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P R E S E N T

GOVERNOR MARTIN O'MALLEY, Presiding;

HONORABLE NANCY KOPP, Treasurer;

HONORABLE PETER FRANCHOT, Comptroller;

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

AL COLLINS, Secretary, Department of General Services;

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

JAMES SMITH, Secretary, Department of Transportation;

CHIP PRICE, Associate Director, Community Resilience Local POS
Community Parks and Playgrounds, Department of Natural
Resources;

CARMINA PEREZ-FOWLER, Assistant Secretary for MBE Compliance and
Procurement, Governor's Office of Minority Affairs;

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

MISSY HODGES, Recording Secretary, Board of Public Works.

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P R O C E E D I N G S

GOVERNOR O'MALLEY: Good morning everyone, and welcome to the Board of Public Works. Today is September 18, 2013. And I know I speak for all members of this Board and really for the people of our State as we remember the families of all of those who lost their lives this week on a beautiful September day, when moms and dads went to do their jobs and work for our federal government, in this case at the Navy Yard. And a madman opened up and murdered 12 people in cold blood. And six of those 12 were Marylanders. So let's begin with just a moment of silence for them and their families.

(Moment of silence.)

GOVERNOR O'MALLEY: Okay. We have a packed Agenda today. Mr. Comptroller, Madam Treasurer, any opening thoughts?

TREASURER KOPP: Just a personal note. I spent yesterday and the day before sitting on a jury in a criminal case in circuit court. And I just want to say it was a tremendous experience. And if anyone has the opportunity to fulfill their jury service duty, I really urge you to do it. It does a great deal to reinforce your faith in our legal system. The jury, my fellow jurors and I spent a great deal of time

deliberating. Everybody trying to do what they thought was best, a cross-section of the State of Maryland. And it was just a great experience. I really appreciate the opportunity.

GOVERNOR O'MALLEY: Mr. Comptroller?

COMPTROLLER FRANCHOT: Well when the cat's away the mice get to play. I got to chair the Board of Trustees meeting yesterday in the Treasurer's absence. But I do want to echo her confidence in our system. Because the fact that she is a very high-ranking official, is called to jury duty, and goes and does her duty, I think is just very commendable. And we did not do any damage yesterday, Madam Treasurer --

TREASURER KOPP: Glad to hear that, Comptroller. I'm sure the Secretary was watching out.

COMPTROLLER FRANCHOT: Yes. Well when they started to act up a little bit I just said I promised the Treasurer that we wouldn't have any problems, so.

MS. FOSTER: Yes, you did.

COMPTROLLER FRANCHOT: Yes. But anyway, on Friday, if I could just mention a press conference that I held with Congressman Dutch Ruppersberger in Baltimore. And we were trying to raise from his level as a federal official and mine as

a State official, raise awareness for the thousands of not for profit organizations in Maryland that currently are at risk of losing their tax exempt status with the IRS for failing to comply with a little known law change. I point out this is not the policy of the Comptroller of Maryland, this is an IRS policy that was passed several years ago. But my office has worked with the IRS to identify almost 7,000 organizations in Maryland who are at risk of losing their tax exempt status by not filing IRS Form 990 for three consecutive years.

Unbeknownst to many small not for profits the threshold for filing this form with the IRS was changed to include their organizations that have gross receipts below \$50,000. These are organizations doing the Lord's work in our communities, particularly in tough times with donations scarce, and the need for the work they do has intensified. They are obviously not tax professionals. They are not full time employees of these organizations. They generally have shoestring budgets, leadership that is transient from year to year. Organizations that are generally completely volunteer run. So my office sent out thousands of letters to these organizations who face revocation or their status has been

revoked. The goal is to alert as many of these organizations as possible so that they can submit the necessary paperwork to avoid the issue.

Filling out the paperwork is quite quick and straightforward. But once you lose your tax exempt status, and we are talking about frankly everybody from little league teams to food kitchens, once you lose your tax exempt status getting it back can be a nightmare given the situation in Washington. So we're really urging these organizations to file electronically this very simple form. And it also impacts their donations. Because people that expect to get a charitable contribution on their tax return, making a contribution to these wonderful organizations, they are not eligible to deduct it on their tax return if the group has lost its status.

So it's an important issue. It's, I really appreciate Congressman Ruppertsberger for working on a federal and State level to try to avoid unnecessary regulatory counterproductive policy, I guess is a way to describe it. But if any of you have access to small not for profits, if you could just remind the officers that they need to file this? And contact our office if they have any questions. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. All right, we go to the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have six items on the Secretary's Agenda this morning, and three reports of emergency procurements. We are prepared for any questions you may have.

GOVERNOR O'MALLEY: No questions, Secretary's Agenda. The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We move on now to the --

SECRETARY MCDONALD: Mr. Price is here for the Department of Natural Resources this morning.

GOVERNOR O'MALLEY: Mr. Price?

MR. PRICE: Good morning, Governor, Madam Treasurer, Comptroller. The Department of Natural Resources has nine items on the Agenda today, consisting of 12 projects, seven of which are local recreation projects. And the other five are park and

conservation projects. 291 acres through Program Open Space, 176 acres through the Rural Legacy Program, and 65 acres through the Maryland Environmental Trust. Of note, the 65 acres through the Maryland Environmental Trust are donated acres and they are being donated from the Mt. Vernon Ladies Association of the Union Inc., which is the oldest national historic preservation organization in the country. And today we have with us Mr. Curt Viebranz, President and CEO of the Mt. Vernon Ladies Association, as well as Mr. Benjamin Wechsler who is the Maryland counsel for the Mt. Vernon Ladies Association, who will be happy to answer any questions about that particular project. And I would be happy to answer questions about any of the projects.

GOVERNOR O'MALLEY: Sure. Do they want to step up, tell us what's going down?

MR. WECHSLER: Thank you, Governor --

GOVERNOR O'MALLEY: Hi.

MR. WECHSLER: -- Comptroller, Madam Treasurer.

Again, my name is Ben Wechsler. I am an attorney with the law firm of Linowes & Blocher, and serve as Maryland State counsel for the Mt. Vernon Ladies Association.

Mt. Vernon Ladies Association manages George Washington's estate in trust for the citizens of the United States. I'm here today with Mr. Curt Viebranz, who is the tenth President and Chief Executive Officer of Mt. Vernon since its stewardship of the property began in 1858. As of yesterday, Mr. Viebranz has completed his first year at the helm of Mt. Vernon.

For more than 50 years Mt. Vernon has provided stewardship of property along the Maryland side of the Potomac River. It's the viewshed from Mt. Vernon. And strived to preserve the viewshed on the Maryland side of the Potomac in a fashion similar to that enjoyed by George Washington during this tenure. This effort has been going on for the better part of over 50 years in partnership with the National Park Service, the State of Maryland through its Maryland Environmental Trust, Prince George's County, Charles County, and a number of not for profit partners, including the Conservation Fund, the Conservancy for Charles County, and the Accokeek Foundation.

Before the Board today is a donated easement on a 65-acre parcel of property with ridgelines that are extremely visible from Mt. Vernon. The easement will completely protect the ridgeline. It will also limit the development on the

remainder of the property. And before I turn this over to Mr. Viebranz for a few comments I want to give particular credit to Mr. John Hudson at the Maryland Environmental Trust, as well as Mr. Bill Crouch, who is the Maryland Director of the Conservation Fund. And thank the Board as well for your consideration.

COMPTROLLER FRANCHOT: Thank you.

MR. VIEBRANZ: Good morning. Thank you very much for having me here. I traveled over from the great State of Virginia to see you today. As Mr. Wechsler pointed out, yesterday was Constitution Day and also for me personally the first anniversary of my time at Mt. Vernon. I can tell you that one year ago at 6:52 a.m. as I began my tenure at Mt. Vernon, I stood on the piazza, the porch, looking across the Potomac to essentially to Prince George's and Charles County. And it looks virtually as it did in 1799 when George Washington died. And much of that is thanks to the efforts of the organizations that Mr. Wechsler has mentioned. The Accokeek Foundation, the Conservation Fund, the National Park Service, and also the State of Maryland, and the Maryland Environmental Trust.

These efforts date back to 1955 when Frances Payne Bolton, who was at once a Vice Regent of the Mt. Vernon Ladies Association as well as a member of Congress, stopped, thwarted an effort to create a refinery across the river from, the Potomac. And it was just another example of a long line of women stepping up to really to save the mansion. And so at that moment she acquired, created what was one of the first land trusts in the history of the United States. Acquired property, which property was then gifted to the federal government, and became what is now Piscataway Park. And that effort has continued to today.

There have been a number of other things that have happened. We have now acquired this piece of property. We are, you know, grateful to the Maryland Environmental Trust for taking on the easement. And we've actually just acquired another piece of property which we're hoping to add to the land holdings of Piscataway Park in Maryland.

So I think that it has been a great partnership. We are ever vigilant, because of course with the economy picking up there is a lot going on here. As Mr. Wechsler pointed out we have protected a lot of property along the banks of the River.

But there are a lot of ridgelines which would then despoil the viewshed. And so we're working quite hard with a lot of organizations. And we'll look forward to working with all of you.

I would say again in closing, though, that if you have the opportunity, and I would invite you if you have not, to come over to Mt. Vernon, to stand there on the piazza and to look across the River and to see that viewshed. It's something that should look that way for eternity. And it's our objective working with all of you to try to make that happen. So thank you very much. I appreciate the time this morning.

GOVERNOR O'MALLEY: Thank you.

COMPTROLLER FRANCHOT: Could I just comment --

TREASURER KOPP: Thank you. Yeah.

COMPTROLLER FRANCHOT: -- that I love visiting that site. It's fabulous. And I'll probably if the weather stays good ride my bike down there because you've got a great bike path going there.

MR. VIEBRANZ: Yes.

COMPTROLLER FRANCHOT: But George Washington obviously was here so many times in Annapolis.

MR. VIEBRANZ: Yes.

COMPTROLLER FRANCHOT: Obviously for important national issues, and I think downstairs you should stop by and check out the old Senate chamber, which the Governor and Treasurer and legislative leaders --

MR. VIEBRANZ: I will do. Yes.

COMPTROLLER FRANCHOT: -- preserving.

MR. VIEBRANZ: And I've actually visited the Maryland Historical Society to see the items that are there that were on loan to the Society while the State House was being renovated. I should also add actually that I report to a Board of 28 ladies. And the soon to be Regent, or Chairman of the Board, Mrs. Benjamin F. Lucas, is from the State of Maryland. And her husband, Benjamin Lucas, was at a moment the Secretary to the Board of Public Works --

COMPTROLLER FRANCHOT: But I wanted to ask you a question whether --

MR. WIEDEFELD: Yes, sir?

COMPTROLLER FRANCHOT: -- someone said that one of the reasons he loved Annapolis so much was because of the horse racing that took place, that he could participate in with his

fellow sportsmen. And I don't know allegedly up and down West Street there was like a little Pimlico set up.

MR. VIEBRANZ: Well he is actually known to have created the first lottery in America in connection with the formation of Washington College. So --

COMPTROLLER FRANCHOT: Really?

MR. VIEBRANZ: -- I can't speak to him and, you know, his horse racing. But I know that he is known to have done that. So --

COMPTROLLER FRANCHOT: Excellent. Thank you.

MR. VIEBRANZ: Thank you very much. Thank you.

TREASURER KOPP: Can, let me just add --

MR. VIEBRANZ: Yes?

TREASURER KOPP: -- you can report back to the ladies, I hope you appreciate, as you go down these grand stairs the great panorama, the picture of Washington resigning his commission that is, it covers the whole stairwell, basically. The historically inaccurate picture.

(Laughter.)

TREASURER KOPP: And you can report to them about the historic inadequacy of it.

MR. VIEBRANZ: Yes. Okay.

TREASURER KOPP: It's a good thing things have changed.

MR. VIEBRANZ: I will do that. I will do that. Thank you.

TREASURER KOPP: Thank you.

MR. VIEBRANZ: Thank you very much. Thank you.

GOVERNOR O'MALLEY: Thank you. All right --

TREASURER KOPP: You know what's wrong with it, of course?

GOVERNOR O'MALLEY: That they have women in the picture, and there weren't women actually --

TREASURER KOPP: They have a woman in the picture and there were no woman, yes, exactly.

(Laughter.)

TREASURER KOPP: It's been pointed out before, has it?

GOVERNOR O'MALLEY: Mm, yep. All right. The Treasurer moves approval of the Real Property Agenda items for the Department of Natural Resources, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

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

SECRETARY FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are 13 items on the Department of Budget and Management's Agenda for today. I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Any questions, Department of Budget and Management? Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 3-S, please, Madam Secretary.

SECRETARY FOSTER: Certainly. Item 3-S is a contract to provide residential care services for a Teen Mother Program. And actually we have David Ayer, who is the Deputy Director of Operations. Mr. Ayer?

COMPTROLLER FRANCHOT: Good.

MR. AYER: Good morning. I'm David Ayer, Deputy Executive Director at DHR Social Services Administration. Our agency provides a lot of services to needy children, particularly those who need foster care services. And may I

remind folks there are several hundred children who are in need of adoption. And certainly as you think about what you might want to do to help out a young kid that may need some permanency, adoption is a very fine way to take a step in that direction.

And today the Teen Mother Program is St. Ann's. They have been successful in helping to stabilize in the lives of a couple of teen moms. And we wanted to extend the contract that they have in place for those, and make available three more spots in case we have other troubled teens with babies who may also need that kind of service. They do a good job with stability and support for these young moms while in foster care.

COMPTROLLER FRANCHOT: Great. And I commend you for your work, and I'm inclined to support this. But I am interested, and if you could help me with just a few questions about what we are getting for the nearly \$1 million, I guess it's a three-year contract, to St. Ann's Center for Youth and Families --

MR. AYER: Right.

COMPTROLLER FRANCHOT: -- based in Hyattsville. And you mentioned, it's for the residential childcare services for

two at risk teen mothers, and it includes beds for up to three additional teen moms over the course of the contract.

MR. AYER: That's right.

COMPTROLLER FRANCHOT: Obviously these are two very troubled young woman --

MR. AYER: Right.

COMPTROLLER FRANCHOT: -- based on the background that we have and they are in dire need of help. And the cost, however, seems to be, well, jarring, I guess is the word. We are talking about spending essentially a million to provide care for 33 months to no more than five people, but hopefully only two people. That comes out to roughly about \$30,000 a month. And if I could just ask, is that for substance abuse treatment? Is it mental healthcare? Is it remedial education? Some combination of everything?

MR. AYER: They --

COMPTROLLER FRANCHOT: Why is it so expensive?

MR. AYER: Well they have mental health needs and special needs in terms of the medicine that they need. They also, these are also supporting both the mom and the baby in care over the course of the time that they are in services with

the State. And there are extra, there's extra attention paid to them through the contract in the supervision of those children around the clock over the course of the time that they are in care. And those are some of the kinds of reasons that these are more expensive than the usual kinds of placements that we have. But certainly --

COMPTROLLER FRANCHOT: Okay. And the children reside with their mothers?

MR. AYER: That's correct.

COMPTROLLER FRANCHOT: Okay.

MR. AYER: They reside with them. And currently, as you point out, there are two there now. There is no guarantee that there will be others coming. However, that's where we're at for the moment.

COMPTROLLER FRANCHOT: Okay. And what are the goals for the young women that are treated under this contract? How do you measure whether this is a good investment?

MR. AYER: Well I think that what we're trying to do is for these particular two youth that are in care, they have experienced multiple placements prior to coming here. So having a stable home where they can live over time, help with raising

their babies, and certainly avoiding a second pregnancy is something that we try to work on with the teen moms. And with stability, with getting engaged in their education programs to the extent that they can, they can look forward to a brighter future, bringing up their young child along the way. But hopefully seeing there is a brighter future for them stepping out of their adolescence into young adulthood, hopefully with some education, and getting involved in the workforce after that.

COMPTROLLER FRANCHOT: Okay. And my last question, I note that St. Ann's is the only vendor in Prince George's County capable of delivering this kind of service. If tragically there are more than five --

MR. AYER: Right.

COMPTROLLER FRANCHOT: -- applicants, what happens?

MR. AYER: Right. We have, we have the opportunity as well through a treatment family program that we have to provide services, structured services for youth, teen moms who may have similar kinds of characteristics as these young women. And that's where we would look. We try to look for a family

oriented setting with some structure to help these disadvantaged youth. And that's where we would --

COMPTROLLER FRANCHOT: Okay.

MR. AYER: So we have, we have some capacity at a family, treatment family level for these kinds of girls.

COMPTROLLER FRANCHOT: Thank you very much. Thank you, Governor. I have two other small items --

GOVERNOR O'MALLEY: Okay.

COMPTROLLER FRANCHOT: -- on this calendar if I, unless the Treasurer has something? Item 5-S?

SECRETARY FOSTER: Okay. Item 5-S is the contract to provide a ballroom setting for the Maryland Teacher of the Year Gala, which is going to be held on October 11th. And we have Robert Crawford, who is Director of Business Services for the Maryland Department of Education.

MR. CRAWFORD: Mr. Comptroller, Robert Crawford from the Maryland State Department of Education.

COMPTROLLER FRANCHOT: Welcome.

MR. CRAWFORD: I have Darla Strouse with me, who runs the program there.

COMPTROLLER FRANCHOT: Great.

MR. CRAWFORD: And Albert Annan, who is our procurement officer to answer any questions for you.

COMPTROLLER FRANCHOT: Good. Well this Gala is a wonderful event. It's one of my, I go often, when I can. And it's a terrific Gala. But I notice that there are going to be approximately 1,100 attendees. And is it reasonable to assume that this money that's being allocated today, does that get repaid through the ticket purchases by the 1,100 attendees?

MS. STROUSE: Yes, I'm the culprit here who loves the Teachers of the Year.

COMPTROLLER FRANCHOT: Right. Great sentiment.

MS. STROUSE: This is all, thank you, all corporate underwriting that pays. This is not a penny of State money that goes into this. And with 1,100 people, people do purchase ticket prices. They pay their way for tickets, too. So there are many complimentary people, but then other people will pay. And literally it is almost impossible to find a place to run this program that's convenient for the whole State, where there is parking that is free. Buses are coming from all over the State. So there is no charge to the State on this. We have 16 corporate underwriters.

COMPTROLLER FRANCHOT: Got it. So we are basically fronting the money, and then it gets --

MS. STROUSE: So, we already have received the money for it.

COMPTROLLER FRANCHOT: Okay. Terrific. Thank you.

MS. STROUSE: And thank you, Governor, for coming this year.

GOVERNOR O'MALLEY: Sure.

COMPTROLLER FRANCHOT: And then I have one final item, if I could? It's Item 13 on the DBM Agenda.

SECRETARY FOSTER: Okay. Item 13 is a request to create ten positions, which would be outside of the rule of 100. This is for the Department of Housing and Community Development. And Mr. Paul Skorochood is coming. Hopefully I'm not murdering his name. He's the Director of Housing and - Energy Program

GOVERNOR O'MALLEY: What item is this? I'm sorry.

TREASURER KOPP: Thirteen.

COMPTROLLER FRANCHOT: Thirteen-GM.

MR. SKOROCHOD: Good morning.

COMPTROLLER FRANCHOT: Good morning.

GOVERNOR O'MALLEY: Thirteen-GM.

SECRETARY MCDONALD: Could you repeat your name for the record, please?

MR. SKOROCHOD: Sure. Paul Skorochoch. I'm the Director of DHCD's Energy Section.

COMPTROLLER FRANCHOT: Okay, thank you very much for coming up. My question is we're being asked to create ten new positions in your agency. And according to my background briefier these positions are for a customer investment, managing and operating the customer investment fund, which was ordered by the PSC as part of the merger agreement with Exelon and Constellation. What exactly is the Customer Investment Fund?

MR. SKOROCHOD: That's the \$113 million fund that came of the merger. And we were awarded \$28 million for basically two sections. \$20 million, I'm sorry, \$18 million of it -- I'm sorry, \$19 million of it was for single family, and the other \$9 million for multifamily type.

COMPTROLLER FRANCHOT: Okay. So we're creating a new kind of bureaucratic subunit with these ten new positions. What exactly is the time intensive, labor intensive focus of the initiative?

MR. SKOROCHOD: Well it's approximately \$30 million and it's going to be full time work for all ten of them.

COMPTROLLER FRANCHOT: What are they going to do?

MR. SKOROCHOD: About three years worth. On the single family side it's, this is really not a brand new program as much as it is to complement our existing energy programs. This is more an additional funding source, a new \$28 million tranche of funds.

On the single family side we're going to be focusing on the jobs that we weren't able to service through our other funding sources. So when a project, when a home was deferred or denied for whatever reason, then we will try to service it with this funding.

COMPTROLLER FRANCHOT: What are the other funding sources in your agency?

MR. SKOROCHOD: The EmPOWER Maryland, as well as our Department of Energy funding, as well as the RGGI funds. And then we also have a little bit of MEAP funding as well that we get through DHR.

COMPTROLLER FRANCHOT: Okay. So this raises, obviously we're very supportive of that kind of activity. But

it strikes me this money should be put in the Maryland Energy Assistance Program, or the Electric Universal Service Program, or the Utility Service Protection Program, which obviously is involved in all of this energy area, particularly as far as protecting low income families. So the question is why are they over in Housing as opposed to, why are they being put with you guys rather than where they currently are placed? How do you envision the two agencies working together collaboratively to achieve their respective missions without duplicating things, confusing people, and --

MR. SKOROCHOD: When you say -- which two agencies?

COMPTROLLER FRANCHOT: Well your agency, well Housing, and the Maryland Energy Assistance Program. Is that in your agency?

MR. SKOROCHOD: We are the ones that actually implement. The money just comes from them.

COMPTROLLER FRANCHOT: Okay.

MR. SKOROCHOD: So we are the ones that are doing all of the implementation.

COMPTROLLER FRANCHOT: So let me just ask whether these are self-sustaining positions, or are they positions that the State is ultimately going to have to pick up the tab for?

MR. SKOROCHOD: Once the funding is over the positions won't exist anymore.

COMPTROLLER FRANCHOT: Okay. Thank you very much.

MR. SKOROCHOD: Thank you.

TREASURER KOPP: Could I ask, I should go back and do more research. But until I do that, are there overarching goals that you have set? Indicators of accomplishment that you have set for the use of these combined funds so that we can, there is probably something on StateStat --

MR. SKOROCHOD: Sure, we have actually --

TREASURER KOPP: -- but what are we aiming for?

MR. SKOROCHOD: Sure. What we have done is we have actually invested quite a bit of money in our software --

TREASURER KOPP: Right.

MR. SKOROCHOD: -- and the way that we actually manage the job. So every time a job comes in it gets funneled into a system. And every measure, every energy conservation measure,

is going to be quantified and costed. And we can only do measures that have a positive return on that investment.

TREASURER KOPP: Right. So you are going to measure everything that you are doing. But what are the goals that you are aiming for?

MR. SKOROCHOD: Well to hit a positive savings to investment ratio on every job we touch.

TREASURER KOPP: So it's not a question of the number of homes, or the proportion of, you know --

MR. SKOROCHOD: We do have a number.

TREASURER KOPP: You've got some --

MR. SKOROCHOD: And I apologize, that number escapes me.

TREASURER KOPP: That's my question. Where do I go to see the goals and then how to measure the level of accomplishment?

MR. SKOROCHOD: That would be in our application to the PSC.

TREASURER KOPP: Okay. For this money or for all --

MR. SKOROCHOD: For this money.

TREASURER KOPP: No, I'm asking overall. For weatherization, and multifamily, single family, where do I look?

GOVERNOR O'MALLEY: The best place would be on the delivery, the delivery website under the, I do believe the 11th strategic goal, which is the EmPOWER Maryland, the reduction by 15 percent of energy consumption in the State of Maryland.

TREASURER KOPP: All right. So that, so I can see this money and all the other money going to achieve those goals?

GOVERNOR O'MALLEY: Yes. It will have the delivery plan for how we achieve these things, including those aspects of it that this program administers. And to the point of helping lower income people, I mean, a lot of the money that we put into the energy assistance actually goes out through the cracks in the roof and the uninsulated ceilings.

TREASURER KOPP: Mm-hmm. Mm-hmm.

GOVERNOR O'MALLEY: And so what we are, well what we are doing a better job of than we had in the past is targeting these dollars to those homes that also happen to be the lower income, where we are wasting dollars that could be spread to a lot more people if they weren't going out through crevices and cracks. Getting the landlords to play along with that is a

tough score. They claim that they can do it themselves, but since they are not paying the electric bill they rarely ever do. But I'm glad to help in picking up the phone to a few of those guys. I mean, we all know who they are, right?

TREASURER KOPP: That would be good. All right. I can find out from Kevin? No, you don't have to bring it up right now. I just want to know how to do it.

GOVERNOR O'MALLEY: Yeah. Click on the goals page, can you?

TREASURER KOPP: Thank you. Excellent. This is it. Yes, thank you. Thanks.

GOVERNOR O'MALLEY: Okay. Anything else?

TREASURER KOPP: No, I think I've got it.

COMPTROLLER FRANCHOT: No, that's, move approval.

TREASURER KOPP: Goals/energy-efficiency.

GOVERNOR O'MALLEY: Yes. There's a lot of stuff going on. And where is that, I wish Abby were here, there is also some of these funds that we were talking about that are funded through the energy conservation dollars that come off of your electric bill. And there is a penny of every dollar that goes

towards these programs. Some states, notably in New England, have actually had a much greater impact in reducing energy consumption with a slightly larger, you know, portion of funding going to that. So anyway, the Comptroller moves -- any other questions on anything else on there? Are we still on the DBM, on the Department of Budget and Management Agenda items?

COMPTROLLER FRANCHOT: Can I just add, yeah, I have a quick question. Apparently REM, or this issue has been floating around for some time. And I see Mr. Bereano sitting out there. I don't know whether he wanted to comment at some point. But if he did want to, Governor, I'd ask that you just give him a minute to make his statement. And then we can move on.

GOVERNOR O'MALLEY: Mr. Bereano, your minute has arrived. Thank you.

SECRETARY MCDONALD: Do you want to approve Secretary Foster's Agenda first?

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. And now we pause in our --

SECRETARY MCDONALD: Between Agendas.

GOVERNOR O'MALLEY: -- Agenda, Mr. Bereano?

MR. BEREANO: Thank you, Governor, members of the Board of Public Works. Good morning. And thank you once again for the opportunity to address the Board. For the record, my client is Integra Health Management in Owings Mills, Maryland, a Maryland Corporation. That the owners and the employees live in Maryland. We do extensive business in Florida and Texas, Kentucky, some other jurisdictions, and regretfully no business here in the State of Maryland.

We were one of the contractors, the vendors, that for a large number of years had the REM program, along with three other vendors. We applied when the RFP came out for that solicitation and were not awarded that.

I am not here on behalf of my client as a sore loser, or in any disrespectful fashion. But my client did ask me to come here to express some views. This was really their first encounter with the procurement process with the Department of

Health and Mental Hygiene here in the State of Maryland and it was a very bad experience for them.

You have heard from us before. This program originally was awarded by the Board of Public Works. It was extended three times by the Board of Public Works. Each time the Department of Health and Mental Hygiene made clear that all four vendors were doing a very excellent job and so the Board was very involved in its original award and then subsequently evaluating the vendors to see if the extensions were warranted. And each time the indication from the Department of Health was that the four vendors were doing a very excellent job. Choice was available. We're talking about families and children that we all wish we did not have to deal with on a daily basis. Very, very fragile people that are Marylanders in our community.

The procurement was started, as you have in your packet, a letter that was sent in by some doctors from MedChi that complained about how it was being run. And a procurement went out. The whole RFP process was not very transparent. It was not clear. It was vague. There was not indication in any of the documentation in the procurement that this was considered exempted from the procurement law, that it was not going to

follow the normal procedure. MedChi even bid with one of the vendors that was unsuccessful after having initiated this whole thing. Regretfully the department after the award to the coordinating counsel told the other three unsuccessful vendors if you are appealing it, which we did for some period of time, that I'm going to leave everything in place. We're not going to take the cases that you have away from you and we are not going to stop giving you new cases. And then regretfully the Department of Health very shortly thereafter went back on their word, sent out a unilateral memorandum, said we are not sending you any more new cases, we are giving them to the proposed new vendor. And we just got a notice that as of October 1 they are taking all of our cases away.

We have business elsewhere and we'll be fine, but we'd like to do business here in the State of Maryland. We have complained that, I understand and I know what's going to happen. But the thing that disturbs my client very greatly is that the Board should really take a look at this matter and not just, you know, respectfully go on to the next Agenda item. Because, and I'm not saying here and now, but this is not the way if you want to have companies come in and bid and expect a fair and

open process to be evaluated on something as critical as this, this is, the department should have been more clear in their documents as to what the process was going to be.

The evaluation team of the four vendors consisted of two attorneys from the Attorney General's Office, and the procurement officer that my client and others think really had a very longstanding relationship through the department with the Coordinating Center, which is the one that received it. But the two persons, and I'm not trying to be mean or nasty, but the two people from the Attorney General's Office, they don't have any knowledge about this program and about healthcare professionals and case management, but they evaluated all of the, all of them. The way in which it was done did not indicate to any of the losing vendors that there was at least some fairness and some objectivity in the whole process.

And then finally I know the department says that it was excluded from the procurement process, that they did not have to come before the Board. But respectfully, notwithstanding the advice of counsel you have received, and I respect that. I really do. I just respectfully disagree with the Board's counsel in that regard. The Department of Health

and Mental Hygiene has not complied with a section of law that the Maryland Legislature has enacted in 12-401. And I'm not trying to beat a dead horse to death but the Legislature passed this and said that if the department feels that they have an exempted matter, or an excluded matter, that they have to set an internal kind of procurement process themselves. And that process has to be presented to the Board of Public Works, and has to be approved by the Board of Public Works each year. And that's never been done by the Department of Health and Mental Hygiene. And they are not excluded from doing that because Section 2, Section A-2 of 12-401 indicates the only sections of other law that exempts it from this requirement.

So I think an end run has been done around the Board of Public Works. If we did not complain about this matter initially to the Board of Public Works, respectfully you all would not have known about what the Department of Health and Mental Hygiene was doing to a contract that you all initially awarded, evaluated, and determined, and then you three times extended after evaluating the conduct and the way the program was being run by the four vendors.

Still they don't even have a waiver from the federal government, but they went out with the issue. And this is just not the way to do business in the State of Maryland in terms of procurement. And really would hope that in the course of staff and Board activity that you would see this and hopefully try to learn from it, and improve on it for the sake of other vendors. Because the ones that really are hurt, I would just say in conclusion, are the families and are the children that have been with case managers, with my client and the other three clients. And as of October 1 they are just going to be wrenched away to one vendor. And they are not happy about it. I think the members of the Board have received some letters from some families.

This is a very personal matter and a very, you know, involved matter. And my client just wanted me to register on their behalf that they were hoping to, you know, to do business in Maryland. They live in Maryland, as I indicated. But it has been a very bad experience. And they are respected and they are doing cutting edge, innovative work in other jurisdictions. But it just doesn't feel that the Department of Health and Mental Hygiene really handled this in a proper way.

So thank you for letting me express those views. I would be happy to answer any questions. I know I seem somewhat negative this morning. I'm not trying to be. I'm just trying to be frank in a respectful way to the members of the Board. Because I thought the Board had a vested interest in it, having approved the contract originally and the extensions. And I think if you all didn't know about this from our original protest and objections you wouldn't have known anything about it. And I don't even think the Board was dealt with straight up. I really don't. And I would hope that would be of concern to the Board. In really clarifying, what's a procurement matter, how this law is being interpreted properly? It just is not a model of the procurement process in the State of Maryland by the, in the executive branch of government, I'm sorry, I say that very respectfully, I really do.

Thank you, Governor, and the members of the Board --

GOVERNOR O'MALLEY: Thank you.

MR. BEREANO: -- I'd be happy to answer any questions.

GOVERNOR O'MALLEY: Thank you, Mr. Bereano.

MR. BEREANO: Thank you.

COMPTROLLER FRANCHOT: That's the longest minute I've ever seen. But it's an important issue and thank you for bringing it to our attention.

GOVERNOR O'MALLEY: The ole Parren Mitchell - "I've only got a minute."

MR. DASHIELL: I assure you my minute is going to be shorter than his minute. Thank you, Governor, Madam Treasurer, and Mr. Comptroller. I represent Integrated Health Auditing Systems. And my client doesn't have business all over the United States. In fact, we are a small minority business that is located in Prince George's County that is about to lose 70 percent of its annual revenue. I'm joined here this morning by two of the principals in the company.

And I'm not here to complain about the process. We can argue that in front of the Office of Administrative Hearings, although quite frankly I think that's going to be fruitless because this is the only forum that can change anything. The department did not give OAH authority to make a decision but only to make a recommendation. And my guess is if the recommendation isn't what they want, they are going to do what they want anyway. So this is it for us.

The problem with this is, we are asking you to direct the department to cancel this RFP because the RFP and the outcome have never been approved by the federal government. Let me repeat that. Neither the RFP nor the outcome have been approved. What the department proposes to do here is to change to a single vendor operation. To put all of their eggs in one basket. To take away the extra foxhole, if you will, to the fox.

Unfortunately, or fortunately hopefully if you will see it my way, and I've got to make a confession, I will tell you this. I have a tendency to think that my ideas are always the best. I have a tendency to think that if you don't do it my way it's probably not the right way. But I'm not the only one who needs to make that confession. I'm not the only one who needs to confess that. I think the department needs to confess that to you today. Because the fact of the matter is they can't do what they advertised to do in December because the federal government has not approved it. Not only have they not approved it, but they didn't even seek approval until August 29th. That's right. The very RFP that was issued in November before, the RFP that the announcement was made as to the award in

December, the approval to do it that way still has not come from the federal government and that approval is necessary.

And not only that but the approval can't come before September 27th because the federal government told the department you have to have a 30-day period for public comment. So it wasn't approved when they did it. Their whole entire process was skewed toward an objective that has never been approved and still hasn't been approved. And you are the last stop for us. OAH can't help us. Because the department only gave them the authority to make a recommendation. So as I said, even if they recommend against what the department does, wants to do, the department I suspect, for all the reasons Mr. Bereano indicated, is going to do what it wants to do anyway.

That's my minute. I urge you respectfully to ask the department not to do this. To save my client's business, and the other small businesses who have been doing a great job for the State of Maryland, thank you.

GOVERNOR O'MALLEY:

Thank you. Anybody from the Health Department want to be heard?

Mr. Kim?

MR. KIM: Good morning, Mr. Governor, Mr. Comptroller, Madam Treasurer. I'm Thomas Kim. And we're happy to discuss

the legal path by which we took to select the vendor here in this case. But I just first wanted to reiterate the objective that the department did take. And as Mr. Bereano accurately noted, that this is a very critical service. One that touches upon our most vulnerable population, mostly children who have very complicated medical needs, okay? And the coordination that is necessary to make sure that they get the proper services from a medical standpoint, to orthopaedists, to neurologists, to social, special education services, is obviously very critical to us. And what the department was mostly focused on was the quality of the services that are being delivered to this population. In other words, the department really wanted to focus solely on the technical merits of the various vendor community. And the way that the department is able to do that is to take price out of the equation. Which is to say that this is a direct service impacting individuals and families, the rates themselves that the department would pay were set in Medicaid regulations. So once this price is set then the department was able to go out with an RFP to base its selections solely based on technical merit. Again, this is extremely

important work and it's extremely important to have it be done correctly, as those of you can imagine.

So the process, and I'll just add before we comment on the legal aspect of this, is that the vendor, the medical community has supported us in this approach. Not only in the approach to go with a single vendor but also has voiced a tremendous amount of support with our selected vendor in this case. And those are organizations such as MedChi, Kennedy Krieger, University of Maryland Medical School, and the Maryland Chapter of the Academy of Pediatrics.

And we'll be happy to address, we have Josh Auerbach, our principal AG, to comment on the legal aspect of this procedure.

MR. AUERBACH: Good morning, Governor, Madam Treasurer, Mr. Comptroller. The procedure posture of this matter is that there is pending litigation all over the State concerning this process. One of the vendors has filed seven separate administrative appeals in the Office of Administrative Hearings. Mr. Dashiell's client has filed two or three administrative appeals. They have separately appealed to the State Board of Contract Appeals. Which is held, in agreement

with the advice given by Mr. Bedward and the position the department has taken. And contrary to what Mr. Bereano said, this is not a procurement because the law sets eligibility and because the law sets rates.

In addition one of the vendors discovered that there is an office in Talbot County that had never, does not put on its website or on its letterhead, and the department has been sued in the Circuit Court for Talbot County.

All of the issues raised here are raised in these various proceedings. In the Talbot County case, the assertions include violations of the United States Constitution, the Sherman Anti-Trust Act, Article 41 of the Declaration of Rights, racial discrimination, sex discrimination, and the proverbial kitchen sink of other assertions. DHMH will respond to all of these assertions in all of these forms.

The latest dispute, and this bears very directly on this notion of choice. The latest dispute concerns non-compete agreements by Mr. Bereano's client and Mr. DeShield's clients and the other vendors purport to have with their nurse case managers. And they are seeking to prevent the case managers, who they employ, from following their patients to the agency

that will serve their patients in the future. Those provisions are probably unenforceable as a matter of law. But for the moment they simply illustrate the lengths to which these companies have gone to deny their patients freedom of choice while purporting to defend that principle.

Now as to freedom of choice, I share Mr. DeShield's enthusiasm for federal Medicaid law and I'm going to make the not so safe assumption that the members of this Board do as well. The applicable provision is Section 1902(A)(23) of the Social Security Act. And it provides that any individual may obtain services from any agency who undertakes to provide the person such services. Now this is a little complicated. The main point here is that the REM program has never afforded that choice. It is a waiver program. For 16 years. And the reason is that affording such choice would be antithetical to the purposes of the REM program, one of the central purposes, which is to coordinate care. CMS enforces this requirement and in 16 years CMS has never objected to the way the department operates the REM program. From a federal Medicaid law perspective there is no legal significance in a move from four selected vendors to

one selected -- from four selected agencies to one selected agency.

If Mr. Dashiell and Mr. Bereano were right, the result would not be that their agencies get a contract. The result would be that the type of contract that they want would be precluded legally. And again, it would undermine a fundamental purpose of the REM program. Now the request to CMS, the Center for Medicare and Medicaid Services, that they alluded to, is a request to make the waiver express, the waiver of freedom of choice express, consistent with the way the program has operated for 16 years.

There is from my perspective a de facto presumption in the State, not a legal presumption but an institutional presumption sometimes, that once a contractor gets a State contract it's entitled to keep that contract after the contract expires. And for the incumbent contractor there's a further presumption that anything goes when fighting to keep a contract after it has expired. And I think I would just say in contrast to the big picture, in response to the big picture arguments that Mr. Bereano and Mr. Dashiell made, that this presumption to the extent it consists does not serve the citizens of the State

well, it does not serve the taxpayers of the State well. And it's demoralizing for the people who do the work of State government trying to hold contractors accountable.

COMPTROLLER FRANCHOT: Well if I could ask a question? Because, you know, I appreciate your service. But it raises the question in my mind, no matter how altruistic you and your colleagues are, if you have the power to in effect select a single vendor to replace four vendors, and be outside of the procurement law, where are the protections for the process?

MR. AUERBACH: The protections are there is an avenue for administrative appeal --

COMPTROLLER FRANCHOT: Yeah. But that, I take it they are only going to be able to make a recommendation to you?

MR. AUERBACH: An administrative law judge in the Office of Administrative Hearings will determine, make a recommendation whether the selection was illegal. The Secretary makes the final decision. Then potentially there is a right for judicial review of that determination.

COMPTROLLER FRANCHOT: Yeah but for small companies, I take it one where Mr. Dashiell's as opposed to Mr. Bereano's, I mean that's not really a recourse for them. They don't have the

kinds of funds that would let them move forward with that. I'm not saying you have done something wrong here. I'm just saying the procurement process is set up to protect you, your colleagues, the State, from abusive actions. And I'm not saying this is one. Because obviously this is a very delicate situation.

MR. AUERBACH: There is a very, very --

COMPTROLLER FRANCHOT: Why wasn't this treated as a procurement after it had been previously treated as a procurement?

MR. AUERBACH: In 2007 it was treated as a procurement. In 2009 the department enacted regulations, adopted regulations that set the rate for the services provided. As a result of that under Section 11-101(n)(2)(iii) of the State Finance and Procurement Article the process was excluded from the definition of procurement contract. That does not mean that there are no protections. There is an enormous body of federal Medicaid law, of State government law, of common law, actually including judicial review that protects vendors from asserted illegality in a fundamental policy choice assigned by Maryland law to the Department of Health and Mental Hygiene. It is the

Department of Health and Mental Hygiene to which State law assigned the responsibility for administering the Medicaid program.

COMPTROLLER FRANCHOT: Well I just hope that you reconsider that at some point. Because it's obviously a mess that's been created by that regulation. And you are much better, you are much better protected from the type of review that's going on, I'm not asking for a review, I'm just saying it's a mess. And it's unfortunate. And it would be avoided if we had the traditional procurement process. And I know you, apparently you think you can do it. But should you do it?

MR. AUERBACH: I think I would say two things about, I don't think I agree with the premise that the mess, so-called mess would have been avoided by a different process. I think the mess would have been exponentially increased. The second point is, this is, I'm a lawyer, not a policy maker. But I think the department would say the fundamental judgment involved in this decision was who can provide the best service to this incredibly vulnerable and fragile population? And that is fundamentally a --

COMPTROLLER FRANCHOT: So that was made by two lawyers and someone who may or may not have had a connection to the winning bidder?

MR. AUERBACH: Sir, that was a false statement that Mr. Bereano made. There were no lawyers from the Attorney General's Office involved in the evaluation process. There were three Medicaid program staff, long experienced, who have worked in this program since its inception. There was a careful evaluation. That evaluation has been made available. And one can see the reasons that they adopted. And you know, there is no lack of transparency whatsoever. You know, I'm not sure what else I can say to that.

COMPTROLLER FRANCHOT: Okay. I'm going to let it go because I don't think there's anything we can do right here, Governor. But I would hope --

GOVERNOR O'MALLEY: Even though we've been doing it for a half hour.

(Laughter.)

COMPTROLLER FRANCHOT: -- the process would be looked at. Well it's a, I mean, allegations of people in the agency that have connections to the winning bidder, etcetera. Maybe

it's all just smoke and mirrors. But that's why we have a procurement process.

MR. AUERBACH: Well it costs nothing to make those allegations in the procurement process or in this domain. And many allegations have been made but they are false.

COMPTROLLER FRANCHOT: Well thank you but you --

GOVERNOR O'MALLEY: Okay. Anything -- well, that wasn't an Agenda item. So we'll move on now to the University System of Maryland. University System of Maryland?

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

GOVERNOR O'MALLEY: Any questions? Hearing none, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Thank you.
Department of Information Technology? Great news yesterday at

the University System, though. That new building that we broke ground on, Health III up in University of Maryland Baltimore, we used to call it University of Maryland at Baltimore. And also the \$750 million engineering software grant that was made by Siemens Corporation to train our up and coming engineers and architects and advanced manufacturing, and the talent required to do that sort of work. A huge day for the University of Maryland System yesterday. Ms. Fitzgerald, Department of Information Technology. Now you would be the first woman ever to head the Department of Information Technology --

MS. FITZGERALD: That is correct.

GOVERNOR O'MALLEY: -- in Maryland.

MS. FITZGERALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have five items before the Board today. I'm here to answer any questions that you may have.

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

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We now move to the Department of Transportation.

SECRETARY SMITH: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, James Smith, Transportation Secretary for MDOT. MDOT is presenting 19 items, as Item 11 is being withdrawn, for your consideration.

GOVERNOR O'MALLEY: Item 11 is withdrawn. Okay. Mr. Comptroller?

COMPTROLLER FRANCHOT: I have a --

GOVERNOR O'MALLEY: Okay.

COMPTROLLER FRANCHOT: -- question on Item 9. But I mentioned in my opening statement about Congressman Ruppertsberger. I was praising him for being the great County Executive in Baltimore County, and I also brought the Transportation Secretary's name up as examples of leadership that the State benefits from coming out of Baltimore County.

SECRETARY SMITH: Thank you, sir.

COMPTROLLER FRANCHOT: Not that you now have all these statewide responsibilities. I had a question on Item 9 which apparently involves bus service between Montgomery County and Hagerstown. And I have no problem with bus service, obviously.

I think it's terrific. But midday bus service between Hagerstown and Bethesda strikes me as a, who would actually take the midday bus? Not that I doubt you. Are you sure this is a good investment?

MS. TARLETON: My name is Heidi Tarleton. I'm the procurement director at MTA. Good afternoon. The commuter bus service for line 991, we have a section who is dedicated to this area to monitor the ridership of this particular line and all lines for commuter bus service. And they have guaranteed that they are overcrowding even on, during the midday and morning.

COMPTROLLER FRANCHOT: Excellent. God bless you. If you have a critical mass of riders going from North Bethesda to Hagerstown during the midday, my hat is off to you folks.

MS. TARLETON: Maybe they are taking vacation in the middle of the day.

COMPTROLLER FRANCHOT: Hey, please keep us in the loop and keep us informed.

TREASURER KOPP: The Comptroller in the past month seems very, very interested in Bethesda --

COMPTROLLER FRANCHOT: Yes.

TREASURER KOPP: -- and I welcome that tremendously.
Please come over to my half of the county. But I do understand
that, as you have been very often and in fact we tried to get
you to move, that it also goes from the MARC station, I mean it
isn't simply Hagerstown to Bethesda.

MS. TARLETON: No, there's many stops along the way.
Yes, ma'am.

TREASURER KOPP: Including at the MARC station?

MS. TARLETON: Mm-hmm.

TREASURER KOPP: And at Shady Grove?

MS. TARLETON: Yes.

TREASURER KOPP: So I mean I think --

COMPTROLLER FRANCHOT: I just noticed --

TREASURER KOPP: -- I wish they would all come all the
way down, but --

COMPTROLLER FRANCHOT: -- the midday is what caught my
eye. I can understand the commuting back and forth. It's,
maybe it's there.

MS. TARLETON: It is.

TREASURER KOPP: Yeah. No, I really, I mean, candidly
think that the availability of increased public transportation

between Shady Grove and north to MARC is really very critical. Because there are people who start at the southern part of the county, or even downtown, and want to go all the way up and stop in Shady Grove because there's nothing else.

COMPTROLLER FRANCHOT: Okay.

TREASURER KOPP: But they are welcome to come down to greater Bethesda, too.

MS. TARLETON: Anything else? Thank you.

COMPTROLLER FRANCHOT: Thank you very much.

GOVERNOR O'MALLEY: Thank you.

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: We have a couple of people that want to be heard. They are in favor, so we'll, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. The people that wanted to speak are Father Ty Hullinger and also Deacon Ed

Munro. And I gather from the red shirts that are here that we are also joined by some members of Unite Here. Thank you.

TREASURER KOPP: What number is it?

MR. MUNRO: Good Morning. My name is Ed Munro. I serve as Deacon at St. Philip's Episcopal Church right here in Annapolis. And I'm here this morning as a citizen in support of the approval of the contract that's going to be reviewed by the Board that would provide \$13.6 million for design and construction support services at BWI Airport.

I'm in favor of the expansion and improvement of the Airport. It can only be good for the citizens of Maryland. However, I am concerned about the treatment of the food and retail workers who work there everyday in order to make the Airport a successful operation.

As a member of Interfaith Worker Justice of Maryland I was proud to participate in a program called Labor in the Pulpits over this past Labor Day weekend. The program invites low wage workers to congregations to speak about their working conditions and the lack of justice that they receive in their workplace. Fifty congregations of different denominations invited workers to speak this past Labor Day Sunday. At St.

Philip's we had the pleasure of hosting a young man named Yaseen Abdul-Malik, who works two jobs at the Airport. And he shared his story with the parishioners of St. Philip's. He told the congregation that he works two jobs at the Airport. He works long hours and he spends many hours on his feet. Unfortunately he has recently been told that he needed to have surgery for an ulcer that he has on his leg. But he can't take the time off from work to have that surgery and still maintain his finances. He lives paycheck to paycheck. And so he has to choose between his healthcare and paying the rent.

He not only told his own story but he told the story of some coworkers who are struggling to make ends meet. Due to low wages and difficulty in getting full time hours, many of the food and retail workers at BWI must rely on food stamps and other taxpayer subsidized programs. I've been told that for this population of 800 workers the State pays over \$2 million in benefits and medical coverage a year. So as a taxpayer I'm not only paying money to support the Airport, I'm paying money to provide necessary services for people who work there, work long hours there, work hard there, who don't receive a living wage or any benefits.

I want to support the Maryland residents who work hard everyday to operate all parts of the Airport, like those food and retail workers who are with me today. Their wages are low, their employers at the Airport do not offer basic benefits like healthcare and paid sick leave. And so I encourage our Governor and other elected officials to ensure that as we prepare to expand the Airport to make the infrastructure more modern, and to make it a better place for people to travel through, that we also make it a better place and invest in the people who work there and make the Airport successful. Thank you.

GOVERNOR O'MALLEY: Thank you.

FATHER HULLINGER: Good morning. My name is Father Ty Hullinger. I am the pastor of three Catholic parishes in Northeast Baltimore City: St. Anthony of Padua, St. Dominic's, and Most Precious Blood. I'm also a member of Interfaith Worker Justice of Maryland, and as a representative of them and the workers that we advocate with I'm here today to speak in favor of the \$13.6 million contract for design and construction support services for that D/E Connector at BWI that's scheduled to be awarded to URS Corporation.

I support the Airport expansion as well. The Maryland Aviation Administration and Economic Impact Analysis stated the Airport has created over 90,000 regional jobs with an average income of \$38,383 annually. But unfortunately the BWI concessions workers surveyed earned less than two-fifths of that salary, with little or no benefits. Substandard employment implies that finances are not being disseminated into local neighborhoods, such as the ones where my parishes are located.

At my own three parishes I see the impact of low wage employment firsthand. Our churches provide working families everyday with food assistance from our own church programs and food banks, food vouchers to other local food banks, rental assistance to help families fight off eviction, assistance with utility bills, and assistance with paying for necessary prescription medications. Maryland mothers, fathers, on their behalf and on behalf of their children, are coming to churches everyday seeking to make ends meet because poverty wages won't provide for them.

Due to poverty employment in the State of Maryland like that offered at the concessions programs at BWI Thurgood Marshall Airport, our churches are tasked with providing for

basic needs for our parishioners and for anyone in the communities we serve. In fact, at Asbury United Methodist Church, a church not too far from where we are gathered here right now, another Airport worker, her name is Natalie Hickman, she spoke at a Labor in the Pulpit service this Labor Day Weekend about why she is organizing coworkers at BWI Airport. Natalie works at the McDonald's at BWI Thurgood Marshall Airport. Natalie's primary reason for wanting to improve the conditions for BWI's food and retail workers is her newborn daughter, Amira. The day before she spoke at Asbury United Methodist Church she received herself an eviction notice. She was unable to pay her rent because she was robbed while waiting at the bus stop and she lost her security badge, leaving her unable to work until she could collect the money needed for a new identification card. Asbury United Methodist Church and their generous congregants took up a collection that day of over \$700 to help Natalie support her new family.

As a pastor, I know that the church will continue to provide these kinds of services to meet the needs within our communities. Yet the State of Maryland and BWI Thurgood Marshall Airport should offer good jobs that uplift Maryland's

communities and uplift all workers out of poverty. Faith communities across the State of Maryland are standing in solidarity with food and retail workers at BWI Thurgood Marshall Airport. Today, Governor and to the Board, we are happy to present to you the voices of over 1,000 Maryland residents that are also themselves willing to stand with BWI food and retail workers. They have signed Boarding Passes for Justice, saying that they support the BWI food and retail workers' rights, their bill of rights. Which includes the right to respect and a workplace free from discrimination and harassment; the right to job security; the right to join a union in a neutral environment; and the right to work full time for fair wages and benefits.

I hope you will join with me and the individuals across Maryland who are wanting to improve employment practices and working conditions at BWI concessions in order to make BWI Airport live up to its namesake. And it has a proud namesake now, as BWI Thurgood Marshal Airport. And I thank you for your time and consideration.

Again, on behalf of workers and parishioners from across Maryland, Governor --

GOVERNOR O'MALLEY: Sure.

FATHER HULLINGER: -- I'd like to present you with
this Boarding Pass to Justice.

GOVERNOR O'MALLEY: Boarding Pass to Justice.

FATHER HULLINGER: Absolutely.

GOVERNOR O'MALLEY: Thank you. Jim Smith, look at all
these Boarding Passes to Justice.

SECRETARY SMITH: I see. I see.

GOVERNOR O'MALLEY: That's a lot of Boarding Passes,
Father.

FATHER HULLINGER: We can bring more, too.

GOVERNOR O'MALLEY: Thank you.

(Laughter.)

GOVERNOR O'MALLEY: How many?

FATHER HULLINGER: We have over 1,000 --

GOVERNOR O'MALLEY: Mm-hmm.

FATHER HULLINGER: -- that were collected on this
Labor Day Weekend.

GOVERNOR O'MALLEY: Mm-hmm. Did you see what the Pope
had to say about politics yesterday?

FATHER HULLINGER: I did not.

GOVERNOR O'MALLEY: I'm going to read it to you.

FATHER HULLINGER: Please.

GOVERNOR O'MALLEY: He said, "None of us can say, 'I have nothing to do with this. They govern.' No, no, no. I am responsible for their governance. I have to do the best so that they can govern well and I have to do my best by participating in politics according to my ability." The Pope goes on. "Politics according to the social doctrine of the Church is one of the highest forms of charity because it serves the common good. I cannot wash my hands, eh? We all have to give something. A good Catholic meddles in politics offering the best of themselves so that those who govern, can govern. But what is the best that we can offer to those who govern? Prayer. That's what Paul says. Pray for all people, and for the King, and for all in authority." That was Pope Francis yesterday. I just thought you'd like that.

FATHER HULLINGER: Thank you. I do. Thank you, Governor.

GOVERNOR O'MALLEY: Thank you. Thank you all from Unite Here for your patience and for your testimony.

COMPTROLLER FRANCHOT: Can I ask the Transportation Secretary, is there someone from the Airport here?

SECRETARY SMITH: I don't think so. But I can answer your questions, if you have any.

COMPTROLLER FRANCHOT: Are the --

SECRETARY SMITH: Oh yeah, we do. We do.

COMPTROLLER FRANCHOT: Great. Well maybe you could, I'm sorry, come on up, what's your --

SECRETARY SMITH: Suzette. This is Suzette from Thurgood Marshall.

SECRETARY MCDONALD: If you remember, this is the procurement officer of the year for the State of Maryland. Or for two years.

COMPTROLLER FRANCHOT: Excellent.

MS. MOORE: Thank you --

SECRETARY SMITH: We haven't forgotten.

MS. MOORE: Yes, sir.

COMPTROLLER FRANCHOT: First of all, this is the second time Unite Here has been here. And they are a great union. I appreciate their service. And obviously the stories that are told are very compelling. But I've also met with some

of the business people who are currently in the Airport. And maybe somewhere down the road you all could help bring both sides so that we can hear, obviously we are hearing one side. Make sure that what we are headed for is something that is, serves everybody's interest. And I guess the question I have is, what is the status of the contracts that are up for renewal at the Airport? Are they being processed?

MS. MOORE: Well the current contract doesn't expire until 2017, and it does have an extension on it as well --

COMPTROLLER FRANCHOT: Doesn't AIRMALL, well who is the contract with? AIRMALL?

SECRETARY SMITH: Yes. The contract is with AIRMALL? And we are continuing to process. But there is a meeting on the 17th --

MS. MOORE: 27th, on September 27th, I believe also --

SECRETARY SMITH: Yeah. September 27th, right. There is a meeting that the Administrator set up with Unite Here and with AIRMALL to discuss any possible adjustments that AIRMALL could make to the contracts. Because the arrangement is that we have a master lease with AIRMALL. And AIRMALL actually is the contracting party with the individual concessionaires. It's not

the Airport. So the issue with respect to the wages is really even AIRMALL is going to have to, anything that's going to be done is going to be done by the individual concessionaires. So, and most of those are small business people. Even McDonald's is generally a franchise, a small businessperson who have put up their homes as, you know, collateral to start their businesses. So it's a complicated issue. But the real issue is between the individual concessionaires and their employees and whatever leverage AIRMALL can put on them to improve the salary or compensation of employees that work for those individual concessions.

COMPTROLLER FRANCHOT: Well once again, I'm a huge supporter of organized labor. But we have a National Labor Relations Act --

SECRETARY SMITH: Right.

COMPTROLLER FRANCHOT: -- which allows unions to organize. Obviously they need a neutral environment. But the idea that AIRMALL is holding up renewals with small businesses that have, as you say, used their homes and other resources as collateral I find pretty unusual. And I hope you will ascertain that AIRMALL is not doing that. Because that would strike me as

a very unfortunate consequence of a very well-intentioned effort. But I understand what you are saying. It's not your responsibility. And AIRMALL is not determining it. It's the retail establishments there.

SECRETARY SMITH: Right.

COMPTROLLER FRANCHOT: And some of them are fairly successful, like the Silver Diner. But others as you mentioned are very small businesses. And the idea that outside of the MLRB there's going to be some kind of leverage exerted to, I mean that's --

SECRETARY SMITH: That's serious business.

COMPTROLLER FRANCHOT: Yeah. I would hope that the, you as the (unintelligible), and I have great confidence in you, really regulate that. Because it can have some unintended consequences.

SECRETARY SMITH: Well we are not putting any --

COMPTROLLER FRANCHOT: I know you are not. I'm just saying the process ends up, if for example they are not able to renew their leases with AIRMALL because of the situation, that I think would, please if you ascertain that, let us know.

SECRETARY SMITH: They are not being held up. There was a suggestion that they should be held up, but that suggestion was not accepted.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR O'MALLEY: Okay. We move on now, thank you all. We move on now to the Department of General Services.

SECRETARY COLLINS: Yes, sir. Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Al Collins, Secretary of the Department of DGS, General Services. We have 33 items on our Agenda today and we'd be glad to answer any questions on any of these items.

GOVERNOR O'MALLEY: Any questions? Hearing none, the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it and that concludes our Agenda.

SECRETARY COLLINS: Thank you, Governor.

GOVERNOR O'MALLEY: Thank you.

(Short recess taken.)

GOVERNOR O'MALLEY: To carry on conversations -- other cabinet members don't need to, we're on the remaining Agenda item and a couple of citizens wanted to be heard on the scaled down renovations of the jail. Which as I understand it was item what?

SECRETARY MCDONALD: Six.

GOVERNOR O'MALLEY: It was Item 6?

SECRETARY MCDONALD: Secretary Collins' Agenda.

SECRETARY COLLINS: Six-AE.

GOVERNOR O'MALLEY: And was the topic of a lot of controversy. It's been scaled down and this is not the place where youth are held in detention awaiting juvenile action, it is where youth are held in detention awaiting adult, or actually charged and serving adult time?

SECRETARY MAYNARD: Charged as adults.

GOVERNOR O'MALLEY: Charged as adults, okay. Yes, ma'am. Identify yourself.

MS. FEREBEE: Governor O'Malley and members of the Board, I really appreciate you reconvening. I apologize. I

somehow didn't get notice earlier. But I wanted to ask you to vote against the contract --

SECRETARY MCDONALD: Could you please identify yourself for the court reporter?

MS. FEREBEE: I'm sorry. My name is Hathaway Ferebee. I am the Executive Director of the Safe and Sound Campaign in Baltimore. I am testifying, asking you all to oppose another contract to redesign a jail for youth, Baltimore City youth charged as adults. This jail started out as a \$104 million proposal for 120, or double cells up to 240. There's been a lot of organizing and research done on this. Reports commissioned by Governor O'Malley's own administration. These reports have shown that with better policy management and alternatives to detention that the State does not need the expensive and new jail. Our young people certainly do not need the experiences of a new jail.

It is with utmost respect that I have for the challenge facing both the Department of Public Safety and Correctional Services and the Department of Juvenile Services. We work very closely with both of these departments and I commend them for the extraordinary work that they do. And it's

because of this work that both departments have done in response to the report commissioned by the department and also funded by foundations. It was conducted by the NCCD. There were two reports and it detailed how the State could move without building the jail.

When the jail was first approved it was suggested as a remedy for the Department of Justice agreement with the State. Under the Ehrlich Administration there was a report done that questioned the numbers predicting the need for a jail. Then under Governor O'Malley, he put a hold on these contracts. We appreciate that, Governor O'Malley. It has gone and it has been revised now twice. This would be the third recommendation for a jail. The State has already spent \$24 million in preparation for a jail that was not needed. We contend that this jail is not needed. There is considerable data to show that the jail is not needed. And proposals that have been submitted both to the Legislature and the Governor and the department to show that alternatives to detention is a better way to go.

We believe that all our kids are born to thrive and succeed. This overincarceration in the nation is really a

legacy of our past, from starting as a slave country. We all know that. This is Maryland's chance to stop it and not only not build the jail but start to invest in real opportunities for our kids. I urge you, I appreciate what the Pope said. I am honored to participate in the political process. I pray that you do not build this jail. I pray that you do not approve this contract at this time. If nothing else, put it on hold. There is considerable data to show that this is not a good decision and not a good use of our public tax dollars. And I appreciate the opportunity to speak to you, Governor, and members of the Board.

GOVERNOR O'MALLEY: Sure. Thank you. And this has been greatly scaled down from what it was.

MS. FEREBEE: Sorry, yes. I understand that. It still perpetuates this notion, though, that money spent on young African Americans in Baltimore, which is disproportionately who is served by our jails, and in Baltimore it's almost exclusively who goes into our detention centers, we have the data here. It's been scaled down but the fact that money is being spent on jails deprives our budgets of money --

GOVERNOR O'MALLEY: That's an easy one. That's an easy story to make.

MS. FEREBEE: It's also backed by --

GOVERNOR O'MALLEY: Do you think we enjoy --

MS. FEREBEE: I don't know, Governor.

GOVERNOR O'MALLEY: Do you think we enjoy spending money on jails?

MS. FEREBEE: I do not know. And I'm not --

GOVERNOR O'MALLEY: No, seriously. You've known us for a long time. Do you think we really enjoy this?

MS. FEREBEE: I've known you for a long time. I think when we talk about --

GOVERNOR O'MALLEY: I'd love to see jails go away. But --

MS. FEREBEE: And you have an opportunity to do that now. When we talk about public safety --

GOVERNOR O'MALLEY: And did you know --

MS. FEREBEE: -- there are two ways to get there.

GOVERNOR O'MALLEY: Yes, there are.

MS. FEREBEE: And I disagree with the way of zero tolerance, and arresting, and locking people up. I think that's

been proven. I think there isn't a person that is involved in this issue that hasn't read Michelle Alexander's book --

GOVERNOR O'MALLEY: I haven't.

MS. FEREBEE: -- The New Jim Crow, other than you, Your Honor. And we have an opportunity here. I don't know what your intentions are, Governor. I know what the facts say -
-

GOVERNOR O'MALLEY: All right. Well let's hear from Secretary --

MS. FEREBEE: -- and I know what the facts say and I know what the chance is --

GOVERNOR O'MALLEY: Sure.

MS. FEREBEE: -- to do better for our kids. Thank you.

GOVERNOR O'MALLEY: I agree. And that's why I'm so proud of the fact that we've reduced juvenile homicides by 50 percent, though there is an uptick. I'm also proud of the fact that Baltimore achieved the biggest reduction in part one crime of any city in America from 2000 to 2009. And I hope you saw and took some pride as a citizen in the huge bond issue that we did for school construction in Baltimore City and the hundreds

and hundreds of millions of dollars that we're going to spend there. Gary tell --

MS. FEREBEE: I take great pride, Governor, I will take even greater pride when you stop locking up black kids. Thank you.

GOVERNOR O'MALLEY: Also, you might take some pride in the fact that there are fewer people incarcerated in Maryland now than there were when I was first elected. But you and I have had this discussion for, how long have we known each other now? Thirteen plus eight years, 21 years.

MS. FEREBEE: Maybe we should go and play tennis or something but at any rate --

GOVERNOR O'MALLEY: Gary, tell us what this facility is and the degree to which it has been scaled back?

TREASURER KOPP: Could I just --

SECRETARY MAYNARD: Yes, ma'am?

TREASURER KOPP: My understanding is that it's not just scaled back, but it is actually a different facility?

SECRETARY MAYNARD: Yes.

TREASURER KOPP: Is that, can you --

SECRETARY MAYNARD: Yes, ma'am.

TREASURER KOPP: I want to understand what it is.

SECRETARY MAYNARD: Originally the original plan when I came here in 2007 was a larger facility, 180 BED, up to 240, for kids. The population then of youth charged as adults in our youth detention center then was close to 150, about 140. We took a look at that. We worked with Safe and Sound and worked with the other advocates in the City, worked with Juvenile Justice, we worked with the National Counsel on Crime and Delinquency to do a projection of what it might look like in the future. As we did that we scaled that down from \$100-plus million down to this particular facility. We started, we sort of planned to scale down the original design then as the numbers got lower and our average daily population this past year was 43, we looked at renovating our current facility at a cost of about \$30 million, less than \$30 million. To use the facility that current exists to modify it to meet and exceed all of the standards from the Department of Justice, from PREA, from the Prison Rape Elimination Act, to have a separate, stand alone facility, separate by sight and sound from our adult offenders, to include education, recreation, vocational training. All of those areas that are needed.

My position always has been, and I've talked to Ms. Ferebee about this. My position is I have a population of youth charged as adults in conditions that could be improved. I have an obligation to make those conditions meet State and national and federal standards. That the position I am taking. I think this, renovating this facility at this lower cost is a good investment.

GOVERNOR O'MALLEY: Is there a Department of Justice order involved in this?

SECRETARY MAYNARD: Yes.

GOVERNOR O'MALLEY: A consent decree or something?

SECRETARY MAYNARD: Yes.

GOVERNOR O'MALLEY: And you talked about that?

SECRETARY MAYNARD: Yes.

GOVERNOR O'MALLEY: Okay. All right. And I have, and I've toured this area and been in there personally and talked to the young men there. Anybody else on this? Would anybody like to move a reconsideration of this item? Okay. Hearing none, we thank you all for your time and your testimony and that concludes our Agenda.

(Whereupon, at 11:55 a.m., the meeting was
concluded.)