the Department of Budget and Management and we'll make sure that this item is correct.

TREASURER KOPP: I think it would actually be interesting to know whether they were certified, if the MBE - certified or MBE - not certified in Maryland. Because that raises the question of the process of certification, and --

SECRETARY MCDONALD: Okay. Well we will make sure to try to capture all of that information and I'll work with --

MS. FOSTER: You're really pushing us --

LIEUTENANT GOVERNOR BROWN: Sometimes it gets

in complicated organizations. Maybe with a lawyer it may be a little easier than with a, a larger organization trying to identify ownership interest.

TREASURER KOPP: Explain, I mean, I --

MS. FOSTER: Just in the interest of trying to do this, to the extent we can we will do it. But, you know, this could be a very tedious process and that's something --

TREASURER KOPP: I don't mean it to be. As you know, I'm very frustrated by this situation, where we have MBE primes, if that's what you call them, and DHR deals with this a lot.

MR. WILBON: Yes.

TREASURER KOPP: The child, the spouse abuse centers, places like that, that are run by women, by minorities. But they don't count in the contracts, or. I mean, it just is very frustrating when the only problem is we don't subcontract and therefore it doesn't look as though we are --

LIEUTENANT GOVERNOR BROWN: Meeting?

TREASURER KOPP: Not just meeting, but



actually delivering services --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- through MBE providers.

And I don't know what it takes to see it. And I don't want to cause unnecessary work, but --

MS. FOSTER: Yeah, I was going to say, and I'm very happy to say to the extent that we can do this we are certainly happy to do it. In some cases it will be too tedious and, you know, and just not --

LIEUTENANT GOVERNOR BROWN: But where the prime is certified, that you can readily do, right?

SECRETARY MCDONALD: Absolutely.

LIEUTENANT GOVERNOR BROWN: Okay, and, because I'm seeing that, okay.

MS. FOSTER: Yes.

LIEUTENANT GOVERNOR BROWN: So this is just an example of where one fell through the cracks?

MS. FOSTER: Yes.

LIEUTENANT GOVERNOR BROWN: We didn't identify in our material that you did have an MBE certified prime. But as a general matter we identify

that, we do that? Okay.

SECRETARY MCDONALD: You're right.

MS. FOSTER: And --

MS. JENKINS: To your point, this was a supplemental item. And normally we catch these before they come to the Board. We didn't have a chance to look at this. Because we do, the agencies have been pretty vigilant about including and denoting where there's --

LIEUTENANT GOVERNOR BROWN: Yep.

MS. JENKINS: -- an MBE prime. And this one unfortunately we didn't see in time.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JENKINS: Point well taken.

TREASURER KOPP: Let me just add one other thing I've been muttering over here. He said, "Well, there are a lot of reasons why they are not certified." For instance, as we know sometimes the, they are too large. They've been successful.

MS. FOSTER: They graduated, right.

TREASURER KOPP: Yep. I just think if there

was some way, and maybe just a spot survey, or I don't know. I'd love to brainstorm. But to know why people are not certified. Whether it's the process, whether it's something about the requirements, whether, what it is?

MS. FOSTER: Sure.

TREASURER KOPP: Because it may be something that we can change and enhance the program. You know, that's my two cents, thank you very much.

MS. JENKINS: Madam Treasurer, I'd be more than happy to share those insights with you because you raise --

TREASURER KOPP: Yeah, I'm not trying to make things --

MS. JENKINS: -- some examples of why firms opt not to seek certification.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. And you know what? The next time that I do one of these MBE business round tables --

MS. JENKINS: Which will be Friday.

LIEUTENANT GOVERNOR BROWN: Okay, but not

that one.

(Laughter)

LIEUTENANT GOVERNOR BROWN: But often a lot of these issues come up in these conversations, with minority businesses. Some are certified, some aren't, some want to be, some don't want to be, et cetera. And, so maybe we'll invite the Treasurer.

MS. JENKINS: And to the credit of Secretary Beverley Swaim-Staley, her office and department handle certification. And over the last two years has really done an exceptional job of getting more firms certified in the State of Maryland. So we are feeling your sentiments exactly in terms of our efforts.

LIEUTENANT GOVERNOR BROWN: Thank you very much.

TREASURER KOPP: Thank you for your leadership.

LIEUTENANT GOVERNOR BROWN: So we are now at the University System of Maryland, and --

MR. STIRLING: We have fourteen items and we'd be happy to answer any questions.

LIEUTENANT GOVERNOR BROWN: If we could jump over to Item 8? That's the Frostburg State University contract. And I understand that it was on the Agenda, when, last time? No?

MR. STIRLING: A couple of meetings back.

LIEUTENANT GOVERNOR BROWN: A couple of meetings back? And if, and my specific questions are if you could just address the reasons for consolidating the one-year renewals into one renewal? And what would be the harm, if you will, if we rejected that part of the request today? Is that the only request that's actually being made? The consolidation? Or --

SECRETARY MCDONALD: To exercise --

MR. STIRLING: The renewal option.

LIEUTENANT GOVERNOR BROWN: Correct --

SECRETARY MCDONALD: -- to exercise all four years at one time.

LIEUTENANT GOVERNOR BROWN: Right. So it's really a, it's a two part. It's, we have to act on whether to consolidate or not, and then we've got to act on whatever the renewal, whether it's one-year or

four-year.

MR. STIRLING: Right.

SECRETARY MCDONALD: Correct.

LIEUTENANT GOVERNOR BROWN: So if you could just speak to what the harm or downside, or burdens that we would impose on you by not doing the four-year? And then if you could also talk to the MBE? I mean, I'm looking at, this is primarily a food service contract.

MR. STIRLING: Right.

LIEUTENANT GOVERNOR BROWN: I mean, there's I think some other components. And I know the history about why it was 25 percent, and the misunderstanding, and the more accurate now is 6.3, I think, that has been worked out. To me that seems awfully low in the food service industry. So if you could just speak to those two, and then maybe the members have, the other members have other questions.

MR. STIRLING: Bear with me for just a second. I'm going to ask Richard Repac from Frostburg to come up and address those directly.

LIEUTENANT GOVERNOR BROWN: Great.

MR. REPAC: The first issue is why we're looking for a four-year renewal instead of one, is with these renewal options we're getting \$300,000 a year for donation towards the renovation towards our student center, for a total of \$1.5 million. We got \$300,000 for the first renewal, but what we're looking at is the amortization of this, you know, getting this money up front, using it for the project, and that's why we're asking for a four-year renewal on this project. And the other thing we're looking at is, we have over 100 employees that work for this food service company. And doing a one-year renewal at a time, it doesn't give these families and employees stability. So that was the other reason.

LIEUTENANT GOVERNOR BROWN: On the capital contribution, the \$300,000 a year?

MR. REPAC: Yes.

LIEUTENANT GOVERNOR BROWN: Just explain to me a little more on that, because I see the number \$1.5 million. Does that represent what should have been

done in the original contract?

MR. REPAC: Yes. The original contract was a ten-year contract. They gave us \$1.3 million for the first five years --

LIEUTENANT GOVERNOR BROWN: Uh-huh.

MR. REPAC: -- and \$1.5 million for the next five years.

LIEUTENANT GOVERNOR BROWN: Okay. And the \$1.5 million, I see, but there are four renewal options remaining, one has already been exercised? Is that it?

MR. REPAC: Yes.

LIEUTENANT GOVERNOR BROWN: Okay, so okay, I got it. So they did \$1 million, then \$300,000 for the first renewal. That brings you to \$1.3 million, am I right?

MR. REPAC: Well, yeah, we're now owed \$1.2 million for the last four years.

LIEUTENANT GOVERNOR BROWN: Right. Well, when you say owed that's, I mean --

MR. REPAC: We're getting the \$300,000 each -

-



LIEUTENANT GOVERNOR BROWN: Right.

MR. REPAC: -- each renewal. And that's what, we'd like to roll this in so we could get that \$1.2 million right away.

LIEUTENANT GOVERNOR BROWN: What does the \$300,000 go for? Go towards?

MR. REPAC: In our student center we're renovating the whole student center, and we're in the process of doing that right now. It should be completed in December. In this renovation our kitchen is being renovated for this building. And that's, you know, gutting the kitchen, replacing all the equipment. So that's what the \$1.5 million is going towards.

LIEUTENANT GOVERNOR BROWN: Okay. All right. And can you talk a little bit about the MBE piece and why that seems to be so low?

MR. REPAC: Well when we, we did, we started the contract, I guess, in 2003, we, I guess we were not educated enough. And that's one of the things that we're going to be doing with College Park, on how to do the MBEs properly. But we, we followed the State

mandate and put 25 percent in the contract. And when we, like for this, for this, for the renewal for five, you know, it's a \$5 million contract.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: And you know, the, that \$5 million purchasing power, ARAMARK doesn't have all that, you know, they probably only purchase, that they can purchase about \$1.6 million and that's what makes it very difficult, on what they can purchase. Because part of that \$5 million that we're paying them, \$2 million is to pay these employees.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: So they, they don't have control.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: They also, we require them to have franchises, like we have Chick Fil A, Taco Bell. We make them pay utility costs on our campus, which is, for our Chesapeake Dining Hall which is, like, \$200,000 a year. But if you keep going through that \$5 million, they really have purchasing power about \$1.6 million. So they've committed, you know, for this renewal

\$320,000. And that represents about 20 percent. I know we don't do that until after the fact, but that's why if you take the \$320,000 towards the \$5.1 million that's 6.3 percent.

LIEUTENANT GOVERNOR BROWN: Yeah. I guess the concern I have, that this raises, is that what you're describing to me is that in any sort of labor intensive service contract where a large percentage is going to wages, then you know, you can't meet the 25 percent. Or, you know, your, it becomes that much more difficult to do. And I mean there's no, there, I mean unless someone tells me otherwise, there's, we don't distinguish by types of contract when you've got to do the 25, you know, when you should make the 25 and when not. And it just seems to me that in the procurement process you've got to figure that out. You've got to say to your folks, to the ARAMARKS, "Look, you know what? Maybe," how many employees they got?

MR. REPAC: Over 100.

LIEUTENANT GOVERNOR BROWN: Maybe, maybe fifty of those employees ought to be accounted for

through some subcontract, you know? You guys handle this part of the food service, and you let your sub handle another part. And they'll pay the salaries to folks, but it will flow through an MBE that can develop the capacity to one day be the prime. I just, I hear your description and your assessment of what creates the challenge. But going forward, but then here's my concern. You consolidate four years, four renewables into one. And then there's no incentive for ARAMARK

to do that. Because if I was, if I were presiding over the Board of Public Works a year from now when the renewal comes through and I saw that it was the same 6.3 I'd have really, major concerns. Because I'd want to see that, you know, there's been an effort underway to move that number up. But by consolidating to four years it doesn't give the Board an opportunity to review your efforts and your commitment.

MR. REPAC: Well one of the things that we've committed to is working with John to send, you know, monthly reports to him on what they're doing. So we're to keep them under the gun to make sure that they're

maintaining that 6.3 percent. We've set up a process on campus to monitor that very closely. They've worked with this -- and one of the difficult things that we've experienced when we've been working on this for the last month or two with them is trying to get minority vendors in Western Maryland. The vendor that they're going to be working the most with is this MIK Industries, is a food company that would be purchasing \$7,500 of food a week from them. But they've never even delivered in Western Maryland, you know, Allegany County. And that's --

MS. JENKINS: They're based in Laurel.

MR. REPAC: Excuse me?

MS. JENKINS: They're based in Laurel.

MR. REPAC: Yeah, they're based in Laurel.

So they've never, you know, and they were going to work with us. And we're hoping that this works. But they're committed to do this, to drive that distance, to deliver that much food. And we're going to do that on a weekly basis. And if, if there were more, you know, I'm not sure now many more minority vendors do

the food. You know? And that's what they buy, that's what they purchase, so that --

LIEUTENANT GOVERNOR BROWN: So that subcontract is for foodstuff?

MR. REPAC: For food, for food, yes. And one of the things they are going to be working on that they, they've committed, they buy a lot of food from Sysco. And Sysco uses minority vendors but they're not Maryland certified. You know. And that's what they're, they have a person at their headquarter who's going to be working with Sysco to get more of these, they're going to learn how to sign these vendors up to do that. And they've committed to do that.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. Anybody else have anything on it?

TREASURER KOPP: Does the, is it that the procurement staff at College Park counsels the other, you said you didn't understand it, and then --

MR. REPAC: Well our, we have a, well maybe you could --

MR. STIRLING: Yeah, I can --

TREASURER KOPP: How does it, do you have a procurement counsel at the University --

MR. STIRLING: No. It's simply something that we've offered to Frostburg. College Park on the order of magnitude does quite a bit more contracting than Frostburg does. And I think, you know, we're probably in a better position to walk them through exactly how to establish MBE goals properly rather than arbitrarily set them at 25 percent and then fail. And we'll work with them. And I've had some conversations with Secretary Jenkins about that and told her that we would do that.

One other thing to mention is we operate as a service center at College Park so all of the capital improvements at Frostburg are run through our office. And there is a spin off benefit to this capital contribution from the food service vendor. That money goes into the construction contract that it is actually getting in excess of 25 percent. So --

LIEUTENANT GOVERNOR BROWN: Mm.

MR. STIRLING: -- we'll leverage it a little

bit.

LIEUTENANT GOVERNOR BROWN: That's good.

That's good.

TREASURER KOPP: Good catch. But I would have thought there would be some system wide counsel or correspondence or network, or something.

MR. STIRLING: There is. We all work with Jim Salt at the University System. He's the Associate Vice Chancellor there. We have regular procurement directors conferences to discuss these kinds of things. We had one last month and this very issue was discussed. It was on the agenda.

TREASURER KOPP: And I guess then the question is who attends, and whether it sinks in?

MR. STIRLING: It's all the procurement directors from the twelve institutions of the University System.

TREASURER KOPP: Well, I guess that's either good or bad. I mean, but maybe at the next meeting people who don't understand it, or who do things like saying, "If they want 25 percent we'll give them 25



percent and then we'll see what we can do," can be coached to understand why that just won't work in the end.

MR. STIRLING: And that's where we're headed. I mean, you've just got to inject, you've got to look at the facts on the ground. It's in Western Maryland.

TREASURER KOPP: Yeah.

MR. STIRLING: You've got to look at the type of service. You have to consider what's actually out there that could be subcontracted and set a reasonable goal, something that can be achieved.

LIEUTENANT GOVERNOR BROWN: Do you have anything?

COMPTROLLER FRANCHOT: I have another item.

LIEUTENANT GOVERNOR BROWN: Yeah, I have another, I have more follow up on this. I am concerned with the four-year, you know, consolidating into four years. And I'm wondering if, you know, we're talking about, we're really talking about \$900,000 that wouldn't be available immediately, right, because three, if it was a one-year renewal \$300,000 would be

available for that first year and then you've got three more years that you would be kind of wondering about that. And I just wonder if the University System of Maryland, why or if they could work out an agreement with Frostburg to forward fund that money and then collect it on the, when the renewals are awarded?

MR. STIRLING: I'm going to have to ask Rich to address the cash flow situation there. I know, as he mentioned, we have an ongoing construction project there. So the space is actually physically under renovation as we speak. Whether the spreading out of that funding would create a problem or not, I'm not sure.

LIEUTENANT GOVERNOR BROWN: But then, but part of the question is, what other funds are available in the University System? I mean, you know, it's a System, that's why we've got a System. We sort of, you know, we work with each other. So couldn't the System assist them with the cash flow and then recover that, those advances when the options are renewed on a year by year basis?

MR. STIRLING: I don't believe that's even been discussed yet.

MR. REPAC: No, we would have to take that out of the fund balance. That's our only place that, we don't, we can't borrow from the System on something like that. We would, the construction project has been already set up, an \$18 million project. Now that has been set up. But we're going to be borrowing that with bond money. But this, we would have to just use our fund balance for this money.

LIEUTENANT GOVERNOR BROWN: Right. And I have to imagine that in your budgeting deliberative process you have a scenario for doing just that?

MR. REPAC: We do. But at the same time, if you want to look at our fund balance, with all the reductions we've had --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: -- in the last couple of years --

LIEUTENANT GOVERNOR BROWN: Right.

MR. REPAC: -- our fund balance is down there pretty low right now.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: We've been, I mean, getting some big hits so --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: That's another reason why it's important to --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MR. REPAC: -- to have this money. But and again, too for the employees. I mean, that's important for these, there's not a lot of jobs in Western Maryland. And, you know, these one-year renewals are tough on them. You know, there's a lot of families that, you know, look to this company for employment.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. All right. I just want you to say that you put the Board in a very tough position. You know, it reminds me of my days at, like, the Board of Trustees at Prince George's Community College where, you know, they come in and they say, "Hey, you know, we've got this contract that if you don't approve it, you know, for HVAC, then, you know, if the system shuts down and

we've got students that are sweating in laboratories," and then it's like how do we really have the opportunity to have the freedom if you will to decide yes or no on something when your back is up against the wall? And that's quite frankly I think what you're doing here. Not intentionally, but that's the result.

MR. REPAC: I apologize for that.

LIEUTENANT GOVERNOR BROWN: Well, I mean, it's not really an apology, but it's, you know, you've got competing interests here. And so, well I don't have any other questions or comments on that item but I know that the Comptroller said he had some on some other items?

COMPTROLLER FRANCHOT: Yes, thank you very much.

MR. REPAC: Thank you.

COMPTROLLER FRANCHOT: Governor, Item 2, the Towson Center Arena project. How do you justify taking a \$36 million project and essentially moving the project from one side of the building to the other, and increasing the price of it by \$20 million?

MR. STIRLING: I'm going to ask Mr. Evans to come up and speak to that project, if you --

COMPTROLLER FRANCHOT: I mean, are we, just got piles of money lying around where we can indulge every last question that somebody puts their hand up in the air, and, I mean this is a pretty amazing cost escalation.

MR. EVANS: The cost escalation is, the reason that we're moving it to the west side is because of the opposition from the community up in Towson when it was originally scheduled for the east side of the Towson Arena, this addition. And we brought that before the Board, and I think there was a lot of uproar, letters sent in from the community association. So we moved it to the west side, which is not a, it's not an ideal location although it can be, it can be built there. But some of the things that's driving up the cost, now, by putting it on the west side of the building is site utilities, existing underground electrical utilities have to be removed. There's ground equipment that has to be moved. The west side

of the existing building slopes severely away from the existing building. So there's a lot of issues on the west side that's driven the cost up to \$20 million from where it originally was to go, which was on the east side of the Arena.

COMPTROLLER FRANCHOT: I'm all for community input. I just think there's hopefully some limit somewhere on indulging the citizen opposition in big projects. I'm not going to, I'm still going to vote for this but it strikes me that it's a big chunk of money.

MR. EVANS: Yes, sir. It is.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR BROWN: What, and what are we, what's our action today?

SECRETARY MCDONALD: You're modifying the --

MR. EVANS: We're modifying the --

SECRETARY MCDONALD: -- design contract and the construction contract, right?

MR. EVANS: Right.

SECRETARY MCDONALD: To add on the money so

they can do the west side instead of the east side.

MR. EVANS: To do the west side.

LIEUTENANT GOVERNOR BROWN: Okay. So are we

--

SECRETARY MCDONALD: It's two and three.

Item 2 and Item 3.

LIEUTENANT GOVERNOR BROWN: Oh, two and  
three?

SECRETARY MCDONALD: Right.

LIEUTENANT GOVERNOR BROWN: So two is --

SECRETARY MCDONALD: Two is A and E design  
services had that change.

LIEUTENANT GOVERNOR BROWN: And that's a  
modification of \$50,000 --

MR. EVANS: No --

SECRETARY MCDONALD: Two is the other way  
around, sir.

MR. EVANS: Two --

SECRETARY MCDONALD: Two is Gilbane. Two is  
the construction.

MR. EVANS: Two is the construction.



LIEUTENANT GOVERNOR BROWN: Okay --

SECRETARY MCDONALD: And it's one is the, is it one here or am I confused? No, I'm sorry. I'm looking at, it is just Item 2.

MR. EVANS: No, only for the Towson, I only have Item 2.

LIEUTENANT GOVERNOR BROWN: Okay, so someone can restate what we're doing?

MR. EVANS: Okay. What we're doing is we're asking to modify the amount of the contract. We're going up to \$56 million. And the other one is to the construction, the pre-con, to increase the pre-con to -

LIEUTENANT GOVERNOR BROWN: And how much is that?

MR. EVANS: This, this is a \$50,000 addition for pre-con.

LIEUTENANT GOVERNOR BROWN: All right, so that's \$50,000.

MR. EVANS: That's what we are asking you really to do today, is the pre-con. If we award a GMP

then we will come back to the Board for the approval of those GMPs.

TREASURER KOPP: Right.

LIEUTENANT GOVERNOR BROWN: Yeah, my stuff is not straight here.

SECRETARY MCDONALD: Okay, it's --

LIEUTENANT GOVERNOR BROWN: I'm not straight here. I don't see it.

SECRETARY MCDONALD: Right, on page 3C, modification description is in the middle of the page.

LIEUTENANT GOVERNOR BROWN: Right.

SECRETARY MCDONALD: And that says what you're doing is you're approving this modification to the changes made necessary by relocating the construction site from the east side to the west side, which increased the construction costs from \$36 million to \$56 million, and increased the construction manager cost from \$4.6 million to \$5.6 million. So that's what you're --

LIEUTENANT GOVERNOR BROWN: So that, so then lower down are some typos? Are there some typos down

there? Amount of modification?

SECRETARY MCDONALD: No, I don't think so.

That --

MR. EVANS: Well the, within the \$5.6 million is the construction costs itself. All we're asking, pre-con, the \$50,000 we have pre-con, and then we have construction costs. When we come back with the GMPs the GMPs will include the construction costs.

LIEUTENANT GOVERNOR BROWN: The \$36 million to \$56 million?

MR. EVANS: Yes, sir.

LIEUTENANT GOVERNOR BROWN: So I go back to my original question. What am I, what is the Board acting on today?

SECRETARY MCDONALD: Okay. I think now, Joe, it's the design changes that are just going to take the construction fees up \$50,000? That's all right now?

MR. EVANS: Right. That's it.

SECRETARY MCDONALD: That's it.

LIEUTENANT GOVERNOR BROWN: Design?

SECRETARY MCDONALD: Are you actually are

approving right here is to pay an extra \$50,000 in construction fees, construction management pre-construction fees.

LIEUTENANT GOVERNOR BROWN: Right.

SECRETARY MCDONALD: That's all you're doing in that \$50,000. But when you do that the next automatic thing in the road will be him coming with these other items for the construction.

LIEUTENANT GOVERNOR BROWN: Okay. So then explain, maybe Secretary Foster, on the \$36 million, okay, there's a construction project, \$36 million?

MS. FOSTER: Yes.

LIEUTENANT GOVERNOR BROWN: Have we, where is that in the approval process?

MS. FOSTER: That's --

MR. EVANS: It's been funded by university funds.

LIEUTENANT GOVERNOR BROWN: Does that come from the Governor's capital budget?

MS. FOSTER: I really know nothing about this

--

MR. EVANS: It's USM Academic Auxiliary.

MS. FOSTER: Oh so these are the academic --

MR. EVANS: That's funding this, right.

MS. FOSTER: This is a project, then, which would be funded with academic revenue bonds.

MR. EVANS: Right.

MS. FOSTER: So this is the University's ability to issue debt on the --

LIEUTENANT GOVERNOR BROWN: Oh, okay.

MR. EVANS: Right.

LIEUTENANT GOVERNOR BROWN: And, but, and does the University System, and the University System has to come back to the Board of Public Works for approval on that?

MR. EVANS: We're coming back to the Board when we start to issue the GMPs for the actual construction. We'll bring those back to the Board for approval.

LIEUTENANT GOVERNOR BROWN: And the approval for the \$56 million?

MR. EVANS: Yes, sir.

LIEUTENANT GOVERNOR BROWN: You received approval for \$36 million some time ago?

MR. EVANS: Yes, sir. That was --

MS. FOSTER: Many months.

MR. EVANS: It looks like --

TREASURER KOPP: These are not general funds. These are not State, tax --

LIEUTENANT GOVERNOR BROWN: Right. These are revenue, right, these are --

TREASURER KOPP: These are University revenue funds.

LIEUTENANT GOVERNOR BROWN: Right. University revenue. But I just wanted to clarify, you do have to come before the Board. You've received approval for the \$36 million. You haven't issued \$36 million.

MR. EVANS: Right, we haven't issued any. We were supposed to --

LIEUTENANT GOVERNOR BROWN: Haven't any. But you've got approval waiting, and then you're going to come back to the Board and say, "Okay, we need actually

\$56 million and not \$36 million."

SECRETARY MCDONALD: And that's on page 4C,  
they make that statement. Their very last statement --

TREASURER KOPP: But presumably that \$20  
million is coming out of, out of other projects that  
these funds would be used for? I mean --

MR. EVANS: That I can't --

TREASURER KOPP: You don't --

MR. EVANS: I --

TREASURER KOPP: I would think so.

MR. STIRLING: That would be a matter of the  
System setting priorities --

TREASURER KOPP: That's the System --

MR. EVANS: Which one --

LIEUTENANT GOVERNOR BROWN: Right.

MR. STIRLING: -- how to allocate those bond  
funds.

MR. EVANS: Right.

MR. STIRLING: I believe they've met all of  
the intended required requirements for projects and  
have been able to accommodate this.

LIEUTENANT GOVERNOR BROWN: Got it.

TREASURER KOPP: Now, what's interesting is in the beginning it says you decided not to renovate because of the cost. That it would be better to build a new building? Is that still --

MR. EVANS: This, it originally started out as a renovation of the --

TREASURER KOPP: Right, Towson Center.

MR. EVANS: -- of the Arena. Then they looked at the price and they said, "Well, it would be cheaper if you were doing an addition."

TREASURER KOPP: Right.

MR. EVANS: And so the addition was put on the east side of the building. And then all broke loose from the community association about that building being on the east side. So we had to find another location to move it, which was back to the west side, over to the west side.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: And did you compare it again against renovating the Towson Center?



MR. EVANS: I would have to bring up Mr.

David Mayhew --

TREASURER KOPP: If it was simply a cost issue in the beginning --

MR. EVANS: -- who is the Direct of AEC at Towson University.

MR. MAYHEW: Good morning.

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. MAYHEW: Yeah, when the decision was made to --

SECRETARY MCDONALD: Would you identify yourself, please, for the record?

MR. MAYHEW: I'm sorry. I'm David Mayhew, Director of AEC with Towson University. When the decision was made to change the project from a renovation of the existing building to an addition, it was not only a cost issue. It was a feasibility issue and a value issue. The existing building is over thirty years old, in need of a complete renovation. Trying to alter that building into the facility needed for our growth and the Arena just wasn't feasible.

I will also add that the east side was in many respects an ideal location for the addition. The flat level parking lot was contiguous to the existing building. The elevations lined up. Excavating down into the bowl was very efficient. The west side, on the other hand, is dramatically different. The topography slopes dramatically away from the building.

When we got the approval to change the project from a renovation to an addition, the University made a commitment to work with the community and come up with a satisfactory solution. And granted, it is a significant cost difference, largely driven by the different location, the topography, the utilities, the existing conditions. But I should point out there's also value added to the project. There's a lot more renovation of the existing building required that may ultimately have been required anyway. It wasn't included in the original east side addition because it wasn't necessary. With the west side addition it's in some cases necessary and in some cases advantageous to do parts of the renovation of the existing building as

well. There's more existing parking that's preserved with the west side location. The west side is on the opposite side of the building from the adjacent community, the proximity is much farther away. It's also directly across from Johnny Unitas Stadium, which gives us the opportunity to develop a facility that could possibly be used in conjunction with that facility.

So there are advantages as well, although the main driver was the negotiations with the community and coming up with a mutually satisfactory solution.

LIEUTENANT GOVERNOR BROWN: All right. And the, identify again the revenue authority? What's the name of that revenue authority?

MR. STIRLING: It's the University System of Maryland Auxiliary Revenue Fund.

LIEUTENANT GOVERNOR BROWN: Auxiliary Revenue, and what, is that the, issuing these auxiliary revenue bonds, is that the principal way of funding the capital projects that are not in the Governor's capital program?

MR. STIRLING: I would say yes, you know, for these types of functions.

TREASURER KOPP: For these types of functions.

MR. STIRLING: Exactly. Residence halls occasionally you see funded that way, dining facilities, things of that sort.

LIEUTENANT GOVERNOR BROWN: The revenue generating, and okay.

TREASURER KOPP: Which students pay a fee for --

LIEUTENANT GOVERNOR BROWN: And students pay a fee, right.

MS. FOSTER: Auxiliary facilities that are supported with revenues.

LIEUTENANT GOVERNOR BROWN: I'm sorry?

MS. FOSTER: Auxiliary facilities that are supported with revenues.

LIEUTENANT GOVERNOR BROWN: Okay. And your main, but your main sort of, but your academic buildings, they are, do all of those go through the

Governor's --

MR. STIRLING: We also finance some of those through your academic revenue bonds.

TREASURER KOPP: As I recall there are sort of three pots. Well, I mean, there's PAYGO. But there are auxiliary buildings for sort of auxiliary enterprises. Then there are general fund constructions. And then there's academic revenue bonds --

MR. STIRLING: Right.

TREASURER KOPP: -- that are backed by the University's revenue, including tuition.

MR. STIRLING: Absolutely.

LIEUTENANT GOVERNOR BROWN: Got it.

TREASURER KOPP: That were created during the financial crunch some years ago, I don't remember which one.

LIEUTENANT GOVERNOR BROWN: And I promise not to follow too many rabbit trails. But MHHEFA, when do they come into play for you all? The Maryland Higher Education and Health Financing? Is that a --

TREASURER KOPP: They do for the, they do more for the independent institutions, the Hopkins.

LIEUTENANT GOVERNOR BROWN: Okay.

TREASURER KOPP: Or the University of Maryland Medical System, which is not really the University.

LIEUTENANT GOVERNOR BROWN: Got it. Okay. And then the last one I'm going to ask about, what about MEDCO? When do they fund, issue bonds for your buildings?

MR. STIRLING: We work with MEDCO on some public/private ventures. Student housing projects, I know have been done that way. We get some utilities upgrades to our power plant at College Park working with MEDCO. So there are on occasion projects that we'll partner with MEDCO on.

LIEUTENANT GOVERNOR BROWN: Do those come before the Board?

MR. STIRLING: Yes, they did.

LIEUTENANT GOVERNOR BROWN: I mean, they all do?

MR. STIRLING: Absolutely.

LIEUTENANT GOVERNOR BROWN: That's a requirement, that they come before the Board?

MR. STIRLING: Regardless of funding source, our construction projects, capital improvements, come before the Board.

LIEUTENANT GOVERNOR BROWN: So I know that they are doing the Towson building up in Harford County, is that right?

MR. MAYHEW: I believe so, yes.

LIEUTENANT GOVERNOR BROWN: And that came before the Board?

MR. MAYHEW: Correct.

LIEUTENANT GOVERNOR BROWN: Okay. But you don't do many of those, with MEDCO?

MR. STIRLING: I'd say that's probably fourth on the list.

LIEUTENANT GOVERNOR BROWN: Yes.

MR. STIRLING: On occasion we'll work with them.

LIEUTENANT GOVERNOR BROWN: Okay. Thanks for

the education. Anybody else have anything? Great,  
Madam Treasurer do you have anything else on the  
University System of Maryland?

TREASURER KOPP: I would simply point out  
Item 4, which is federal funds for work that the  
Institute of Human Virology is doing in Nigeria in AIDS  
relief. But I think it might be of some interest to  
the Board and to you, Governor, at some point if we  
could have a presentation on what the University  
Medical System and IHV are doing, particularly in  
Southern Africa, almost entirely with federal funds.  
Because I think Maryland is making probably a greater  
contribution through the federal --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- the PEPFAR program to the  
fight against HIV and other similar viral infections  
than almost any other organization anywhere. But  
nobody knows about it.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: So I would ask the Secretary  
maybe sometime to arrange --



LIEUTENANT GOVERNOR BROWN: A brief presentation.

TREASURER KOPP: I think people --

LIEUTENANT GOVERNOR BROWN: Yeah.

TREASURER KOPP: -- would be very, very interested and very supportive, to know what we're doing.

LIEUTENANT GOVERNOR BROWN: We can do that.

TREASURER KOPP: This just reminded me.

LIEUTENANT GOVERNOR BROWN: Okay.

TREASURER KOPP: They also did a great deal of work in Haiti recently, but --

LIEUTENANT GOVERNOR BROWN: We approved a, we approved a --

TREASURER KOPP: Yes, yes, and the System has done a lot. But IHV particularly is going down there and helping reconstruct, all the medical facilities were destroyed, reconstruct one major hospital --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: -- in Haiti, in Port-au-Prince.

LIEUTENANT GOVERNOR BROWN: I'm sure you guys can do that. We'll work with Secretary McDonald --

MR. STIRLING: Absolutely.

SECRETARY MCDONALD: Absolutely.

LIEUTENANT GOVERNOR BROWN: -- to get a convenient date for everyone involved. Great. Thank you very much. Hearing nothing else on the University System of Maryland Agenda, the Treasurer moves approval, seconded by the Comptroller. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?  
(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the USM Agenda is approved. Thank you very much.

MR. STIRLING: Thank you very much.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. And next we will go to Department of Information Technology.  
Good morning.

MR. SCHLANGER: Lieutenant Governor, Madam Treasurer, Mr. Comptroller, Elliot Schlanger,

Department of Information Technology. We have one item on the Agenda today. But I will be happy to talk about IT, sole source, MBE, and this one item.

(Laughter)

LIEUTENANT GOVERNOR BROWN: So just, are you going to, on the MBE are you going to basically say that there's no subcontracting opportunity?

MR. SCHLANGER: Yeah --

LIEUTENANT GOVERNOR BROWN: Not even on the maintenance fees?

MR. SCHLANGER: What I would just say that is, you know, when we come to the Board when we initially acquire a system there is a lot of opportunity for segmentation, whether it happens to do with, it's a design project, oversight, the implementation. And these systems are costly, they have a life. And so many times after the fact we come back and we say operations and maintenance. And what we're saying is, A, applications. We typically do not buy and own the software. We buy the license. It's a right to use. So the money that we pay to a third

party is not for people. So hence the opportunity to sub isn't there.

Maintenance in a similar way, you know, we pay for future upgrades, enhancements, that a team of people do somewhere, you know, that again is not easily subcontracted to others. One thing that you'll find is that we're coming to the Board often to bring maintenance and operations support. That's because we continually extend the life of the systems that we have and we don't acquire new because we can't afford. So that's another insight that I think you need to hear.

LIEUTENANT GOVERNOR BROWN: Okay. All right. I've got it. Anything else on this one item, this single item Agenda?

TREASURER KOPP: I just have one generic question, and it's really brief. I understand, we get ourselves locked in, and this used to happen more with a large corporation, IBM or somebody who has, is reasonably a sole source. But as time passes others come into the field. And how do we protect ourselves so that down the road we have the option to take

advantage of competitors or alternatives that didn't exist at the time of the beginning of the --

MR. SCHLANGER: Right, so there's several things that I would say. The first is as you know, in areas where in fact we look at services, and although you don't see every order you know the results from CATS, or consultant and technical services contracts, which is worth hundreds of millions of dollars. Our total aggregate of MBE prime and subs is over 50 percent. So, you know, we're very sensitive and successful to the MBE issues.

In terms of the legacy mainframes, if you will --

TREASURER KOPP: Right.

MR. SCHLANGER: -- you know, they're kind of dying out. And there will be a period of time where as opposed to having, as opposed to having one major system that does all, we have, it's a more compact and it's a specialized IT, call it environments, that tend to turn over more often. So you're absolutely right. The observation of the same contracts coming forth

every so often for the big dollars, you're just not going to see it. And there's going to be more opportunities to segment to MBEs. And I think there's a lot of good examples that we bring to the Board.

TREASURER KOPP: Well, to segment to MBEs and maybe to save some money, too.

MR. SCHLANGER: That's absolutely right. That's absolutely right. And, you know, here's the point. It's good to save money. But the economy is forcing us to look for ways to save money. We don't have a choice.

TREASURER KOPP: Thank you. Just curious.

LIEUTENANT GOVERNOR BROWN: Okay, anything else?

TREASURER KOPP: No.

LIEUTENANT GOVERNOR BROWN: The Treasurer moves approval, seconded by the Lieutenant Governor, and all in favor say, "Aye."

TREASURER KOPP: The Comptroller and his wife are going out of the country. And he made a special effort to be here in the morning.

SECRETARY MCDONALD: Yes, he did.

TREASURER KOPP: And I apologize for talking so much, but I'm sorry because --

LIEUTENANT GOVERNOR BROWN: And, okay, I thought he was going --

TREASURER KOPP: I thought he was very good -  
-

LIEUTENANT GOVERNOR BROWN: -- to Chicago?

SECRETARY MCDONALD: No, he's going out of the country. But he was, he has an airplane. Oh, I thought so. Well, maybe I'm wrong.

LIEUTENANT GOVERNOR BROWN: Okay, whatever, he's not here.

SECRETARY MCDONALD: But he had an airplane to catch, we do know that. And he made a special to come in for it. He changed the airplane.

LIEUTENANT GOVERNOR BROWN: Okay. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Department of Information Technology Agenda is approved. And our last Agenda item for today is the Department of Transportation.

MS. SWAIM-STALEY: Good morning, Governor.

LIEUTENANT GOVERNOR BROWN: Good morning.

MS. SWAIM-STALEY: And Madam Treasurer. For the record, Beverley Swaim-Staley representing Maryland Department of Transportation. We have nine items today, as Item 2-C has been previously withdrawn. Item 9-GM-OPT has previously been revised, and Item 10-L-MOD has been previously submitted as a supplemental item. We're available to answer your questions.

TREASURER KOPP: So, very briefly on ten. I'm just curious, Howard and I both had a question of, you are going to the market for refunding on a specific date, and you're assuming a specific amount of savings?

MS. SWAIM-STALEY: Yes, based on financial advice we received.

TREASURER KOPP: Based on, what, is it PFM?  
Or --



MS. SWAIM-STALEY: PFM, our financial advisors, and actually MEDCO. I think they're still here. Because MEDCO actually did this one for us.

TREASURER KOPP: And you spotted, May 18th is a magic date?

MR. BRENNAN: Yes, we are planning to --

SECRETARY MCDONALD: Bob, could you introduce yourself at the podium, please?

MR. BRENNAN: Yes.

SECRETARY MCDONALD: Thank you.

MR. BRENNAN: Bob Brennan, the Executive Director for MEDCO. PFM did the original evaluation, which got us to delve into the refunding. We obtained some bids both to go either competitive transaction or negotiated. It looks like going competitive on this deal would be more advantageous. PFM actually projected at the present value of a savings of around 4 percent. We're moving forward with the assumption we'll do at least 3 percent, and --

TREASURER KOPP: Is that your policy? 3 percent?

MR. BRENNAN: No, it makes it, it kind of balances out.

TREASURER KOPP: Does it? Yeah.

MR. BRENNAN: So it's a worthwhile savings.

TREASURER KOPP: Yeah.

MR. BRENNAN: But based on the current market conditions as of late last week, if we went to pricing we'll probably be well over 6 or 7 percent.

TREASURER KOPP: Really?

MR. BRENNAN: So within two weeks we will be pricing, and there shouldn't be that much of a variation in the market. So we think the savings will be significant. About a million --

TREASURER KOPP: These are 2002 bonds?

MR. BRENNAN: Correct.

TREASURER KOPP: Very good. Just curious.

MR. BRENNAN: Great.

MS. SWAIM-STALEY: Thank you.

LIEUTENANT GOVERNOR BROWN: Anything else?

TREASURER KOPP: No.

LIEUTENANT GOVERNOR BROWN: I am not going to

take you through the various stickies that I have stuck.

MS. SWAIM-STALEY: I'll be happy to address -

-

LIEUTENANT GOVERNOR BROWN: You have the most for the day. My question, perhaps to Secretary Jenkins, what's the trend line at MDOT for MBE participation?

MS. JENKINS: Secretary Swaim-Staley was just asking me that. Right now they --

MS. SWAIM-STALEY: I have, I was going to say, we had 22 percent I believe for last year.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. SWAIM-STALEY: And I believe this year we're scheduled to do at least that well. It has been improving each year.

MS. JENKINS: They are still in the twenty zone.

LIEUTENANT GOVERNOR BROWN: Great.

MS. SWAIM-STALEY: So we are very close to our --

LIEUTENANT GOVERNOR BROWN: And that's what we're looking for. Moving Maryland forward and making progress --

MS. SWAIM-STALEY: Unfortunately, the ones you're seeing today I don't believe are not representative of what we have been bringing to the Board.

LIEUTENANT GOVERNOR BROWN: Yeah.

MS. SWAIM-STALEY: I'd be happy to discuss it later with you on the particulars of these. They are primarily the airport contracts.

LIEUTENANT GOVERNOR BROWN: Yeah, I just, again I'm not going to go through each one of them. But whenever I see --

MS. SWAIM-STALEY: Point taken.

LIEUTENANT GOVERNOR BROWN: -- maintenance and repair I've got to believe that there's subcontracting out there, opportunities. And some of them --

MS. SWAIM-STALEY: Well some of these are SBR if they are smaller ones, as well. So.

LIEUTENANT GOVERNOR BROWN: Okay.

MS. SWAIM-STALEY: But there are some larger ones here. There are some renewals, contract renewals that do not have an MBE. You are correct.

LIEUTENANT GOVERNOR BROWN: You know, in even installation and maintenance of 800 MHZ radios, I mean, maintenance --

MS. SWAIM-STALEY: Well that's the radio, the Motorola contract.

LIEUTENANT GOVERNOR BROWN: Mm-hmm, Motorola needs to be subcontracting with MBEs to do the maintenance. They really do. How long is that contract for? That's Item 6.

MS. SWAIM-STALEY: I actually have to recuse myself because of a family relationship with Motorola.

LIEUTENANT GOVERNOR BROWN: Okay.

MS. SWAIM-STALEY: So let me ask Suzette come up and discuss that.

LIEUTENANT GOVERNOR BROWN: A \$5 million contract for two years, and zero MBE? Motorola can't find the subs to do the maintenance? Can someone talk

to that, please?

MS. MOORE: Good morning. For the record, Suzette Moore. I think it's the same issue that we've been discussing. The Motorola system is a proprietary system and it's sole sourced. So there are no MBE opportunities on this project or subcontracting opportunities, other than the certified vendors that they have to service the system.

LIEUTENANT GOVERNOR BROWN: I'm not doubting your understanding of that. But is anyone from Motorola here?

MS. MOORE: No, no one from Motorola --

LIEUTENANT GOVERNOR BROWN: Because if Motorola was standing there I would say to them I don't believe you. I really would. I would say I don't believe that proprietary information is an obstacle to developing relationships with the people that maintain this equipment and that they cannot establish a legally binding agreement that prevent the misuse of proprietary information. I've seen it. I've seen it happen. AT & T, a huge corporation, has a lot of

proprietary stuff goes on, they sub out all the time. And I'm not, you know, and I've seen it. And I just, I'm baffled. I'm really baffled on this one.

MS. MOORE: When we did install the system there was some participation on it. But since we went into the maintenance of it, that's the proprietary part because we don't own the source codes and there are no opportunities for subcontracting.

LIEUTENANT GOVERNOR BROWN: So can you describe the maintenance? Like what exactly, what maintenance is happening? Are we maintaining physical equipment or are we maintaining, what are we maintaining?

MS. MOORE: We maintaining the computer system and also there is a tower that we installed during the course of this project, and they're maintaining that as well.

MS. SWAIM-STALEY: We will ask them to go back for, on this one for future. And these kinds of contracts obviously are frequent at the State, so.

LIEUTENANT GOVERNOR BROWN: Why are we doing

this one right now?

MS. MOORE: This is a renewal option that was part of the initial contract that we negotiated with Motorola.

LIEUTENANT GOVERNOR BROWN: Okay. I just think that this may be a good one to bring back at another time, and then maybe you can have a representative from Motorola that can walk the Board through.

TREASURER KOPP: What's the --

MS. SWAIM-STALEY: Okay.

TREASURER KOPP: No, what's the timing on it?

LIEUTENANT GOVERNOR BROWN: Yeah, that's what I was asking, about the timing --

MS. MOORE: The timing of it --

MS. SWAIM-STALEY: We should have time to do this, correct?

MS. MOORE: -- is June 1st.

MS. SWAIM-STALEY: Yeah.

MS. MOORE: June 1st.

MS. SWAIM-STALEY: So we'll have them come to



the next meeting.

MS. MOORE: Yes.

LIEUTENANT GOVERNOR BROWN: And, you know, so you know the concern. And if they, someone from Motorola could come and make a very, you know --

TREASURER KOPP: Succinct.

LIEUTENANT GOVERNOR BROWN: Succinct and yet --

TREASURER KOPP: Fact filled.

LIEUTENANT GOVERNOR BROWN: -- fact filled, verbs and nouns, explanation why, you know, and not even, and in addition to why they're not doing it here. But what's the plan going forward in the future? You know, when they come back in two years, because it's a two-year --

MS. MOORE: Yes, it's a two-year renewal option.

LIEUTENANT GOVERNOR BROWN: You know, what do they anticipate two years down the road? And what are they doing today to present better numbers in two years? Are they developing the industry, and looking

at ways that they can share information and not jeopardize their competitiveness, those kinds of things? Okay, so we're going to, which one is that? Number eight? Is that eight?

SECRETARY MCDONALD: Six.

LIEUTENANT GOVERNOR BROWN: I'm sorry, that's six. So we're going to, do we have to have a motion for that or --

SECRETARY MCDONALD: Well I think if the Secretary could probably withdraw Item 6? Do you want to do that, or do you want the Board to --

MS. SWAIM-STALEY: Whatever is easiest. We'll withdraw if that's the preference.

SECRETARY MCDONALD: The Secretary --

TREASURER KOPP: To come back next time.

MS. SWAIM-STALEY: So long as we can bring it back at the next --

SECRETARY MCDONALD: Right. Right. Exactly. And that way, it's a lot easier that way for you anyway, because you're just withdrawing it. So --

MS. SWAIM-STALEY: Okay.

LIEUTENANT GOVERNOR BROWN: Can someone just explain --

SECRETARY MCDONALD: -- you don't need a motion.

LIEUTENANT GOVERNOR BROWN: Oh, we have to have a motion?

SECRETARY MCDONALD: You do not need a motion. She's going to bring it back.

LIEUTENANT GOVERNOR BROWN: And then on Item 7, comprehensive advertising and marketing services. That's a huge contract, there.

MS. SWAIM-STALEY: It is a huge contract. It's exercising a renewal option but also reducing significantly the contract obligation within --

LIEUTENANT GOVERNOR BROWN: Right, which is a good thing.

MS. SWAIM-STALEY: -- the contract.

LIEUTENANT GOVERNOR BROWN: And what are the components of that contract?

MS. SWAIM-STALEY: It is primarily an advertising and marketing contract. It is to have, for

services that we do as well to have it available if the airlines or other businesses at the airport choose to use it to, you know, advertise or market for services. New services --

LIEUTENANT GOVERNOR BROWN: But what kind of, I mean, so, but I mean, describe to me if you --

MS. SWAIM-STALEY: It could be media, it could be print, television ads, a whole variety --

LIEUTENANT GOVERNOR BROWN: And they can only do 8 percent of MBE in advertising?

MS. SWAIM-STALEY: Again, this was a, it is a renewal. You know, it's, and 8 percent is what was originally negotiated based upon, I guess, availability at that point in time.

LIEUTENANT GOVERNOR BROWN: At what point in time was that?

MS. SWAIM-STALEY: When the contract was first negotiated.

LIEUTENANT GOVERNOR BROWN: Which was when?

MS. SWAIM-STALEY: Suzette?

MS. MOORE: Four years ago. This contract

has been in existence for four years now.

TREASURER KOPP: 2006, you're saying?

MS. MOORE: Yes.

LIEUTENANT GOVERNOR BROWN: So the original MBE participation was 2 percent, and now they're proposing 8 percent?

MS. SWAIM-STALEY: We did ask them to increase it to 8 percent, yes.

LIEUTENANT GOVERNOR BROWN: And what are your thoughts, Secretary Jenkins? I mean, I don't want to pit two secretaries against one another like that. But I just, I mean, I think about advertising, it's like --

MS. JENKINS: Yeah.

LIEUTENANT GOVERNOR BROWN: -- I mean, it's not a highly sophisticated, you know, the spectrum, the continuum of advertising may include some --

MS. JENKINS: Right.

LIEUTENANT GOVERNOR BROWN: -- very highly sophisticated, high barriers of entry activity or business, but I've got to imagine on the low end, or the other end, that there aren't those same barriers

and --

MS. MOORE: And we can ask the contractor to look at this one again at this time, because that's what happened the last time. We asked them to look at what they were subbing out. They had proposed the creative design and production of signs and installation of signs, but we could ask them to look at this again.

LIEUTENANT GOVERNOR BROWN: So that's not a problem, to withdraw that one?

MS. SWAIM-STALEY: I think from a timing standpoint, not a problem.

MS. MOORE: Not from a timing standpoint, no.

MS. JENKINS: Governor since you posed the question, not to belabor the point. Luwanda Jenkins for the record, Governor's Office of Minority Affairs. Typically when we see an option on a longstanding contract like this we will flag it and bring it up with the agency because we'd like to see what their rationale was for establishing the initial goal and if there's an opportunity to increase a goal on a

previously low goal we usually catch the contract at the point where they are going through the last option before they gear up for the next contract cycle.

LIEUTENANT GOVERNOR BROWN: I got it. Mm-hmm. So you're, hold on, you're not suggesting that option renewals are less rigorous scrutiny?

MS. JENKINS: The terms of option renewals are already cast in the context of the contract. So we can't renegotiate an MBE goal in the midst of a contract even at an option renewal.

LIEUTENANT GOVERNOR BROWN: But then --

MS. JENKINS: Once the renewal has expired and the agency goes back out for a new procurement, that's the time to really reexamine the MBE goal.

TREASURER KOPP: But, but --

LIEUTENANT GOVERNOR BROWN: But you couldn't say to the vendor, "We're not going to renew this contract because we're not, we think you can do better with MBE." And then they come back and say, "Hey, look, we're ready to do that on renewal."

MS. SWAIM-STALEY: We could choose to go out

--

MS. JENKINS: If the vendor voluntarily --

MS. SWAIM-STALEY: -- for a different, for a new contract. I think in this case, because at the time the contract was let obviously the vendor, it was a fairly large contract. Since we have not been doing a lot of business, the market has been down and that sort of thing, they really did not get anywhere near the business they were anticipating. I think that was part of the reason for extending the contract, to give them additional opportunity.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. SWAIM-STALEY: As opposed to saying that we were going to just, you know, go out with a new contract and get a new vendor.

LIEUTENANT GOVERNOR BROWN: And so when you change the MBE, when we see a change, if you were to change the MBE participation goal that would constitute a new contract?

MS. JENKINS: The vendor can voluntarily --

MS. SWAIM-STALEY: The vendor can



voluntarily, but in terms of requirement I think what she's saying is we don't put a requirement on a renewal.

LIEUTENANT GOVERNOR BROWN: But when they voluntarily increase or change --

MS. SWAIM-STALEY: But we could voluntarily, I mean, as they did --

LIEUTENANT GOVERNOR BROWN: But is it binding on them?

MS. JENKINS: If they voluntarily agree to do more we accept that and we note that and we give credit to the agency for that.

MS. SWAIM-STALEY: And then we, it's up to us then to monitor to make sure they are in compliance with what they voluntarily agreed to.

LIEUTENANT GOVERNOR BROWN: Okay.

TREASURER KOPP: Doesn't it happen, not this contract necessarily but other long term contracts that have option renewal, that originally looking at the pool of certified MBEs, they were right, they couldn't attain more than X.

MS. JENKINS: Right.

TREASURER KOPP: But over time, in fact, the pool changes.

MS. JENKINS: Yeah, sometimes the pool changes.

TREASURER KOPP: That's right.

MS. JENKINS: Sometimes the --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JENKINS: -- scope of the work changes --

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. JENKINS: -- on the project. And that certainly warrants reevaluation for consideration of a new or adjusted goal.

TREASURER KOPP: Then I would think in that case if the agency, if the vendor had done the best they could and said we can only do X, I would think they would be willing to say we will again do the best we can do. Only this time we can do 2X.

MS. JENKINS: Sure.

MS. SWAIM-STALEY: And we have a much more rigorous goal setting process now than we had four

years ago.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: Yes.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

TREASURER KOPP: That's very important.

MS. SWAIM-STALEY: Hm?

TREASURER KOPP: That's very important.

MS. SWAIM-STALEY: Well exactly, to get at the outset is absolutely the most important.

LIEUTENANT GOVERNOR BROWN: And Item 3? Can you just explain the proprietary nature? And what are we, are we approving the five-year or the five-year renewal?

MS. SWAIM-STALEY: This is for taxiway lighting. Now this is a contract where the proprietary vendor was selected back in 1987, and these were for runway lights and those kinds of things which do tend, obviously, hopefully, to last for an extensive period of time. And so, I don't know if Suzette, if you want to add anything on this contract?

MS. MOORE: Yes.

MS. SWAIM-STALEY: So again, we work with the FAA in terms of determining who is eligible to provide this. But again, the lights were installed many years ago so it's a maintenance contract on those existing lights.

MS. MOORE: And it's the whole system, also. It's, again --

MS. SWAIM-STALEY: Yes.

MS. MOORE: -- software with controls.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

MS. MOORE: And that's the proprietary part of the contract. About three years ago we did do an upgrade to this system to be in compliance with the new FAA requirements.

LIEUTENANT GOVERNOR BROWN: Mm-hmm. All righty. And then the, on Item 5, that's a two-year contract, \$2 million.

MS. SWAIM-STALEY: Yes.

LIEUTENANT GOVERNOR BROWN: We're putting roadway lines down in two counties, that's the white lines and the yellow lines, is that right?

MS. SWAIM-STALEY: Yes.

LIEUTENANT GOVERNOR BROWN: And zero MBE participation? They don't buy the paint? They don't -  
-

MS. SWAIM-STALEY: Well I --

LIEUTENANT GOVERNOR BROWN: -- clean the streets before they lay the paint?

MS. SWAIM-STALEY: Because these tend, again, these fall in the single element of work. So typically the contractor who bids on this, part of it is, again, they are fairly small contracts and they don't tend to bid out the supplies on something of this size. We do bring --

LIEUTENANT GOVERNOR BROWN: Okay. I would just say here that --

MS. SWAIM-STALEY: Frequently, sometimes we are fortunate that we get an MBE or an SBR. We did not in this case.

LIEUTENANT GOVERNOR BROWN: Yeah.

MS. SWAIM-STALEY: It was not the low bidder in this case.

LIEUTENANT GOVERNOR BROWN: You mean for the prime? The prime, yeah.

MS. SWAIM-STALEY: Yes. Because of the types of contracts that we have here. But we did not, in this case I don't believe it's either an MBE or an SBR.

LIEUTENANT GOVERNOR BROWN: But so you, so we accept the fact that you can't, there's no opportunity --

MS. SWAIM-STALEY: There are not subcontractable parts of work with this particular type of work, item of this particular type of work.

MS. JENKINS: Governor, interestingly enough, this specific example for line striping was an area of opportunity that we shared about a year ago with all of the minority contracting companies in the State and organizations, because there are MBE firms that do roadway work. None of them happen to do line striping. And we said, "This is an area where we're having a difficult time getting minority participation. If some of your firms would consider branching out into this arena, there's a lot of work in the State system." So

this one is a problematic area because we simply have not been able to get MBE firms to look at this type of work.

LIEUTENANT GOVERNOR BROWN: Okay. So it's something we've looked at, we're trying, we're working on it?

MS. SWAIM-STALEY: Well we have also sent out letters through our MBE office in the past two years to try to encourage MBEs who are certified maybe in one area, but where we believe that they could be certified in other areas as well, to encourage them to do that. So that's part of that effort.

LIEUTENANT GOVERNOR BROWN: I don't know how, yeah, I don't know how people break into businesses. You know, I've heard stories throughout my life of how people got started in some business --

MS. SWAIM-STALEY: Right.

LIEUTENANT GOVERNOR BROWN: -- because they had some business that was associated, or related to it. And it seems to me, and maybe you've already thought about it, but you know, before you paint the

streets, you've got to sweep the streets, right? I mean, maybe it's one machine, maybe it's not, I don't know. But it would seem to me that, you know, if we can encourage some MBEs to at least do some street sweeping --

MS. JENKINS: I've jokingly said I'm going to buy a line striping machine and go into business. Because we, we literally have been talking to minority contracting groups about this type of work.

MS. SWAIM-STALEY: Getting into some of these aspects of work where we don't have them currently.

LIEUTENANT GOVERNOR BROWN: Sweep streets like Michelangelo painted pictures. Okay, well, any other comments, questions on the Department of Transportation? Hearing none --

SECRETARY MCDONALD: The Secretary is withdrawing two items, Item 2 and Item 6?

MS. SWAIM-STALEY: Well I wasn't sure on the second one if we, you wanted to --

LIEUTENANT GOVERNOR BROWN: Yeah, we did two, that's right.



MS. SWAIM-STALEY: Both of them? Okay.

LIEUTENANT GOVERNOR BROWN: The Motorola and  
the --

MS. SWAIM-STALEY: The advertising.

SECRETARY MCDONALD: Okay, so you're  
withdrawing 2, 6 and 7. Two is one she'd done  
previously. Two, 6, and 7? Okay.

MS. SWAIM-STALEY: Yes.

SECRETARY MCDONALD: So those have been  
withdrawn.

LIEUTENANT GOVERNOR BROWN: And they'll come  
back and give some detail?

MS. SWAIM-STALEY: We'll work with them to  
see if they can voluntarily improve, and Motorola you  
want to come back in?

LIEUTENANT GOVERNOR BROWN: I mean, I think  
even advertising.

MS. SWAIM-STALEY: Okay.

LIEUTENANT GOVERNOR BROWN: I think the  
vendors --

MS. SWAIM-STALEY: Okay.

LIEUTENANT GOVERNOR BROWN: -- ought to come  
in --

MS. SWAIM-STALEY: Okay, that's fine.

LIEUTENANT GOVERNOR BROWN: -- and they ought  
to really share with the Board, you know, you know,  
what are the challenges --

MS. SWAIM-STALEY: Right.

LIEUTENANT GOVERNOR BROWN: -- what are the  
struggles? And why, you know --

MS. SWAIM-STALEY: Okay.

LIEUTENANT GOVERNOR BROWN: -- every so often  
we need sort of like the real faces of --

MS. SWAIM-STALEY: Right. Okay.

LIEUTENANT GOVERNOR BROWN: -- the work we  
do. Any other comments, questions? Okay.

TREASURER KOPP: Move favorable.

LIEUTENANT GOVERNOR BROWN: The Treasurer  
moves favorable, seconded by the Lieutenant Governor.  
All in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none,  
MDOT Agenda is approved. Okay, move for adjourn.  
Thank you.

(Whereupon, at 12:13 p.m., the meeting  
was concluded.)