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BOARD OF PUBLIC WORKS
GOVERNOR'S RECEPTION ROOM
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P R E S E N T

LIEUTENANT GOVERNOR ANTHONY BROWN, Presiding;

HONORABLE PETER FRANCHOT, Comptroller;

HONORABLE NANCY KOPP, Treasurer;

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

ALVIN C. COLLINS, Secretary, Department
of General Services;

T. ELOISE FOSTER, Secretary, Department
of Budget and Management;

HAROLD BARTLETT, Deputy Secretary,
Department of Transportation;

MEREDITH LATHBURY, Land Acquisition and
Planning, Department of Natural Resources;

LUWANDA JENKINS, Special Secretary,
Governor's Office of Minority Affairs;

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

MARION BOSCHERT, Recording Secretary,
Board of Public Works.

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P R O C E E D I N G S

LIEUTENANT GOVERNOR BROWN: Good morning.

Welcome to the November 17th meeting of the Board of Public Works. I am Lieutenant Governor Anthony Brown. Governor O'Malley has asked me to preside over the Board of Public Works today in his absence. He is currently en route, if not already at the command center set up in, one in Baltimore City, one in Baltimore County, to respond to the meteorological event, still determining whether it was a tornado or not. But certainly severe winds that caused considerable damage in certain parts of the State. So the Governor is on site and asked me to preside over the Board of Public Works.

My only opening remarks in addition to that is it's great to be back, and it's great to be beyond November 2nd. And certainly -- well, I commend all of you. You guys were here November 3rd, you know? It's impressive. But certainly to Marylanders that participated in the election process, congratulations to you. And I'm sure as the Governor conveyed two weeks ago, we are honored with the privilege to

continue serving for the next four years and doing that partnership with the other members of the Board of Public Works, and with each and every one of you.

With that, let me ask the Treasurer if she has any opening remarks. And then we'll turn to the Comptroller, and then we'll go into our first order of business.

TREASURER KOPP: Well my first -- first, good morning. Secondly, what a pleasure it is to have you back here as Lieutenant Governor-elect, Governor. It's a bright day for the entire State of Maryland. Brighter here than in some parts of our nation.

I just wanted to say, I know there are a couple of things that are not on the Agenda today of the Department of Transportation because the Department is going out, the Department or its components, are going out to try to get better competition and better prices for major projects for the taxpayers. And I know that's a tough decision, and I thank you for it.

I hope everything is okay. I know we had very severe winds. I think Peter, in the Tacoma Park

area, too, we had very severe winds overnight. Trees down. I don't think the damage was, from what I can tell, what it was up north in the Baltimore area. But we certainly are thinking of everybody. It's scary. I remember when it happened, not that long ago, in our area.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you. It's always great to have three former members of the House of Delegates on the Board of Public Works, sitting together. And, you know, I have always seen Lieutenant Governor Brown as one of the most competent and just incredible gentleman. And I applaud your reelection. And the way in which you just handle the public's business. I think it's a tremendous credit to you. I'm delighted to have you here today.

LIEUTENANT GOVERNOR BROWN: Thank you.

COMPTROLLER FRANCHOT: And I do have, I know we have a big Agenda, but I do have one issue that I want to speak about briefly. It's gained a lot of

national attention recently, and it's just unfortunately come to hit home in Maryland.

Several weeks ago a twenty-one-year old named Courtney Spurry passed away near St. Michael's when a car she was driving crashed into two utility poles. The death, obviously, was absolutely heartbreaking. But really what caught my attention and raised my ire was that before the accident she had been drinking one of those relatively new caffeinated alcoholic beverages. These are alcoholic beverages that are then infused with caffeine. The caffeine apparently masks the effects of the alcohol, deluding people into believing they are still sober and functional far past the point of intoxication. The result is that you have people who believe they can drive, feel they can still function, while in reality their capacity for any activity is severely diminished.

This is not just a Maryland issue. In Florida we have seen someone die after drinking one of these drinks and taking over the counter diet pills. We've seen someone accidentally shoot themselves after

consuming caffeinated alcoholic beverages. In Washington, D.C. several college students were hospitalized after drinking heavy quantities. These drinks are proving to be a clear public health and public safety threat.

Several states have banned these drinks, or have severely limited access to them. Even the United States Food and Drug Administration is seriously considering as we speak an outright ban on the product. And it's my understanding that a ruling of some sort could be issued as early as today. And while I applaud that action by the FDA, and very much hope that they follow through on that, I don't want to wait for the federal regulatory process to run its due course on an issue of such time sensitivity.

And it's no secret that the private sector has the ability to move faster than the federal government. This is no exception. In recent days I've discussed my concerns about this product with leading representatives of Maryland's beverage industry, specifically the Maryland Beer Wholesalers Association and the Maryland State Licensed Beverage

Association, which represents the retailers. And I'm very pleased to report that they share many of the concerns I just expressed. These two associations along with other stakeholders of Maryland's beverage industry have been strong partners with my office in the battle against illegal alcohol sales to minors and in advocating responsible consumption of alcoholic products. So it's with that record of partnership in mind that I've asked the leadership of our State's alcohol beverage industry, specifically the Maryland Beer Wholesales Association and the Maryland State Licensed Beverage Association, to voluntarily step up and end the distribution and sale of caffeinated alcoholic beverages in Maryland.

These groups represent family-owned businesses that are extremely active and well regarded members of our local communities. I have no doubt that they are as shocked and saddened by the recent tragic events as I am. For the sake of all Marylanders I'm hopeful that they will act as civic leaders and good corporate citizens and get these dangerous products off the shelves as soon as

possible. And I'm hopeful to have some good news to report on that front very soon.

As we had into the holiday season I urge every Marylander to redouble your efforts to ensure that you, your family members, and your friends celebrate responsibly so that our upcoming season of thanks and joy does not have a tragic end. And Governor, thank you, and I appreciate you letting me say a few words on that subject. And I really want to underline that I'm pleased to find the private sector as responsive as one would think they would be. And I, hopefully they are going to move very quickly on this subject.

LIEUTENANT GOVERNOR BROWN: Well, thank you, Mr. Comptroller, for your interest and advocacy on this important issue that's just recently emerged across the country. And I certainly trust that your efforts will lead to improvement in Maryland and perhaps we may need to see some work done in the Legislature.

COMPTROLLER FRANCHOT: Yeah, no, that's a very good point. But as all of us know, that requires

weeks of preparation and months of action, and that's appropriate.

LIEUTENANT GOVERNOR BROWN: Mm-hmm.

COMPTROLLER FRANCHOT: But in this instance I think we really need to --

LIEUTENANT GOVERNOR BROWN: Yeah, and thanks for stepping up. Also, thanks for your kind remarks about my service, and congratulations for your election. And speaking of elections, don't you have one coming up soon?

TREASURER KOPP: Yes. Yes. I intend to, yes.

LIEUTENANT GOVERNOR BROWN: Okay, good. I'll be out there campaigning for you.

TREASURER KOPP: Thank you very much, Governor.

LIEUTENANT GOVERNOR BROWN: Okay. So with that, let's turn to the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Lieutenant Governor, Madam Treasurer, Mr. Comptroller. We have thirteen items on the Secretary's Agenda. We

have one report of an emergency procurement. We're prepared for your questions.

TREASURER KOPP: I'm a little curious to learn a little more about Item 8, the used tire --

SECRETARY MCDONALD: Is Mr. Tablada here from the Department of the Environment? Yes, Horacio Tablada from the Department of the Environment is here for the fiscal year 2011 Scrap Tire Cleanup, as well as the Brandywine Scrap Tire Cleanup.

MR. TABLADA: Good morning --

TREASURER KOPP: Good morning.

LIEUTENANT GOVERNOR BROWN: Good morning.

MR. TABLADA: -- members of the Board.

TREASURER KOPP: Hi, how are you? Can you just update us on where we are in terms of this project, but also statewide? I mean, some of these stories are pretty horrible, of the potential public safety and environmental health impacts.

MR. TABLADA: Sure.

THE BOARD: And very expensive to clean up, too.

MR. TABLADA: Yeah, absolutely. The Brandywine, the Garner site in Brandywine, Prince George's County is one of the largest in all of these scrap tire cleanup that we have in the State. It took many years for us to secure legal access on the site, and finally we were able to do that. And we began our assessment of the site. And we initially went with what we thought was the smaller number of tires, like 1.5 million tires. And they --

TREASURER KOPP: 1.5 million, originally?

MR. TABLADA: Yes. And as we began doing the first ravines, and the Board of Public Works approved back in 2006 the initial, the initial works on this site. And as we began doing the cleanup we have found that a lot of tires were buried up to five feet below the surface. So we came in and found out there might be up to two million tires or more. Because of the conditions of the tires, they are mixed with mud and dirt, and it just takes a lot more money to do the cleanup. And we're concerned for the, scrap tires have the potential, you know, for fire, which is

one of the serious matters, public health matters, and proximity to the Patuxent River.

So we were asking the Board to approve the remaining, Ravines 4 and 5 that we are doing right now. So this will carry us through that. And then we will be coming later next year to the Board to secure the remaining funds for the cleanup of this site.

TREASURER KOPP: And this has been, these sites have been reviewed by the Legislature?

MR. TABLADA: Yes. It's in the budget books. And there was a specific legislation done several years back to the cost of this site. So it has been before the Legislature and the budget books. So it's not a new site. It's a site that has taken us longer to clean up. We secured all the appropriate permits, like wetlands. We had to build access roads to the tires. It's not, it's not like an area like you can just back a truck and dump the tires in. So it's a little complex for a scrap tire cleanup.

TREASURER KOPP: And we have to do it because the original owners, depositors, etcetera, are not available to go after?

MR. TABLADA: Correct. The original owner is deceased. The property has now passed to the inheritors of the property. By law, they are exempt from, as responsible persons. So it's basically what we call an orphan site. And as a, to protect public health and the environment, we need to do the cleanup.

TREASURER KOPP: What's the timeframe for actually getting rid of these two million, what do you do with the two million tires?

MR. TABLADA: Well, most of the tires are recycled. They go to places in, these are a little problematic. They are kind of not in good condition -

TREASURER KOPP: Right.

MR. TABLADA: -- to make tire chips and things like that. So they are going to places in Ohio where they are passed through, and cleaned up, and straightened, and made into rubber material again. So it is, it's not discarded in landfills because it cannot go to landfills. It has to go to, for recycling, for recycling uses. But right now these ones are maybe going out of State to be processed further.

TREASURER KOPP: Somewhere out there so we don't have to worry about it, right? And they can worry about it instead.

MR. TABLADA: Well that's, these ones --

TREASURER KOPP: It's always nice when there's an out there out there.

MR. TABLADA: We do have recyclers in Maryland, they do it. But they deal more with the cleaner tires, the ones from shops, and things like that.

TREASURER KOPP: So what's the timeframe to finish it? When do you anticipate --

MR. TABLADA: It will be at least three more years to do this project because it is going by ravine. There are seven ravines there and each one is kind of like a tire cleanup by itself.

TREASURER KOPP: Right.

MR. TABLADA: Because of the different locations.

TREASURER KOPP: Right.

MR. TABLADA: And there is a --

TREASURER KOPP: So do we have a fix on where the old discarded tires are around the State? I mean, major deposits of them?

MR. TABLADA: We do have a, we provide this in an annual report to the General Assembly. We have a list of all the, a list of all the sites. And this is the last major site that we have.

TREASURER KOPP: This is the last one?

MR. TABLADA: Yes. There's one, another that's sort of big but it's not as large as this one, in Anne Arundel County in Crownsville.

TREASURER KOPP: Okay. Well, I mean, the thought of that stuff going into our water and going into our land is second only to it beginning to burn and polluting the air as well. It just, it's scary. Thanks.

MR. TABLADA: No, thank you.

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Can someone please explain Item 13?

SECRETARY MCDONALD: I think Michael Frenz is here from the Stadium Authority. Mr. Frenz, this

is the settlement of the advertising, behind-home-plate advertising issue with Mr. Angelos.

MR. FRENZ: Thank you.

TREASURER KOPP: Good morning.

MR. FRENZ: Would you like me to read the item?

SECRETARY MCDONALD: Would you just introduce yourself for the record?

MR. FRENZ: Oh, I am Michael Frenz. I'm Executive Director of the Maryland Stadium Authority.

SECRETARY MCDONALD: And Mr. Franchot, do you have questions? Or do you just want him to explain?

COMPTROLLER FRANCHOT: Well, just, what is the item?

MR. FRENZ: Oh, the item is the settlement of the home plate advertising revenue with the Baltimore Orioles. As you know, in 2004 the advertising panel behind home plate was built. The Maryland Stadium Authority assumed that that revenue was subject to the 25 percent net revenue contained in the lease. The Orioles disagreed, claiming that it

was intended for television, and that furthermore should they choose to they could switch to virtual advertising and thereby pay us nothing. So in lieu of the 25 percent we agreed with the Orioles to receive 18 3/4 percent for the years 2007 through 2009, and then 12 1/2 percent thereafter. The years 2004, 2005, and 2006 were already waived by MSA as part of the settlement agreement pertaining to the scoreboard in 2007.

COMPTROLLER FRANCHOT: So Mr. Angelos wanted to give zero, and you ended up with, what almost \$1 million?

MR. FRENZ: We're getting \$913,424 over five years. And then roughly at this rate it's about \$200,000 a year for the remaining terms of the lease for ten years, from 2011 on. I think it's a very good deal and I don't think we could have gotten a better deal by going to arbitration. The only better deal we could have gotten was for them to pay us the full 25 percent, and given their feelings on the matter I don't think they would have done that.

COMPTROLLER FRANCHOT: It just caught my eye because everyone who negotiates with Mr. Angelos gets nothing.

(Laughter)

COMPTROLLER FRANCHOT: And so I'm impressed with your --

MR. FRENZ: Oh, good. Thank you.

COMPTROLLER FRANCHOT: So --

MR. FRENZ: I think it really is a good outcome.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR BROWN: Anyone else? Any other items from the Secretary?

TREASURER KOPP: No.

LIEUTENANT GOVERNOR BROWN: Okay. So let's see if I remember how to do this. Okay. Being no further questions or comments on the Secretary's Agenda. Do I have a motion for approval? Moved by the Treasurer, second by the Comptroller. All of those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Secretary's Agenda is approved.

TREASURER KOPP: Well done.

LIEUTENANT GOVERNOR BROWN: Yeah, it's been a while. Next we'll go to Program Open Space. Good morning.

MS. LATHBURY: Good morning, Lieutenant Governor, Madam Treasurer, and Mr. Comptroller. Meredith Lathbury for the Department of Natural Resources. We have nine items on the Open Space Agenda this morning. Two local projects, three Rural Legacy easements, and four Conservation Reserve Enhancement Program easements. I'll be happy to answer any questions you might have.

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: I just wanted to commend you for bringing a really impressive package of geographically balanced projects before us. If you could mention to Secretary Griffin that I think this is a really good package. I think you're protecting hundreds of acres of ecologically valuable land. But

you're also investing in things that really make a difference for, in addition to the ecology, but just quality of life. And I'm referring to the Gaithersburg handicapped accessible playground equipment. And the Dorchester County swimming pool which I've visited several times, and the infrastructure repairs there. Not as a swimmer, but as an observer. And you and I have chatted about that, and I appreciate these kinds of sensible and pragmatic investments. I think this shows exactly what Program Open Space, the Legislature intended it to be.

And I also want to thank you for following up on another subject, with my inquiry about federal funding for the CREP easements. The estimates of federal participation for the three CREP easements today on today's Agenda are very helpful. And the other information generally provided by you about how CREP easements work particularly were helpful to me. And I note that from your briefing that the feds have contributed over \$15 million towards the more than

5,400 CREP easements that we've approved through 2009. And just keep up the good work.

MS. LATHBURY: Thank you very much and I'll pass the word along to Secretary Griffin.

COMPTROLLER FRANCHOT: Thank you. I would move favorable, unless the Treasurer has questions.

TREASURER KOPP: No. No.

LIEUTENANT GOVERNOR BROWN: Okay. Moved by the Comptroller, seconded by the Treasurer. All those, this is for the entire Agenda, all those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the Program Open Space Agenda is approved. Now the next Agenda item is the Department of Budget and Management. Good morning.

MS. FOSTER: Good morning. Governor, Madam Treasurer, Mr. Comptroller, good morning. There are eleven items on the Department of Budget and Management's Agenda for today. I'd like to withdraw

Item 6, and I'll be happy to answer any questions you may have.

TREASURER KOPP: I have a, I have a question about Item 11.

LIEUTENANT GOVERNOR BROWN: Please.

TREASURER KOPP: Department of Juvenile Services.

MS. FOSTER: Item 11 is a request for retroactive approval of sixty-one contracts for currently licensed contractors that provide residential and nonresidential services for DJS youth. I think Deputy Secretary Mendez is here and --

MR. MENDEZ: Yes, the Secretary is here to answer questions. He's right outside. He's coming inside.

MS. FOSTER: Okay. So if we can have someone --

TREASURER KOPP: Well, I mean, my basic question is, you've got contracts going back here how many years?

MR. MENDEZ: Some of these contracts we've been working with them -- you mean the history? Or --

TREASURER KOPP: We're approving retroactively --

MR. MENDEZ: Yes.

TREASURER KOPP: -- contracts dating from as long back as when?

MR. MENDEZ: As long back as July 1, 2008.

TREASURER KOPP: Pardon?

MR. MENDEZ: As far back as July 1, 2008.

TREASURER KOPP: 2008. Forty-six contracts.

MR. DEVORE: Good morning.

TREASURER KOPP: Why? What is going, what, this is not the first time. And you are not the first Secretary --

MR. DEVORE: Mm-hmm.

TREASURER KOPP: -- to have dealt with these situations in procurement --

MR. DEVORE: That's, that's --

TREASURER KOPP: -- in your agency.

MR. DEVORE: That's correct, or other agencies as well. I'd first like to start out by saying that --

TREASURER KOPP: Oh, that, right -- excuse me, Mr. Secretary?

MR. DEVORE: Mm-hmm?

TREASURER KOPP: But right now we're looking at this agency.

MR. DEVORE: Absolutely. I'd like to first start out by saying there's absolutely no excuse for the delays. All of these contracts should have been forwarded to the Board for approval. The Board has been very clear that they don't want retroactive contracts, except for those which are emergencies. And I've made it extremely clear to my staff that this is unacceptable. The issue was recently brought to my attention as the result of an audit that was conducted. At the time of the audit and this finding, I immediately directed the staff to review the current practices and policies to ensure that this kind of delay would never happen again. I also directed them to move all delinquent contracts to your attention immediately.

To ensure that this does not occur again we have developed an automated system which I'm going to

give you some copies of, which other departments have done. We're internally tracking and creating a dashboard listing of all contracts. The contracts are color coded within the dashboard to flag contracts prior to them needing renewal. We are also working closely with our partners at Department of Budget and Management to improve the processing times.

Lastly, I have made some leadership changes in that unit and there will be more. I am very upset by this, extremely upset. Most importantly --

TREASURER KOPP: Mr. Secretary --

MR. DEVORE: Most, I, just one other --

TREASURER KOPP: Mr. Secretary, let me just tell you that --

MR. DEVORE: Just one other --

TREASURER KOPP: No.

MR. DEVORE: Okay.

TREASURER KOPP: I just want to say, I look forward to seeing what happens, and I do want to hear the rest of what you say.

MR. DEVORE: Okay.

TREASURER KOPP: But as you know, I spent many years in the Legislature --

MR. DEVORE: Yes.

TREASURER KOPP: -- chairing the Budget Subcommittee --

MR. DEVORE: Mm-hmm.

TREASURER KOPP: -- that dealt with the Department of Juvenile Services.

MR. DEVORE: Mm-hmm.

TREASURER KOPP: And the gentleman to my left also --

MR. DEVORE: Mm-hmm.

TREASURER KOPP: -- dealt with these same agencies, these same problems. A lot of agencies have a lot of problems.

MR. DEVORE: Mm-hmm.

TREASURER KOPP: But there has never been a procurement division of an agency that over time has had the same problems.

MR. DEVORE: Mm-hmm.

TREASURER KOPP: Recurring, recurring dashboards, recurring new systems.

MR. DEVORE: Mm-hmm. So most importantly what I'd like to say, Madam, is that I want to reassure you that the delay in processing of these contracts did not cause the Department or the State to incur any additional expenses. I have reviewed those. All of the vendors were required to invoice the Department for their per diems. The youth on each invoice had to be verified in our Active Assist system prior to payment. And accordingly, this delay will not interrupt the services to those youth as ordered by the court.

Lastly, I'm almost --

TREASURER KOPP: No, no, I appreciate --

MR. DEVORE: One more sentence.

TREASURER KOPP: -- that is the most important thing. I appreciate that.

MR. DEVORE: Lastly, I want to make it clear that this did not impact our Department's ability to enforce accountability on the providers through mandatory incident reporting. In fact, fifty-six of the sixty-one contracts were existing providers, many of whom have had relationships with us for over twenty

years. And we've moved for standard business practices.

What I want to say about this, there are no excuses for this. And as I said, I was extremely upset about it. And there will be some other changes and discipline as a result because it was not brought to my attention.

But the way that this works, so you know, is that we have the courts. We have 50,000 kids coming through and we have the courts, and the courts have certain placements that they want to make sure that they are available for our youth, and those placements are very varied. And we try to have all of those under contract so that in the event that a court orders a particular service for a youth that we can move them to that service. Not all of these are used, of course. Many of them are not even used. But it's important for us to have that inventory that's available to the judges so that if they see a youth that has severe mental retardation, for example, and delinquency tendencies, there are specialized places that deal just with that. If they see a kid that's a

sex offender that also has severe learning disabilities, that we have places that are available for that.

So there are no excuses for this. And I'm not, I will accept no excuses from my staff with this regard. But I do, again, want to reiterate that this did not result in delays of youth getting to placements. It did not result in us incurring any additional expenses. It did not result in us not being able to hold vendors accountable for their performance measures that are required under the contract.

We do have the ability, and I think over time through the Department it's been exercised more than it should, we do have the ability to enter in through purchase orders up to \$25,000 on emergency procurements to get kids if it's a very specialized service. And some of these are in that category. So I understand your frustration with it. It's not half of what I was when I got the information. I was extremely upset about it. And I want to assure you that through this new system that I've put in place

we'll not be back here with this again.

TREASURER KOPP: Is there some way we could get some periodic reports --

MR. DEVORE: Anything that you want.

TREASURER KOPP: -- from you about where you are in, I mean, one of the problems I understand is that the leadership, the programmatic leadership of your Department --

MR. DEVORE: Mm-hmm.

TREASURER KOPP: -- has a lot of very important things on its agenda.

MR. DEVORE: Mm-hmm.

TREASURER KOPP: And sometimes procurement process --

MR. DEVORE: Mm-hmm.

TREASURER KOPP: -- is not right there at the top. This predates you. It predates your predecessor, Mr. Montague, too.

MR. DEVORE: I understand. You and I have talked about it, yeah.

TREASURER KOPP: Yes.

MR. DEVORE: Mm-hmm. And it's a very, very

--

TREASURER KOPP: But to be popping up again, forty-six of them.

MR. DEVORE: -- small unit of people that we have that are performing this work. But that's, again

--

TREASURER KOPP: So it's got to be top notch.

MR. DEVORE: -- not an excuse, but I expect and I've been very clear with Deputy Secretary Mendez, who is on the administrative side of our house, and I've been very clear with those people in procurement, that through this dashboard system that has been established I expect them to never come again before the Board of Public Works. And if that should happen there would be dire consequences. That's clear to them.

TREASURER KOPP: Thank you.

MR. DEVORE: Yes, sir?

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: I'm really glad, Madam Treasurer, that you put the spotlight on this.

Because it's a pet peeve of mine, also.

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: This concept of retroactive --

MR. DEVORE: Yes.

COMPTROLLER FRANCHOT: -- contracts being brought up there. Because it really end runs, frankly, the Board of Public Works' review process.

MR. DEVORE: Absolutely.

COMPTROLLER FRANCHOT: And it's often described as just administrative sloppiness.

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: But here the, you know, we have \$171 million --

MR. DEVORE: Mm-hmm, if they were utilized, right.

COMPTROLLER FRANCHOT: -- where if, the contracts before us that date back, I guess, twenty-eight months or so. I guess my first question is for the Procurement Advisor Ms. Childs. In this case we're being asked to legitimize services that have already been delivered. What is the point here to our

activities? Services have been approved, the vendors are getting paid. What would happen, for example, if the Board rejected the retroactive approval? Is this simply some response to a legislative audit? Or is there some real world impact on service delivery that I'm not aware of?

MS. CHILDS: Well sir, I think the most significant consequence on these, I guess the best thing we could call them would be implied contracts since there were no written contracts, would be if there were problems with enforcement on either the State side or the provider side. If they ever had to go to the point of going to legal enforcement of any of the requirements during that two-year period it would be very difficult to enforce without a written contract.

MR. DEVORE: So just if I, if I might?

COMPTROLLER FRANCHOT: Sure.

MR. DEVORE: Okay. As I said, many of these, many of these vendors, and I am not making any excuses for this. It's unacceptable. But I just want to try to provide you with some information. Many of

these vendors have been under contract with the State for in excess of twenty years. And there had been existing contracts with them. These, many of these were contract renewals. And the consequences of that would be that we presently have about 531 youth statewide that are with a multitude of different kinds of providers because we have literally hundreds and hundreds of different providers that we use in State and out of State. And it would have an impact on those particular youth. Of that 531, today I believe about 109 of them are out of State receiving specialized care. Psychiatric services, mental retardation services, locked secure placements, like, you know, what we call hardware secure placements. Youth that are violent offenders that the courts have adjudicated on a violent offense. So that is the number that it would impact.

COMPTROLLER FRANCHOT: Okay. Well, I'm glad you jumped back in because my background materials with this request state, and I quote, I guess these came from you, that these contracts are being submitted retroactively as a result of an unusually

lengthy process to determine the not to exceed amounts for contracts, as well as several vacant positions and chronic illnesses which caused additional delays in processing the contracts. So we're sitting here, you're asking us to approve these contracts, many of them two and a half years old, because of staffing problems?

MR. DEVORE: I don't accept that.

COMPTROLLER FRANCHOT: People were out sick?

MR. DEVORE: Yeah, I read that and I don't accept that. I don't accept that. I expect people to adjust resources and make sure that all the requirements of the Board are met. And that's exactly what I have told the staff. I learned about this myself I guess about three or four weeks ago at the completion of an audit that was performed, and I've already explained how I've reacted to it.

COMPTROLLER FRANCHOT: Okay. And then I had a final question about, you mentioned the fact that many of these are sole source, and these services were procured noncompetitively. And apparently, the briefing material says that DGS Secretary and

procurement officer have determined that two or more sources for the service are available, but that because of the absence of effective competition it is unreasonable to expect these sources to respond to an invitation for bids.

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: Maybe there's a typo or something in there but --

MR. DEVORE: Well I don't --

COMPTROLLER FRANCHOT: -- that statement seems inherently contradictory.

MR. DEVORE: It does. It does.

COMPTROLLER FRANCHOT: And --

LIEUTENANT GOVERNOR BROWN: DGS or DJS?

COMPTROLLER FRANCHOT: DJS.

LIEUTENANT GOVERNOR BROWN: Okay.

MR. DEVORE: DJS, right.

COMPTROLLER FRANCHOT: I'm sorry if I misspoke.

LIEUTENANT GOVERNOR BROWN: No, I saw Secretary Collins' over here, his brow go up, and --

(Laughter)

COMPTROLLER FRANCHOT: Yeah.

MR. DEVORE: So again it is not -- if I might respond?

COMPTROLLER FRANCHOT: In other words, you acknowledge the potential for multiple vendors, but then conclude there's a lack of competition and go ahead and sole source it. So there --

MR. DEVORE: There is a lack of competition among certain vendors, and I'll just pick out one in particular. The Governor through his capital plan right now is in the process of assisting us in constructing some new secure treatment facilities in the State in order for us to avoid sending youth out of State. We have probably a handful of vendors, Mr. Comptroller, in the United States that can handle eighteen-year-old youth that have very violent histories, some of whom that are charged with murders and rapes and serious aggravated assaults, who the courts have ordered be placed in specialized facilities. And there are limits on those numbers of facilities that are available. As a matter of fact now we send kids, as you probably know because you've

approved those contracts in the past, as far away as Minnesota and places like that for these specialized services.

For the general kinds of kids, what I would call like the general delinquent kind of kid, we have a lot of competition for that. You know, a lot of group homes, a lot of treatment facilities. But there is some specialized markets where there is not a lot available to us until we create our own resources here in State, which we are doing right now.

COMPTROLLER FRANCHOT: My problem is that that may very well be absolutely the case as you stated.

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: I just have no way of evaluating that.

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: And being asked to, in effect, rubber stamp sixty-one noncompetitive juvenile services contracts, a lot of which are going on three years old, without any kind of bid competition --

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: -- or meaningful analysis other than just statements that, you know, obviously I'm listening to what you have to say. But there's no way to tell, as the Treasurer said, there's no way to tell whether the taxpayers are getting the best deal for the dollar and whether they are receiving good services other than your blanket comments. And so I'm probably going to vote against this contract award just to, out of a sense of protest that, you know, this, we just see a never, you may just be the latest example of a long series of these retroactive requests. But I'm, I'm fed up with it. I think we should reject this and --

MR. MENDEZ: Just to answer your question in terms of review, under the Secretary's leadership there was a law passed that requires a statement of need process for any further contracting with group homes and for them to be RFP'd. The programs you have before you, the majority are programs licensed by DHR which we contract with in order to serve our population. And as the Secretary said before, if we

didn't have these contracts we'd have 600 kids that the courts have ordered to placement without any place to go.

So there is a mechanism for review. And actually part of the existing contracts, we discontinued about twenty-seven providers because we were reviewing which ones are closer to home, which ones are more effective, etcetera.

MR. DEVORE: Okay, if there is something additionally that I can provide to you, as always I'll be happy to provide that. I think I've given you what I know about it.

COMPTROLLER FRANCHOT: My colleagues on the Board, I just don't find the testimony particularly credible. And I --

TREASURER KOPP: Let me --

COMPTROLLER FRANCHOT: -- apologize, I'm going to be voting no. I'm not sure that's worth anything, but I just don't think we should be put in this position.

TREASURER KOPP: I feel the Comptroller's pain. I mean, you heard me. I am not going to vote

against them because I think they really are necessary.

MR. DEVORE: I mean, the kids would come back --

TREASURER KOPP: But the problem is they were necessary two years ago, or three years ago, and should have been done correctly.

MR. DEVORE: Mm-hmm.

TREASURER KOPP: I think it's more, as much a question of the accountability of the procurement agency and process as it is of the particular vendors.

MR. DEVORE: I agree. I agree. The impact of that would be those youth coming back without services.

TREASURER KOPP: And the fact is, we do know a number of these vendors who have been serving us for a long time.

MR. DEVORE: Over twenty years, yeah.

TREASURER KOPP: And have never seemed reluctant to sign contracts or to act properly.

MR. DEVORE: Yeah, they always want to modify them, and try to get a little more money, and

change the terms, and back and forth with the lawyers.
But you're correct.

TREASURER KOPP: That's fine. That's the
procurement process.

MR. DEVORE: But you're, yes, that's part of
the process.

TREASURER KOPP: Which should be completed.

MR. DEVORE: Mm-hmm, right.

COMPTROLLER FRANCHOT: If I could just ask,
Madam Treasurer you brought that up. Isn't this a
request for retroactive approval?

TREASURER KOPP: Mm-hmm.

COMPTROLLER FRANCHOT: So why would it
impact the delivery of services?

MR. DEVORE: Some of these youth are still
in placement, sir.

MR. MENDEZ: The contracts cover, they are
three-year contracts. They cover the two past years,
but then the year going forward. So.

MR. DEVORE: So --

COMPTROLLER FRANCHOT: Well just request
that, you know, bring something before us that would,

that we could approve for the year going forward. But I don't see why we should approve retroactively two years of services that have been paid for --

MR. MENDEZ: Okay.

COMPTROLLER FRANCHOT: -- and delivered and for which there is no credible explanation as to why it happened, other than the statements you sent us which don't make any sense at all.

MR. MENDEZ: Well as the procurement person indicated, this would remedy having a contract in place. Because if the State had to litigate any issue there was no contract. So this would kind of cure the fact that there wasn't a contract. So it's really a protection for the State to have these contracts authorized.

LIEUTENANT GOVERNOR BROWN: Okay. Is there any other discussion? We can always continue discussion after a motion. So the Treasurer moves approval, seconded by me. Any further discussion?

COMPTROLLER FRANCHOT: If I could just ask, what is the potential then for rebidding these contracts? I didn't really understand from your

statement --

MR. DEVORE: For the purpose of rebidding them for getting a better cost? Is that what you're saying?

COMPTROLLER FRANCHOT: Getting a better cost, getting some competition, getting some review, getting some normal --

MR. DEVORE: Mm-hmm.

COMPTROLLER FRANCHOT: -- close eye procedures. I mean, these obviously have a nice name to them, and they are servicing a population which is very challenging.

MR. DEVORE: Yep.

COMPTROLLER FRANCHOT: But it doesn't mean we shouldn't --

MR. DEVORE: I will tell you this. There is little competition currently available for some of those most violent juveniles or I wouldn't be sending them three-quarters of the way across the United States if I could find vendors that were closer to their homes. There is, once we have in fact implemented the Governor's capital plan, we have three

secure facilities that are in the, then we will be able to make reductions in not only the number of youth that are out of State but in the number of vendors that we use as well. But there is little in the way of competition.

MR. MENDEZ: And I would add, there is a rate setting committee, the Interagency Committee. So the rates are set by them so that they get the best deal for the State. So all of these contracts have a rate set by that interagency rate setting committee.

COMPTROLLER FRANCHOT: Okay. And I appreciate the fact that -- if I were you I would rebid the contracts. I would ask for an extension of whatever it is we have currently, and rebid these contracts. Because otherwise we just have to sit here and rely upon your oral testimony that there is no competition. And I would much rather see the normal procurement process followed. And if at the end of it there is no, there is no competition, then you can validate, you can bring that before us. But otherwise, we're just sitting here listening to your opinion.

MR. DEVORE: So just to be clear, I said there was not competition on specialized services, highly specialized services.

COMPTROLLER FRANCHOT: Well is that what all these contracts are?

MR. DEVORE: No, not all of them. But on some others there are in fact, and what Francis described was this new certificate of need process that is established now through both DHR, ourselves, and the Governor's Office of Children, to make sure that we're doing what you say. That we are in fact encouraging competition, the best vendors at the lowest possible price.

COMPTROLLER FRANCHOT: But this whole group goes through, \$171 million goes through, without, without any new rebidding, I take it? This is all just --

MR. DEVORE: Well the \$171 million represents if all contracts were in fact executed. That's not what --

MR. MENDEZ: If we used, that includes a year from now, and if we used all the contract

amounts.

MR. DEVORE: Yes, which we will not. Thank you.

LIEUTENANT GOVERNOR BROWN: Any further questions or comments on this item or any other items on DBM's calendar? Okay, all those in favor say, "Aye." Aye.

TREASURER KOPP: Aye.

COMPTROLLER FRANCHOT: I'm going to vote against --

TREASURER KOPP: Separate out --

LIEUTENANT GOVERNOR BROWN: That's right. Let me, that's right. Let's withdraw that motion --

SECRETARY MCDONALD: There was a motion on Item 11 that was pending.

LIEUTENANT GOVERNOR BROWN: Okay. So we're, that's a motion on Item 11.

SECRETARY MCDONALD: By the Treasurer, and you seconded.

LIEUTENANT GOVERNOR BROWN: Okay, so it's just Item 11. I apologize for not clearing that. So there's a motion for the approval of Item 11. Any

further discussion on Item 11? All those in favor say, "Aye." Aye.

TREASURER KOPP: Aye.

LIEUTENANT GOVERNOR BROWN: Opposed?

COMPTROLLER FRANCHOT: No.

LIEUTENANT GOVERNOR BROWN: Okay. Two to one, that Item 11 passes. Now for the remainder of the DBM calendar. Is there any further discussion on DBM's calendar?

COMPTROLLER FRANCHOT: Yes. Item 7-S, if someone could explain to me what that is?

MR. MCGUIRE: Good morning. My name is Kevin McGuire. I'm the Executive Director of the Family Investment Administration at the Department of Human Resources. We are asking for an extension of the current contract in order to extend medical review team services so that we can perform disability determinations for people who are applying for medical assistance. We had included this item. We have been working closely with our partners in the Department of Budget and Management. This item was actually included under the original State Medical Director's

contract. However, we received no bidder, no timely bidder on this particular service. So as a result, we have to ask for an extension on this while we actually, DHR will then submit our own procurement for this item.

COMPTROLLER FRANCHOT: Why did you, in your judgment, receive no bids?

MR. MCGUIRE: There actually was a bid received, but it was received late. We probably would have had a contract and we wouldn't even have been here. But apparently the, on the day of the bid, the person that submitted the bid, the company that submitted the bid submitted it about two hours late. Apparently they got caught in traffic, from what I heard. And as a result, they missed the deadline.

COMPTROLLER FRANCHOT: And is this, why, I appreciate the fact someone got caught in traffic, but why weren't there, in your judgment, several bids for something like this? Is it a specialized area of work? Or --

MR. MCGUIRE: It is a specialized area. However, we still wanted to have this thing out for a

competitive bid. I think what you were previously alluding in the previous item, we believe in DHR as much as possible that we want to have these bids out for competitive bid and see what comes back. This does give us an opportunity once again to put it out to bid and hopefully we can attract more than one potential bidder on this item. It is a specialized function. It has been done, actually, by the same contractor for years. We have had it bid competitively in the past, and they have been the winner on it. It is to do determinations with having physicians review medical documentation from people who are claiming disability and applying for Medicaid.

COMPTROLLER FRANCHOT: Okay. And so the five months is the appropriate time in your opinion?

MR. MCGUIRE: Yes. And I'll say this, we're actually in the process of actually getting a new RFP out the door. Obviously it has to be reviewed and approved. If we're able to get the thing on the street, and have a bid, and have it back and awarded, obviously we would terminate the current contract for convenience and start the new contract.

COMPTROLLER FRANCHOT: Okay. Thank you.

MR. MCGUIRE: You're welcome.

LIEUTENANT GOVERNOR BROWN: Any other discussion on the DBM calendar? Hearing none, the Comptroller moves approval, seconded by the Treasurer. All those in favor say, "Aye."

THE BOARD: Aye.

LIEUTENANT GOVERNOR BROWN: All those against?

(No response.)

LIEUTENANT GOVERNOR BROWN: Hearing none, the DBM Agenda has been approved. Let's just fast forward one item. Let's go to the Department of Information Technology. Let's take care of that. I know that Senator Pugh is here to, and welcome to the Board of Public Works. We really appreciate your leadership in the General Assembly, and your partnership with the second floor. We greatly appreciate that, Senator Pugh. And I know that you are interested in speaking to Item 3? Why don't we, why don't you tee up Item 3, if you will?

MR. SCHLANGER: Okay.

LIEUTENANT GOVERNOR BROWN: And then we'll have Senator Pugh speak, and then we'll take it from there.

MR. SCHLANGER: Okay. Good morning, Lieutenant Governor, Madam Treasurer, Mr. Comptroller. Elliot Schlanger, Department of Information Technology. This morning we have three items on our Agenda. We're going to move right to Item 3-IT, which we bring to you as a supplemental for a Statewide public safety wireless communications system. We've been here before. Through the past several weeks we've answered many questions. And so going forward we'll be happy to take the answers or the discussions anywhere you would like to as a Board.

LIEUTENANT GOVERNOR BROWN: Okay, why don't we hear from Senator Pugh?

MR. SCHLANGER: Okay.

SENATOR PUGH: Thank you, Lieutenant Governor, members of the Board of Public Works. I'm here because we at the Legislative Black Caucus learned through the media some of the issues as you've been dealing with this particular contract and had a

chance to talk directly with the Secretary in an open forum before the Legislative Black Caucus during Black Caucus weekend, expressed our concern about the lack of African American involvement in this particular contract. It has further been, we have further learned that they, through various negotiations with this particular contract, have increased their participation at 7 percent for African Americans specifically on this particular contract.

As you well know, there is a great concern by the Governor as it relates to the participation of minorities in contracts. There is minority, there was minority participation in this contract but it was not of African American descent and there were actually a number of bidders who were capable of participating in this contract. So now they are currently, from my understanding, at 7 percent for the duration of this contract and we'll seek to improve that percentage as well among those who are participating in this contract. In that spirit, we would support this contract. But more importantly, encourage them to recognize, and this agency, and the State of Maryland,

to recognize the importance of inclusion as it relates to minority participation. When you look at a State, for example, with a one-third African American population, there are African Americans who are capable of doing almost anything on any contract as it relates to the State of Maryland. Thank you so much for this opportunity.

LIEUTENANT GOVERNOR BROWN: Thank you. It's my understanding that Motorola voluntarily increased their MBE participation in this case?

SENATOR PUGH: Yes. Yes. And when we talked with the Secretary during Legislative Black Caucus weekend he assured us that he would be moving forward in that direction, and also that they would look for other opportunities, and would look for other ways to vet these kinds of opportunities throughout the State of Maryland as it relates to the inclusion of African Americans and minorities in the State of Maryland.

LIEUTENANT GOVERNOR BROWN: Well let me just say I want to thank, again, you for your leadership. I also want to thank the Legislative Black Caucus who

has been appropriately vigilant on the MBE program for all minorities in the State of Maryland. And I know that you don't do it alone. You do it in collaboration and cooperation with the business community, with government stakeholders. So I really appreciate everything that you've done, and that, so that the Legislative Black Caucus believes that this is a good result from your standpoint. And thanks for definitely letting us know that.

SENATOR PUGH: Yeah. And, you know, we're also very conscious of the fact that there are a number of people around our State. And when the opportunity provides itself to be inclusive of those who are in the State of Maryland who can provide these services, we ought to pay special attention to that. And so for that, we move forward. Thank you so much.

LIEUTENANT GOVERNOR BROWN: Thank you. Thank you, Senator Pugh. Does any of the other members have questions or comments, either for Senator Pugh, I don't know, do you have to run? Or are you going to stay around? I know you're busy. You've got some other things going on?

SENATOR PUGH: Yeah, I've got a meeting at 11:30 in Baltimore. But I'm open to any questions.

LIEUTENANT GOVERNOR BROWN: Yeah, you look like you have a meeting. So, but do any of the members have anything for Senator Pugh?

COMPTROLLER FRANCHOT: No, not for Senator Pugh.

SENATOR PUGH: Well thank you very much for coming.

TREASURER KOPP: I just want to, I also want to thank you for your leadership in this area and in the area of financial management.

SENATOR PUGH: Thank you.

TREASURER KOPP: It makes a big difference.

SENATOR PUGH: And thank you for your leadership as well, all of you. Thank you so much.

LIEUTENANT GOVERNOR BROWN: Thank you. So do any of the members of the Board have questions or comments about this item?

SECRETARY MCDONALD: We, I want to make sure the Board knows, we have a letter from ARINC. I don't know if Mr. Sapitowicz is here? Just

informing the Board that there is a protest pending on this case by ARINC. And we also have a letter from Mr. Arnold Jolivet who wanted to speak on this item.

LIEUTENANT GOVERNOR BROWN: Okay. So why don't we have Mr. Jolivet, who is here, speak. And good morning, Mr. Jolivet. How are you?

MR. JOLIVET: Good morning.

LIEUTENANT GOVERNOR BROWN: You are well?

MR. JOLIVET: Arnold M. Jolivet on behalf of the Maryland Minority Contractors Association. And because I did take the time to send you a letter, which I believe attempted to give you the concerns in a very detailed manner, I'm not going to take your time to rehash that. But I would like to express, and would like to respectfully ask this Board, to take the State's minority program serious. And as I stated in my letter I think I may, I make a very extremely strong case that there has been egregious violations by not only the procurement agency but the contractor here in terms of the way the goal was initially established.

I pointed out that the procurement agency

did not insert or place in the contract certain work that is part of the contract which we have qualified African American firms who are certified at MDOT are doing. But more disturbing is that this African American firm is currently performing the identical work on a similar contract, on two similar contracts in Baltimore City and Baltimore County. But yet when we get to the State level we find a reason that we would exempt this work. And I would submit to this Board, it's just not right.

So what I have asked this Board to do is to please let us do it right the first time. This is a gigantic contract. It's going to go on for what I believe nine years. And if we for some reason don't get it right the first time, minority, African American firms are going to be left out. And I'm really disturbed. I'm distraught, how this contract has been procured. And I think that I have been on the scene with the minority program probably predating every one of you members of the Board. And I have never seen a worse job in terms of putting the minority participation together.

So I'm going to ask the Board, in its wisdom, to defer taking any action on this particular contract. Because first of all, the African American firms were not even given a chance to bid, Governor. Not even, that's never done. That's unheard of. And I just think that's repulsive. And I think that we have an obligation to get it right. Get it right. Allow the agency to change the contract, to place other African American firms. That's laudable. But it still violated the spirit and the intent of the rules. It's just not done. You don't allow a bidder to change their bid after the bid comes in. It just violates basic procurement rules.

So I want to still ask this Board in its wisdom that, to have this contract reevaluated, and particularly the minority participation. The participation that has been represented to this Board this morning is fraudulent. It's totally fraudulent. We have not independently examined it. There are firms who have been named to this contract are not going to do the work that is purported to be done. And I just think this Board has the responsibility to

the taxpayers to do the right thing and have it reevaluated before it is approved.

LIEUTENANT GOVERNOR BROWN: Mr. Jolivet, can we have the Secretary respond to some of the points that you raised, please?

MR. JOLIVET: Of course. And as I said, I apologize for being --

LIEUTENANT GOVERNOR BROWN: No, there's no apology necessary.

MR. JOLIVET: -- distraught. But this kind of thing just upsets the tenor of our African American community. To have a \$485 million contract to begin with, and African Americans are left out altogether.

LIEUTENANT GOVERNOR BROWN: Okay, can I have --

MR. JOLIVET: It's just not right, Governor.

LIEUTENANT GOVERNOR BROWN: Mr. Jolivet, I know, I hear you. I mean, I've heard your points. But I need to hear from the Secretary what responses he might have to the points that you raised.

MR. SCHLANGER: Well, thank you. Several things that I would care to say. First of all, the

State has a process as you know in terms of setting up MBE goals. It begins with the procurement review group that analyzes that vendors that are available to do the work in this industry. And although this occurred several years ago, even prior to the creation of our Department, the documentation is available to review in a transparent way. And what I would just simply say is that the laws and the processes were followed to the letter of the law. And we got a result and a goal was set. And that goal was reviewed and approved by all the necessary parties. And the procurement was put out, and because of the complexity and the nature of the procurement it was open for many, many months. And there was no negative feedback during that time as to the level of the goal, firms that may be interested in subcontracting opportunities.

And so we find ourselves here today after the fact almost saying, "Well, we did not get the result perhaps that we desired to see." And that's fair, because it's very hard to predict what's going to come down the road. But in this particular case,

that sensitivity of not getting the desired outcome was shared by all. It was shared by the agency. It was shared by the Board. It was shared by the vendor. And so as you know, the vendor came forward voluntarily. He did not change his proposal. He came to the State with an improved term, he raised his MBE goal 7 percent to include African American participation upon the meeting and exceeding of the original MBE goal of 12 percent that was initially set by the procurement review group at the head of the procurement.

So I agree that we all learned something from this exercise. But I think in the end it's pretty well fair to say that, you know, we're in a better position today than when we began.

LIEUTENANT GOVERNOR BROWN: Any questions or comments from the Board members? Yes, Mr. Comptroller?

COMPTROLLER FRANCHOT: I have a little different perspective on this. I'm concerned about this contract from a number of fiscal areas. Number one, I'm concerned that we're being asked to approve

in effect a contract where we don't have the money. So how is this \$485 million contract, if you count the options, going to be paid for when we have about \$50 million that has been appropriated for it?

MR. SCHLANGER: A general comment that I would make that in this time of recession, there is probably not one fully funded major IT project in the works. I would love to come to this Board with money in the bank, so to speak, to cover every major IT project that we have. And I think we tallied up the portfolio yesterday. And it's upwards of \$1 billion worth of IT projects. And the reality is if we were to wait until in fact we could figure out how to fully fund everything that we had in the hopper, we wouldn't move forward at all. We wouldn't move anywhere. So what we have been doing is, we have been looking to major projects as an opportunity to partition, segment, phase into logical units or packages that happen to bring value on their own.

So bringing it back to the wireless interoperability project that we have here today, we recognize the fact that we cannot fully fund project.

We also understand that at some point in time we truly want to get to cover the whole State, but we can't do that today. What we can do is we can move out on the first phase, which essentially covers approximately a third of the State in terms of the population it will serve. It's also a requirement that we have to fulfill in order to keep the 700 MHz license that does have an expiration of January, 2012. So again, I'm fully cognizant that today we cannot identify where all the funds are going to come to build this out. But what I can tell you is that we are equipped to move out on the first phase. We have the funding to complete that, and the State will receive tremendous return on investment for that first phase.

COMPTROLLER FRANCHOT: Okay. So for the future phases that we do not have appropriations in hand for, are you planning to bring those back before the Board of Public Works?

MR. SCHLANGER: Yes. We agree that when we have funding, prior to proceeding or issuing the notice to proceed on subsequent phases, we will return to the Board. Absolutely.

COMPTROLLER FRANCHOT: I applaud that. I think that's an extra layer of oversight and accountability. My second concern is that apparently, we didn't realize this when we first looked at this project, that the low bidder in fact was significantly lower than the person you're, the company you're asking us to award the contract to. ARINC, I think, came in at \$306 million, which is less than the \$345 million award that we're considering today for the first phase. I understand from your testimony that Motorola scored ahead of ARINC in the technical side, but that's a cost differential of almost 13 percent. And I guess I don't understand what technical factors there are that could have weighed in so heavily with you?

MR. SCHLANGER: Well, you know, it's a little bit difficult to compare apples and apples based on the coverage information. So in the proposals we asked the vendors to respond and not only tell us how in fact they would provide the system, but what would be the anticipated coverage, which is a measure of a percentage. So if in fact they quote 94

percent, that means that the ability to communicate in a particular spot in the State, if you will, is 94 percent. So in the evaluation, because in fact that we had specified that the State was interested in different coverage levels, we took a mix of those levels, and you may call that theoretical, but Motorola actually performed financially better based on that evaluation criteria.

In looking at what the State can afford, and the practical coverages, we happened to choose what we call the public service level. In that, if you were to compare the price of the ARINC proposal to that of Motorola, while the Comptroller is absolutely correct, it would appear that the price of public service coverage is less with the ARINC proposal. If you look at the technical coverages that the Motorola proposal offers, it is much significantly higher. And in order for ARINC to produce those same level of coverages their proposal would have to be jacked up to be able to provide the equipment and the infrastructure to achieve that. Sorry for the long explanation, but I think you get the gist.

COMPTROLLER FRANCHOT: No, that's, and then finally I have a concern about the fifteen year length of the contract, which you and I have mentioned, and I think everybody is sensitive to. That this is a sector that's subject to change very month. And in effect, we're signing up with Motorola for the next fifteen years. And I don't have any problem with Motorola. Believe me, they have a stellar reputation, and a lot of stature in the corporate area. I'm just wondering why, on behalf of the taxpayers, we are entering into a fifteen-year deal with them where apparently obviously they will have a leg up in providing almost every component of this, even though I guess Ericsson or someone like that might be able to figure out how their product could be offered. But let's be realistic. This is going to be a Motorola deal, and they're going to use in all likelihood Motorola equipment. Why would we do that, given the economic situation of the State?

MR. SCHLANGER: Sure. So one comment that I would make is, you know, in our industry we're always faced with the problem that there's something new

around the corner. There's some new, say, technology that is around the corner. And, you know, unfortunately if we were going to wait for the next better thing to make the turn around the corner we wouldn't do anything. So, you know, what we do is in this particular case we kind of establish our requirements today, and we establish our requirements for a very, very significant period going forward. Radio systems historically have a very long life, and they are built to, let's say, standards that support that. So the first thing that I want to assure you is that we didn't build our requirements without considering that we were going to have to be able to use this technology for a long time, many years. And without getting into the details, the way that is done is you rely on the software, if you will, to bring you the new features that you may need as opposed to worrying about having to replace hardware infrastructure.

Speaking of hardware infrastructure, the core part of this project up front is building out that infrastructure. In the out years, we're looking

more towards where can we make incremental improvements to the system? And being incremental the cost impact is not as high. And the other thing is with the radio units themselves. And what we have done is in the requirements we have subscribed to standards. And we're asking, if you will, that more than Motorola subscriber radio equipment be interoperable with the infrastructure that we're building. So in the out years we really have a high level of flexibility, if you will, to look at other options aside from the Motorola solution. Of course, you know, I can't predict where we're going to be. But we've built the flexibility into our thinking as we go forward.

COMPTROLLER FRANCHOT: Well, and then finally if I could just ask, apparently ARINC has now protested this contract award. And you denied the protest, and apparently it's going to the now the Board of Contract Appeals?

MR. SCHLANGER: Correct.

COMPTROLLER FRANCHOT: So this is a contract that is, you're asking us to award under protest?

MR. SCHLANGER: That's also correct.

COMPTROLLER FRANCHOT: What is the substantial State interest that would justify that?

MR. SCHLANGER: Well, I'm sure you don't want to hear that from me, the engineer. So I'm going to bring my department AAG Doug Carrey-Beaver up here to give you a very, very succinct response to that question. Thank you, Doug.

MR. CARREY-BEAVER: Douglas Carrey-Beaver, I'm Assistant Attorney General and Principal Counsel for the Department of Information Technology. The, do you want me to talk about the protest? Or are you just interested in the substantial interest?

COMPTROLLER FRANCHOT: Well, I'm concerned that according to the Secretary the federal deadline for whatever it is, the thing that we have to be in line for, is January, 2012. Is that your testimony?

MR. CARREY-BEAVER: Yes.

COMPTROLLER FRANCHOT: What's the substantial State interest in suggesting that, you know, we not allow ARINC to have its day in court, consider its appeal before the Maryland State Board of

Contract Appeals? Why shouldn't we defer this until the Board of Contract Appeals has ruled?

MR. CARREY-BEAVER: As, well as I understand it the Federal Communications Commission has regulations that require that the State certify that it is providing, or prepared to provide, substantial service to one-third of the population by January 1, 2012, and then later certify the State is prepared, or providing or prepared to provide substantial service to two-thirds of the population by January 1, 2017. And the concern is that if that is not, that January 1, 2012 threshold is not met the 700 MHz license would be pulled by the FCC.

COMPTROLLER FRANCHOT: Right. I, that was the previous testimony. I guess I would ask my colleagues to defer this until, or consider deferring it, until the Board of Contract Appeals rules on it. Because January, 2012 is, you know, I'm sleepy right now, but it sure isn't just around the corner. So why not --

MR. CARREY-BEAVER: Well but, maybe I can back up a little bit?

COMPTROLLER FRANCHOT: Please.

MR. CARREY-BEAVER: This is the second protest that was filed by ARINC. The first protest was filed in April of this year. They had a number of issues that they withdrew from that protest and they kept, the issues they kept were they claimed that the State had improperly evaluated ARINC's proposal by using criteria not specified in the solicitation. And they failed to have, and they said they failed to have meaningful discussions.

On October 7th the Board of Contract Appeals heard the State's motion to dismiss, and dismissed that protest finding that there were no grounds for that whatsoever. So --

COMPTROLLER FRANCHOT: On, I'm sorry, give me the dates again?

MR. CARREY-BEAVER: The protest was filed April, 2010, and October 7th the Board of Contract Appeals --

COMPTROLLER FRANCHOT: Okay. So that was six months for a wide series of questions that were raised by ARINC.

MR. CARREY-BEAVER: Actually, it was a very, it became a very narrow series of questions that was raised.

COMPTROLLER FRANCHOT: Okay. So it became a narrow, this I take it, this protest would be even narrower?

MR. CARREY-BEAVER: I --

COMPTROLLER FRANCHOT: So why not give ARINC, a local company in Maryland --

MR. CARREY-BEAVER: We --

COMPTROLLER FRANCHOT: -- an opportunity to exercise their day in court on whatever it is they are objecting to.

MR. CARREY-BEAVER: We --

COMPTROLLER FRANCHOT: And, you know, get back to us within whatever. You know, you can comment to the Board of Contract Appeals, it has already looked at this on other issues, that, you know, you have a time sensitive situation. But I would not feel comfortable, and don't feel comfortable in any event, with us, the Board of Public Works, moving forward in the face of a protest, be it the first or second.

MR. CARREY-BEAVER: Well I guess, two things. Two things. One is that the next proceeding may take as long. I would obviously suspect it would probably take at least four months, maybe six months, to proceed through that same process. That's typically the length of a protest at the Board of Contract Appeals. I've appeared before them for almost fourteen years now.

And second, just as the first protest, the Board found didn't have merit, we believe, I believe that this second protest doesn't have merit either. They're claiming that this late modification to Motorola's proposal doesn't comply with Maryland law. And they asked for another opportunity to have an evaluation of that protest.

COMPTROLLER FRANCHOT: Well if it's so black and white, why wouldn't you just let the Board of Contract Appeals deal with it, and come back to us? If worse case it took six months we still have, you know, that's six months in advance of the federal deadline. But the process, I think, can then, you know, people could have a little more confidence in

it.

MR. SCHLANGER: Just to be clear with respect to the calendar, from now to January, 2012 is approximately fourteen months. A project of this type requires significant engineering with deployment of equipment. The testing alone is several months. So what I would say to you is, you know, we tried to award this March time frame and got caught in the protest cycle. And where we are today is if we do not hit the ground almost immediately I just don't see how in fact we could have a chance to meet that January, 2012 date.

TREASURER KOPP: Elliot, could I just ask a question about that?

MR. SCHLANGER: Sure.

TREASURER KOPP: We have something here that says that the grants were extended by contract and will remain available until expended through fiscal year 2012, which isn't, do you know anything about that?

MR. SCHLANGER: The grants?

TREASURER KOPP: The, this is actually from

your interoperability directive. PSIC grants were extended by Congress?

MR. SCHLANGER: Right. So as you know the source of the funding is coming from several different areas. One is a public safety interoperability grant. I'm sorry if I don't know exactly the name.

TREASURER KOPP: That must be the PSIC.

MR. SCHLANGER: Right. So we actually had an opportunity to extend that in terms of the grant. The licensing, which is controlled by the FCC is a different ball game.

TREASURER KOPP: Okay.

MR. SCHLANGER: They've been pretty emphatic about those dates. So that's what we're really up against.

TREASURER KOPP: Okay. Okay. So it's still January 1st, not the end of the fiscal year?

MR. SCHLANGER: That's correct. It's January, 2012. That's correct.

LIEUTENANT GOVERNOR BROWN: Let me just clarify. So in response to the Comptroller's question, the substantial State interest is time, and

putting that time, that thirteen and a half months, to good use to ensure that we meet the January 1st deadline?

MR. SCHLANGER: That's correct. That's absolutely correct.

LIEUTENANT GOVERNOR BROWN: Okay. And that would, that's the justification if you will --

MR. SCHLANGER: That's correct.

LIEUTENANT GOVERNOR BROWN: -- meeting the standard for the, your request for the Board to take action notwithstanding a bid protest?

MR. SCHLANGER: Right. And understand that we've based everything to date based on the 700 MHZ licensing. If in fact we were to, if we were to lose that, then the project, the proposal, the design, the concept, it all kind of goes out the door. I'm not saying that some day you couldn't build a, say a Statewide system. But it surely would not be on the foundation that in fact we built what we are going to do.

MR. JOLIVET: Governor let me just --

COMPTROLLER FRANCHOT: Could I just, Mr.

Jolivet before you come back?

MR. JOLIVET: Okay.

COMPTROLLER FRANCHOT: Because you are on a separate, and I, obviously I support our MBE goals. And I also support interoperability, as the Treasurer noted at earlier meetings. I was in the Legislature in a position where we were very supportive of this. My concern here though is that we're establishing a precedent which is, which could work against us, and work against the taxpayers down the road. To say that the substantial interest is timing, I mean, that's true for any contract. Any contract can be held up to have, you know, timing issues. I don't understand the situation with the FCC. I'm not an expert on that. But I can't imagine that if we entered into a contract in July of next year to move forward that that would not fulfill our, or their request, that we make a commitment to the 700 MHz. But that's a technical issue.

My concern here is that we're moving forward in the face of a protest. And that's a bad precedent for us. I've mentioned that before. And I don't see

a reason for us adding to that bad precedent by moving forward. I'd really like to have my colleagues defer this until, and be happy to send a letter from the Board to the Board of Contract Appeals that there is some calendar issues involved, and to the extent they can look at this expeditiously they should. But to just go ahead and award it and essentially reduce them to their stature, and also establish this as a precedent for other contracts, I think is wrong. Don't you agree?

MR. SCHLANGER: Well, my recommendation is that if we need to build, or if it is the, it's a goal of the administration to build an interoperable 700 MHZ wireless interoperability system, we need to act today. And again, I mean, you know, I defer to the will of the Board. But what I want to do is the best job in having to bring forward my recommendation and the options that we have.

LIEUTENANT GOVERNOR BROWN: Yeah, let me just speak to the time limits. I mean, I agree with the Comptroller in that, you know, I mean you have more experience on the Board than I do. But, you

know, the vast majority of contracts that come before us do have some time sensitivity to them. However, where I disagree with the Comptroller is that some contracts if we don't move by date certain put us in greater jeopardy than others. And I think if, and I take at face value what the Secretary is saying, that if we don't meet a January, 2012 deadline we forfeit a license, and then it requires us to seek another license, or a different MHZ, or what have you. That's a greater jeopardy than a lot of the other, than many other contracts that if we were to delay it, the hardship that that creates. So I don't think that all delays are created equal, or all postponements are created equal. And I don't think that all deadlines are the same, or have the same significance.

So here, certainly on this issue of moving forward, and notwithstanding a bid protest, I'm certainly willing to act on this today, notwithstanding a bid protest because of the jeopardy that we would be in if we don't meet the January deadline. And I think that you need all the time that you can get to make sure that we stand up a system.

Mr. Jolivet, I see you're interested in commenting to the Board?

MR. JOLIVET: Yeah. I just, in closing I thought it was extremely important that I remind the Board, that I highlight for the Board, that originally, I note that this communication to the Board asserts that the value of the contract work relating to subscriber equipment is not included in the MBE participation goal. I want, I think it's important that this Board be apprised that this was not an issue before. The question as to what was in the MBE goal never came up as an issue. And what I see here is an attempt on the part of the agency to make it easy for Motorola to meet the goal. And we shouldn't be involved in that. The agency should let Motorola sink or swim on its own, and not contrive the goal. And that's what's happening here, Governor.

There is a deliberate, organized, concerted effort here on the part of the procurement agency to favor Motorola. And to give you an example, another example, to allow Motorola to meet the goal with 11.62 achievement goal, achievement presumably with African

American participation. Certainly there was no African American at all before. But I say this to you because this Board would have to be blind not to see what's going on in terms of how this agency is not living up to its requirement or expectation of enforcing the MBE law vigilantly and with integrity. And there is no integrity here to what this agency is doing.

The last thing that I would like to mention to this Board and ask this Board in its wisdom, we know that, I mentioned this before so I'm not going to, we know that there are two firms that Motorola is contracting with for the minority participation, for the 13.2. These firms go all around the country. These are basically firms that are captive Motorola firms. They are not legitimately minority firms. We should not buy into that. I would like the Board before the Board approves this contract to make one of our agencies, MDOT, to investigate the relationship here. There is a captive relationship. Every contract, Motorola gets in Maryland they use these same agencies, these same contractors. I would submit

that that is inappropriate. That is simply not appropriate. Now let me close. I know that there are people who take issue with what I say, but I say it nonetheless because it's true. The last thing I'd like to say is that I note that here Motorola is proposing to give \$47 million to an MBE from Georgia, from the state of Georgia, that has no ties at all in Maryland. Now I would say, Mr. Comptroller, the State of Maryland has no compelling legal interest to give an MBE preference to an out of state firm. It's pretty well admitted that, yes, the State of Maryland would have a compelling, legal justification to give a legal, give an MBE preference to a Maryland MBE firm. But why are we giving a \$47 million MBE contract to a Georgia firm when we are not doing the same for our Maryland firms? Something is wrong with that. Something is wrong with that, and I call upon this Board to correct it.

LIEUTENANT GOVERNOR BROWN: Okay. Can we have -- thank you very much. Can you, Mr. Secretary, just summarize sort of the MBE component to this award? Can you just summarize, you know, what we've

got here?

MR. SCHLANGER: Sure. To the point about the radios not being a part of the calculation, I mean, fair disclosure, in May of 2008 the procurement advisory group, or the group that happened to determine the goal, made that decision at that time. That because the radios were specifically manufactured equipment that would not be included in the goal. So there was no change in terms of how we did approach that.

So the goal was set at 12 percent. Again, I would maintain that all of the rules were followed. In response to that, the contractor happened to propose 13 percent MBE participation. In that, there was no African American participation. But as a result of the activity that has occurred over the past six weeks, Motorola has come forward voluntarily. And on top of their 13 percent has included or increased by 7 percent MBE African American participation.

And if I may just add one more point? Not all IT contracts are the same. Some have more IT human service. In this particular IT contract there's

a lot of equipment and gear. On the Agenda today we have an item for a computer aided dispatch system. The value of that contract is potentially \$34 million. There is a 25 percent MBE goal on that and actually there is 100 percent female African American participation. So, you know, I mean, that's a good news sort of story. But I just want to point out that, you know, based on the nature of the contract we try, we try, to do what we can to end up with the right result.

LIEUTENANT GOVERNOR BROWN: And on Item 3, what is the nature of the performance by the MBEs? All 20 percent, can you describe what that is for this Item 3?

MR. SCHLANGER: Sure. So if in fact that we look at the two original firms, they will be doing some technical work in terms of bidirectional amplifiers in tunnels and console equipment installation services. There is another firm of the original that will be doing engineering type of assignments. In the 7 percent that has been added, that will be supported by the three new firms making

up the 7 percent African American participation, one firm will be doing, let's see, real estate management services. One firm will be doing training services. And another one will be providing equipment installation, project management, and engineering services. So it's a vast array of, again, talent and services that will be comprised in this group.

LIEUTENANT GOVERNOR BROWN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Yes. I have a request of the Board that we defer this item for two weeks and ask our Procurement Advisor, Ms. Childs, to get back to us in writing as to whether in your opinion the bid protest is substantive, that's number one. And number two, whether the deadline of January, 2012 is something that would preclude us from any further delay or action. And I'm not sure whether you're willing to do that, but I'd certainly like to ask my Board members to join me in that because, as I said, I think there's a precedent here that we need to protect ourselves from. And two weeks, I take it, would not, I don't know where the Assistant Attorney General went, but I take it two weeks would not

jeopardize the January, 2012 situation?

LIEUTENANT GOVERNOR BROWN: The concern I have with that request, and you can certainly make it, is two-fold. One is I'm, you know, the Procurement Advisor offering such a dispositive opinion about the merits of a case before the Board of Contract Appeals, I'm not really, I'm a little uncomfortable with that. And I don't know if in two weeks, if it takes six, even four months for the Board of Contract Appeals to dispose of a case, whether you can even do that in two weeks. And even if you could --

COMPTROLLER FRANCHOT: Not to interrupt, but I'm just asking whether it's a substantive issue.

LIEUTENANT GOVERNOR BROWN: Let me just, let me just, if I could just address the two?

COMPTROLLER FRANCHOT: Please.

LIEUTENANT GOVERNOR BROWN: And in terms of substantive, I mean, I'm going to assume that it is substantive because it was filed, and we're assuming that cases that are filed are substantive. They have merit. And whether they win or lose is a decision made by the Board of Contract Appeals. But I have

concerns with that, with the Procurement Advisor advising on that.

And then I also have concerns with the Procurement Advisor coming back with an opinion as to whether or not the, the substantial State interest test has been made. And I think it's based on some complex factual, set of facts. Whether or not you can do certain engineering feats within a time certain and what the other hurdles are. And while I don't think that that capability resides only in the Department, I don't know if it necessarily resides with the Procurement Advisor. So those are my concerns about what you are asking the Procurement Advisor to do for the Board and whether you can even do that in two weeks.

COMPTROLLER FRANCHOT: Well, I guess I have to appeal to the Treasurer then. I think it's a modest request. I think I have more confidence than the Lieutenant Governor in our Procurement Advisor threading through those possible problems and giving us, giving us --

TREASURER KOPP: Well Mr. Comptroller, I'm

sorry, you --

COMPTROLLER FRANCHOT: Let me just --

TREASURER KOPP: Don't put your trust in me.

(Laughter)

TREASURER KOPP: As much as I do admire you, I would add to the Lieutenant Governor's concern. I mean, quite clearly the Procurement, you may ask the Procurement Advisor whatever you wish, any of us can. But also in terms of the deadline, I mean, clearly we don't have to make the deadline but presumably we don't get the license. And then the question of what happens if we don't get the license is really not a procurement issue, it's an issue of how we deal with interoperability, of present interoperability of emergency communications which I think is a terribly, terribly important problem.

The other thing is this will be precedent in this particular area but it's certainly not the first time the Board has acted. What is required of the Board, and the process that's set out by the Board, is for the Board members to satisfy themselves that there is a pressing State interest needed to move forward.

And clearly, I mean, it sounds like one of us have not been persuaded of that, and at least one of us has.

The Board of Contract Appeals will continue as long as the appeal is before it and will have to deal with the situation if the Board of Contract Appeals acts contrary to the way you anticipate they will act but this doesn't stop them from acting. Nor, I assume, will it stop an appeal to the Circuit Court beyond the Board of Contract Appeals. I'm not a lawyer, but my recollection is that there is that process.

So I have to admit I was persuaded. We did defer it at the request of some Board members two weeks already. I'm ready. I think we should go ahead and then see what the Board of Contract Appeals does. I just think, we've been waiting for years to develop this system. And there now is a deadline. We can miss it again. We can keep punting. We can keep kicking the can down the road a bit, but I wish we wouldn't.

COMPTROLLER FRANCHOT: Okay. Well, I regret that we're in this situation once again, and it seems

we're always here. Someone has a shotgun up against us saying, you know, "If you don't act, these bad things will happen." And it looks like I'll be in the minority here. But if I could ask our Procurement Advisor, what would be the impact of the Board of Contract Appeals ruling in favor of the protester?

MS. CHILDS: Well sir --

COMPTROLLER FRANCHOT: After we move, apparently move forward and approve this?

MS. CHILDS: With the caveat that anything I say would be pure speculation there might be a number of remedies they would suggest. You know, there has been some argument that what has been proposed by Motorola is in fact another best and final offer. Perhaps a remedy suggested by the Board of Contract Appeals if ARINC is successful would be that ARINC would be afforded an opportunity for an additional best and final offer. But again, everything is very speculative as to what the Board may decide. But that's kind of been the genesis of much of the argument and that may be a remedy they would suggest.

COMPTROLLER FRANCHOT: Thank you. And just,

I will move to defer this for two weeks for all of the many reasons that I went into. And I really appreciate the patience of my colleagues. I know this is going over territory we've covered before. But this is a big contract and it's a complex one, and there are legitimate concerns.

TREASURER KOPP: Could I just also add? Talking about territory we've gone over, one of I think the strong benefits of having gone over it and deferring it was we now, it is now quite clear that you all are coming back for the next chunk and that it's going to be looked at in a rational step by step process. That was not completely clear in the beginning. And I think that's an important change.

MR. SCHLANGER: Right. And not that I want to be a shell in that shotgun. But I've just got to remind that, you know, the first time we came here, although it was hasty, was October 20th, I believe. So a month has gone by in a schedule that is only fourteen months, then it was really fifteen months. So every two-week hunk really does have some impact. What I would tell you is, you know, we really need to

get working in the ground as soon as we can.

LIEUTENANT GOVERNOR BROWN: Okay. Any further discussion, comments, questions from the Board members on this Item 3? Hearing none, the Lieutenant Governor moves approval seconded by the --

COMPTROLLER FRANCHOT: I believe I made a motion to defer.

LIEUTENANT GOVERNOR BROWN: Oh, I'm sorry. We need to act on that motion. Is there a second on the motion?

(No response.)

LIEUTENANT GOVERNOR BROWN: Okay. Hearing none, is there a motion for, is there a motion? The Lieutenant Governor moves approval, seconded by the Treasurer, for Item 3. All those in favor say, "Aye." Aye.

TREASURER KOPP: Aye.

LIEUTENANT GOVERNOR BROWN: Any opposed?

COMPTROLLER FRANCHOT: Nay.

LIEUTENANT GOVERNOR BROWN: And two to one, Item 3 is approved. The remainder of the Agenda for the Department of Information Technology, are there

any questions or comments by the members? Hearing none, the Treasurer moves approval of one and two, Item 1 and Item 2, 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, the Department Information Technology is approved.

MR. SCHLANGER: Thank you.

LIEUTENANT GOVERNOR BROWN: Thank you very much, gentlemen.

MR. SCHLANGER: Thank you.

LIEUTENANT GOVERNOR BROWN: And we will now go back to the University System of Maryland.

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

LIEUTENANT GOVERNOR BROWN: Can you speak to Item 5? I'm pretty excited about that one.

MR. EVANS: Okay, I'd like to bring up Mr.

George Shoenberger --

LIEUTENANT GOVERNOR BROWN: Sure.

MR. EVANS: -- the Vice President for Administration at University of Maryland University College.

MR. SHOENBERGER: Good morning. We're asking approval here for the purchase of a building directly across the street from our current Largo Academic Center. The University is experiencing tremendous growth. We've grown 34 percent in the past five years in terms of stateside enrollment. So we're constantly needing to look for space. This building is very attractive. It's right across the street. We can fold it into the Largo complex pretty easily. So we appreciate your support on this. Do you have any other questions on it?

LIEUTENANT GOVERNOR BROWN: Any other questions or comments on any of the items on the University System Agenda? Okay, hearing none 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 University System of Maryland's Agenda is approved and next we will move to the Department of Transportation. Good morning.

MR. BARTLETT: Good morning. For the record, I'm Harold Bartlett and I'm presenting twenty-one items today. Item 2-C has been previously withdrawn. And for the record, Item 8-M and Item 3-EP have been previously revised. And we're prepared to answer any questions.

LIEUTENANT GOVERNOR BROWN: Any questions or comments, concerns, issues by any of the Board members?

TREASURER KOPP: Just to mention and to ask you to take back to Headquarters, the energy performance contract?

MR. BARTLETT: Yes, ma'am.

TREASURER KOPP: Item 3?

MR. BARTLETT: Yes, ma'am.

TREASURER KOPP: I understand in the

beginning there were some difficulties working it out, and just in terms of the roles. And I appreciate having finally worked it out. And I hope in the future things can run more smoothly. I'm sure we'll be hearing from the Secretary if they don't.

MR. BARTLETT: I hear what you're saying. I hear what you are saying.

MR. COLLINS: The point is well made.

TREASURER KOPP: Thank you. Thanks.

COMPTROLLER FRANCHOT: If I could just ask, where, how, where is the Secretary?

MR. BARTLETT: The Secretary is actually in Seattle now on a business trip.

LIEUTENANT GOVERNOR BROWN: Okay. And if there is nothing further on the Department of Transportation's 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,

MDOT's Agenda is approved for today. And the final Agenda is for the Department of General Services.

Good morning.

MR. COLLINS: Good morning, Mr. Lieutenant Governor, Madam Treasurer, Mr. Comptroller. The Department of General Services has thirty-one items on our Agenda. Items 3, 5, 6, and 19 have been revised. We'll be glad to answer any questions you have on anything.

TREASURER KOPP: Could I just go back, I'm sorry, just to one request of the Department?

LIEUTENANT GOVERNOR BROWN: Of Transportation?

TREASURER KOPP: In these, yeah, these herbicide contracts that we see so often? Herbicide, pesticide? Can we have some indication, a sentence, that someone has looked at the question of the adverse environmental impact and is satisfied that there isn't any?

MR. BARTLETT: Yes, we can do that --

TREASURER KOPP: I had thought we had been seeing them. All of a sudden I just noticed flipping

over that it wasn't there.

MR. BARTLETT: I know there's consideration as to, or what materials are applied based on where they are --

TREASURER KOPP: I'm quite sure there is that process. But I think to put it on the record. I'm sorry, Mr. Secretary.

MR. COLLINS: Quite all right.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR BROWN: Are there any questions, comments, items, issues for the Department of General Services Agenda?

(No response.)

LIEUTENANT GOVERNOR BROWN: Okay. Hearing none, seeing none, 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, the DGS Agenda is approved for that. And I move for

adjournment, is that appropriate? Seconded by the
Comptroller. We're done, thank you.

TREASURER KOPP: I don't know what happens
if you don't.

(Whereupon, at 11:51 a.m., the meeting
was concluded.)

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