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*STATE OF MARYLAND*  
**BOARD OF PUBLIC WORKS**  
*GOVERNOR'S RECEPTION ROOM, SECOND FLOOR, STATE HOUSE*  
*ANNAPOLIS, MARYLAND*

**February 21, 2018**  
**10:10 a.m.**

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# PRESENT

**HONORABLE LARRY HOGAN,**  
Governor

**HONORABLE NANCY KOPP,**  
Treasurer

**HONORABLE PETER FRANCHOT**  
Comptroller

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

**ELLINGTON CHURCHILL**  
Secretary, Department of General Services

**DAVID BRINKLEY**  
Secretary, Department of Budget and Management

**JIM PORTS**  
Deputy Secretary, Department of Transportation

**MARK BELTON**  
Secretary, Department of Natural Resources

**MICHAEL LEAHY**  
Acting Secretary, Department of Information Technology

**JAMES KING**  
Director, Governor's Office of Minority Affairs

**MISSY HODGES**  
Recording Secretary, Board of Public Works

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# CONTENTS

Subject	Agenda	Witness	Page
<b>Update on Sediment Pollution on Kent Island</b>		Ben Grumbles	10
<b>New Academic Building and Auditorium Construction Manager at Risk Phase I</b>	SEC 12, p. 15	Sheila McDonald Chip Jackson	13
<b>Wetlands License for Nonwater-Dependent Project in Cecil County</b>	SEC 3, p. 3	Sheila McDonald Bill Morgante Andy May	19
<b>Neighborhood Business Development Program Loan to ECDC Enterprise Development Group, Inc.</b>	SEC 7, p. 9	Sheila McDonald	25
<b>Community Parks and Playgrounds Development Project in Somerset County</b>	DNR 4A, p. 30	Mark Belton Rick Pollitt	27
<b>MTA Call-A-Ride Services</b>	DBM 1-S, p. 35	David Brinkley Douglas Trotter Jim Ports Barry Heyman	29
<b>New Residence Hall and Dining Facility at College Park</b>	USM 3-C, p. 49	Joe Evans	42
<b>Meeting Live Streaming and Hosting Services</b>	DoIT 2-IT, p. 56	Michael Leahy	43
<b>Electronic Toll Collection Third Generation</b>	DoIT 6-IT, p. 64	Michael Leahy Jim Ports Kevin Reigrut	47
<b>Electronic Toll Collection Third Generation Customer Service Center Services</b>	DoIT 7-IT, p. 67	Michael Leahy Jim Ports Kevin Reigrut	47

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<b>Statewide Public Safety Wireless Communications System</b>	DoIT 3-IT- MOD, p. 58	Michael Leahy Norman Farley	61
<b>Interim Text to 9-1-1 Services</b>	DoIT 10-IT, p. 74	Michael Leahy	69
<b>DOT Agenda</b>	DOT	Jim Ports	72
<b>DGS Agenda</b>	DGS	Ellington Churchill	72

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# PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone.

ALL: Good morning.

GOVERNOR HOGAN: Welcome to the Board of Public Works.

Last week the Comptroller and I proposed adding \$4.4 billion more for K through 12 education including an additional \$1 billion more in additional funds for school construction by putting State casino revenue into an education lockbox. This is something that should have been done years ago.

Our administration is also pushing for more accountability in our local school systems. There have been repeated allegations of wrongdoing and potential corruption in places like Prince George's County, Baltimore County, Baltimore City, and Howard County, among others. And parents, students, and teachers are rightfully outraged that some of our children seem to be, they are being cheated out of the education that they deserve.

Our administration has introduced the Accountability in Education Act of 2018. This legislation would create a State Education Investigator General. This new office would be charged with investigating complaints of mismanagement, misconduct, fraud, and corruption by State or local education officials or employees.

I'm encouraged that representatives on both sides of the aisle in the Legislature from some of these jurisdictions are in agreement with this and

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following through on these accountability measures. The Prince George's County delegation introduced their own bill to create an Investigator General to investigate the fraud and corruption in the Prince George's County School System. The Baltimore City School Board instituted a policy just recently, I'm surprised they didn't have this policy before, but they instituted a policy requiring employees to report wrongdoing and provide for whistleblower protections, which they didn't have before. The Baltimore County Council recently passed State legislative auditors to investigate no bid technology contracts in county schools. And I just happen to believe that no child in Maryland should ever have to suffer because of the failures of the responsible adult leaders.

With that, I'll turn the floor over to my colleagues for any opening remarks. Madam Treasurer?

TREASURER KOPP: Thank you. It's good to be here. I'm certainly glad to hear that, Governor, you're joining the Legislature in the idea of the lockbox and keeping the education money for education. I think it will be a good move for the people.

No, except to say again it's a pleasure to be here. It's an early spring.

GOVERNOR HOGAN: Beautiful day.

TREASURER KOPP: And I don't know what exactly that means but we'll hope it's good.

GOVERNOR HOGAN: I think we should have moved this outside today.

TREASURER KOPP: Well --

(Laughter.)

TREASURER KOPP: -- it's not too late.

(Laughter.)

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Are those chairs all attached to each other?

GOVERNOR HOGAN: No, everybody just grab your own chair and we'll go.

GOVERNOR HOGAN: Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And good morning, Madam Treasurer. As you know, Governor Hogan just mentioned the bill that he's putting forward to put a lock on the portion of the casino revenues that have long been promised for education funding. I was a strong opponent of the casino and slots referenda, the one in 2008 and the one in 2012, because, as I said then and it is most certainly true today, the promise of increased education dollars from casino revenue was nothing but a fiscal fairy tale. I said not one bent dime of new spending for education will come to education in Maryland that

wouldn't have come had casinos never put their predatory feet into Maryland. And ten long years later, finally we're going to correct this situation.

I was a vehement and unapologetic opponent of the referendum. The voters spoke clearly so, and they did so based on the promise that gambling money would go to school systems to ensure that our students have the best teachers, best technology, and the healthiest, safest, and most modern classrooms available. It was a con job.

So it comes as no surprise to me that this promise was never fulfilled and our children have suffered because of it. Over \$2 billion in the last ten years should have been put into education, wasn't because of this bait and switch operation. There's absolutely no question that something must be done. The fact that our children are subjected to structurally unsound buildings each and every day, that thousands of kids sit in freezing classrooms in the winter and sweltering classrooms in the summer, and schools that have mold infestations, unsafe drinking water. I'm talking specifically here about Dulaney High School and Lansdowne High School in Baltimore County. This legislation will provide the much needed and long overdue funds to support these critical capital improvement projects. Every child in Maryland deserves to attend a school that is modern, safe, and most of all healthy. And I think any unbiased observer, and even if you're strongly biased and prejudiced, you walk through Dulaney High



School and Lansdowne High School, and you would say I don't see anything like this except if I visit one of the poorest third world countries in the entire globe.

Dulaney, I guess, got an announcement recently, and I'm delighted in that. Lansdowne is next, just because they have a zip code and a group of parents that are not particularly knowledgeable or powerful about how Baltimore County operates. But they deserve a new high school in Lansdowne.

That's why I completely support Governor Hogan's proposed legislation, which will dedicate 20 percent of the annual casino proceeds that are now going to go as a supplement, not as a substitute, for existing education dollars, 20 percent of those new dollars will go to PAYGO capital funding for public school construction.

I'm extremely pleased this legislation has bipartisan support because there is nothing more important than the health, safety, and education of our children. I'm grateful to Governor Hogan for stepping up to honor the decade old promise of slots for tots. Students, teachers, and families have waited long enough for State government to finally deliver on its promise. It's my sincere hope that the Legislature can pass this bill in 2018 and send it to the Governor's desk. Thank you, Governor.

GOVERNOR HOGAN: Thank you very much. With that, I believe we'll start with Secretary McDonald with the Secretary's report.

SECRETARY MCDONALD: Good morning, Governor.

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GOVERNOR HOGAN: Good morning.

SECRETARY MCDONALD: Madam Treasurer --

TREASURER KOPP: Good morning.

SECRETARY MCDONALD: -- Mr. Comptroller. We have 13 items on the Secretary's Agenda. There are four reports of emergency procurement. And we're ready for your questions.

GOVERNOR HOGAN: Any questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Governor, if I could I would like to take a minute to discuss an incident that frankly doesn't have a specific item but it occurred earlier this month at the construction site for the Four Seasons development on Kent Island.

Following substantial rainfall a massive stormwater runoff occurred resulting in environmentally hazardous sediment plumes entering the Chester River. While I remain convinced that it was an error for the Board of Public Works to grant a license to allow this textbook example of sprawl development in the first place, today I'm most concerned about the welfare of this ecologically sensitive area. Governor, I understand that your administration had a rapid response from MDE and the Secretary, who I have a lot of respect for, I think may be here. I know it's been a rapid response to assess the damage and its root causes. And I don't know whether you would permit Secretary Grumbles to give us an update on what has been learned?

GOVERNOR HOGAN: Thank you, Mr. Comptroller. I'd love to. Secretary Grumbles is here this morning. And if you don't mind, Mr. Secretary, we'd love to get an update. I know that you have been on top of this issue and we'd love to hear some of the details about it.

MR. GRUMBLES: Thank you, Governor. Thank you, Treasurer. Thank you, Comptroller. I am Ben Grumbles, Secretary of the Environment for Maryland.

So as you noted, the bad news is that the significant sediment pollution event occurred and it's unacceptable. The good news, if we can characterize it as that, is the situation on site is stabilized and the Department of the Environment is fully engaged. We are working with the Soil Conservation District and the county and the developer to follow up on several fronts.

One of those fronts is that the Department of the Environment is assessing the sequencing of the permitting and the implementation of the erosion and sediment control plans. We think there was some fault in that sequencing and it could be improved. The other, the key one, is the materials that were used for the riser, the pipe, the pipe connection, was clearly insufficient and particularly given the ten-year storm.

The other item that we're focused on is enforcement. We feel that the use of penalties and strong enforcement actions send a powerful signal and

we're committed to following through on that and coordinating with local government as well to try to ensure that this doesn't happen again.

We're also committed to looking at broader issues associated with storm events, increasing precipitation, extreme weather, to factor those into our regulatory measures, controls. And the other point is that we are fully committed to keeping the Board informed as our monitoring and enforcement actions proceed.

GOVERNOR HOGAN: Thank you, Mr. Secretary.

COMPTROLLER FRANCHOT: Thank you for that. And I'd just remind the Board that the attorney for Hovnanian, the developer, who had a long history of violations of environmental regulations preceding this unbelievably inappropriate sprawl development right on the edge of the river next to the Chesapeake Bay, he famously stood where you did, Mr. Secretary, and said, scout's honor, we're going to be the best of the best. We're going to be all over the environmental protection of this, this, this, and this. So I really appreciate your quick response.

I would urge you to keep all your options on the table when deciding an appropriate response to any violations that are uncovered, including bringing the license back before the Board. I mean, I'm not talking about halting the entire exercise. But you know, they promised us that this would not happen. Scout's honor. So please --

MR. GRUMBLES: Well we'll keep you informed.

COMPTROLLER FRANCHOT: -- I don't want to be an obstructionist but I also don't want to let this just go by like, oh well, we're going to put a bigger pipe in. I mean --

MR. GRUMBLES: Agreed.

GOVERNOR HOGAN: I think we can assure you that the Secretary and his team are going to be as aggressive as possible and will report back to us.

MR. GRUMBLES: Yes, sir.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Well hats off to the Secretary there in advance.

GOVERNOR HOGAN: Thank you.

MR. GRUMBLES: Thank you.

GOVERNOR HOGAN: Any other questions? Thanks. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Yes. Is this Item 12, please?

SECRETARY MCDONALD: St. Mary's College. Mr. Chip Jackson is here from St. Mary's College. I think he has an exciting project and a new academic building and auditorium.

GOVERNOR HOGAN: Good morning.

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MR. JACKSON: Good morning, Governor, Comptroller, Madam Treasurer. I'm Chip Jackson. I'm the Vice President for Business and Finance at St. Mary's College.

COMPTROLLER FRANCHOT: Great. And my question, thank you for being here, why is this project so complex that we need to have an added layer of cost that I assume the taxpayers are going to pick up through this construction management at risk contract? This is an academic building, I understand.

MR. JACKSON: Yes, sir. Thank you, Mr. Comptroller. It's a great question, one of the questions that we dealt with in the evaluation of proposals. The project includes a 700-seat auditorium which is a modern complex facility. It has both significant engineering issues, lighting issues, sound issues, acoustical issues. And developing through the CM, construction management process, having the construction manager with us, can really help us understand the technicalities of that work and understand the costs of that work during the design process. The proposed number one firm, Holder, has great experience in exactly that type of work in a way that we believe provides great value to the development of this project. Their team and their firm have people who have built projects just like this. And when we looked hard at their work plan about how they would approach the pre-construction phase, the design phase of the construction management project, they really showed us they understood

the amount of detail and effort that they were going to provide to help us make sure that we develop this project technically and on budget in a way that the other firms didn't have that depth of knowledge. So we struggled very much in this best value selection process about is that price best value for the State to develop this project? And we believed it was.

COMPTROLLER FRANCHOT: Right. Well I respectfully disagree. I think you're just going to end up paying this Virginia company Holder, not that I have anything against Virginia companies. I see Whiting Turner was second. And they are just, you know, just as bad at this because here we're being asked to approve \$375,000 for a pre-construction fee. My understanding is that the overall amount will be in the \$6 million to \$7 million range to this company for doing nothing other than, as you say, stepping between you and the construction. In other words, why didn't you just do a design bid build like we do all, or most of our State buildings? Why do you add this extra layer of \$6 million for doing no construction on top of it? And using their own I assume Virginia subcontractors is what we're going to end up bringing in here, because all of these guys have their own, their own team players. And yeah, you guys sit back, I guess, and have somebody that you can talk to. But under this model I think there is a lot of, particularly for a building that's not a physics lab, or some kind of jet propulsion, you know, complex building. So I understand what you're saying. I just happen to disagree with you.

MR. JACKSON: Well I'd be happy to follow up with you on some of the specifics of those concerns. For the question about subcontractors, our process --

COMPTROLLER FRANCHOT: The total cost for this building is what?

MR. JACKSON: Forty-eight million dollars.

COMPTROLLER FRANCHOT: Okay. I guarantee you that there are contractors in Maryland that would build that for \$38 million and it would be just as beautiful as the structure you get and just as precise, but it would be done under design bid build. And someday I'm going to be able to achieve a truth on that. And you know, we're, this is a system that is way out of whack and with the University System. I'm sorry that your project drew my attention. It's a generic one.

MR. JACKSON: Yes.

COMPTROLLER FRANCHOT: But I'm just sorry to see the added expense for the taxpayers.

MR. JACKSON: Thank you.

COMPTROLLER FRANCHOT: I'm going to vote no.

TREASURER KOPP: You were about to say something when you were interrupted. I'm curious what you were going to say?



MR. JACKSON: So in our process with construction management at risk, and I understand there's discussions about the value of that versus design bid build. And I have a lot of experience doing both myself at St. Mary's. The, when we go to construction the construction manager does some work. They provide overhead. They provide what we call general conditions work. But the bulk of the work, the hiring of the masons and the site contractors, the electricians, the painters, etcetera, etcetera, etcetera, those are all competitively bid, open book. We as the owner see all that competition. And in our experience that competition is primarily local. It is not from Virginia. Or it is maximizing competition locally. That's our goal. That's our expectation. And the process allows for us to be involved with the construction manager in that bidding process of those trades. So we tend to think we're trying to protect the interests that way. But I understand the Comptroller's questions as well.

GOVERNOR HOGAN: Thank you very much.

COMPTROLLER FRANCHOT: Yeah. We're, you mentioned they may not be coming from Virginia. Right. They may not be coming from Virginia, but they are still their contractors that they have enormously close and cozy relationships with. And later on today, University of Maryland College Park new residence hall and dining facility, we're going to give another \$20 million contract to Holder Construction. So yeah, they have their contractors. Trust me. And it's all one big mysterious pool. And I just, I don't mean to intimate that

there's anything illegal. I'm just saying that it's an added cost that's unnecessary to the taxpayers. And I wish that you guys would not utilize it. But I'm just the Comptroller.

MR. JACKSON: Mr. Comptroller, I really do appreciate those comments. I can say at St. Mary's College, we've done other construction management at risk. And we work very hard with open book pricing to promote competition and so there are no cozy relationships. That is fundamental in our process. And so we try to achieve --

COMPTROLLER FRANCHOT: Yeah, but what you're missing is that they tell their contractors, bid X amount because we've got another job where you can make Y amount. Do you understand that?

MR. JACKSON: That may be. I can't answer that question.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thank you. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: I'd like that item pulled out.

GOVERNOR HOGAN: Pull that out for a separate vote. That's Item 5?

SECRETARY MCDONALD: Item 12.

GOVERNOR HOGAN: Item 12? So I'd like to make a motion to approve Item 12.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second. The Comptroller votes no.

SECRETARY MCDONALD: Okay.

GOVERNOR HOGAN: Two to one. Now --

SECRETARY MCDONALD: The balance of the --

GOVERNOR HOGAN: -- is there a motion on the remainder of the Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: I do have one question on --

GOVERNOR HOGAN: Oh.

TREASURER KOPP: -- I'm sorry, on Item 3, the wetlands license.

SECRETARY MCDONALD: Yeah, the Wetlands Administrator is here. This is a request for a non-water dependent project of a platform. It will be a --

GOVERNOR HOGAN: Good morning.

MR. MORGANTE: Good morning.

TREASURER KOPP: As I understand it, this is to give a non-wetlands license to a restaurant that wants to expand over the water. And there was a hearing and a lot of people came out with concerns. And then I'm not sure what happened, and then a request was put out for concerns in writing. And there

weren't any, presumably because people felt they had gone to the hearing and nothing had happened so why would they be writing? And it turns out that most of their concerns deal with the impact on the water and on the neighborhood of the use of the expanded deck. Is that right so far?

MR. MORGANTE: I believe most of the concerns actually were about trash, oil, and chemicals --

TREASURER KOPP: Right.

MR. MORGANTE: -- entering the water and the marina boats, and also concerns about tree clearing in the parking lot.

TREASURER KOPP: Yes.

MR. MORGANTE: So I realize --

TREASURER KOPP: So the use, that's what I'm saying, so it was the use of the docks, not --

MR. MORGANTE: Or it was the perhaps use of the area surrounding the dock. So I think that MDE's perspective, and I had to agree with them, was that these concerns were just outside the purview of the wetlands license or the wetlands regulations.

TREASURER KOPP: And I get that. I mean that, so my question is, but that's still a serious concern for the neighborhood, for the community, for the people. Where were they --



But yeah, most of the substance of the complaints dealt with, as Bill mentioned, clearing and grading activities, you know, on land behind, on the other side of the street; alleged expansion of the parking lot; you know, some other things that were operational concerns about any time you have people dining near the water. You know, is it going to lead to excessive --

TREASURER KOPP: And more people coming in because --

MR. MAY: Yes. Absolutely.

TREASURER KOPP: -- of this. So where --

MR. MAY: So to answer that part of your question --

TREASURER KOPP: Yes.

MR. MAY: -- those things were all at the local level of jurisdiction over, and they were in compliance. We followed up multiple times with them on those issues. There were not violations that, you know, this was what we had been informed by both the county as well as the Town of Chesapeake City. That essentially, you know, despite the allegations and the concerns they did not believe that they were out of compliance with any requirements relating to the parking lot or the grading and clearing that occurred.

TREASURER KOPP: So it's the city --

MR. MAY: It's predominantly --

TREASURER KOPP: I'm just trying to understand where people are to go.

MR. MAY: It's my understanding that it's predominantly the county that would have authority over those two issues. I can, we can get back to you on that and confirm.

TREASURER KOPP: When people call, you like to send them to the right people who can do something.

MR. MAY: Absolutely.

TREASURER KOPP: Apparently you people can't do anything about it. I get that.

MR. MAY: Yeah.

TREASURER KOPP: But --

MR. MAY: And we did try and make efforts to bridge that divide and --

COMPTROLLER FRANCHOT: Can I ask a question --

GOVERNOR HOGAN: Maybe we can have MDE reach out to the county and ask them to communicate with the folks on their concerns. Because obviously we don't have anything to do with zoning and planning and permitting issues over there, except for the State MDE wetlands issue. So, but somebody ought to be addressing the concerns of the neighbors.

MR. MAY: If I can add, too, I believe the city manager had also multiple times tried to reach out to those same people and bridge that same gap with the county --

GOVERNOR HOGAN: Great.

MR. MAY: -- and some of the concerned people. But I understand if you're living next to it, you may not --

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: Is there any, are any of those folks here today? From Cecil County or -- so I appreciate the Treasurer bringing it up and the Governor's concern about sending it to the right people. But it's pretty easy to understand why they would have appeared before you because a bad situation, according to them, is not going to be, well let's put it nicely, it's going to be, problems are going to be increased by your permit. So in the public's mind it's a little hard to say, well, we don't really have any jurisdiction over you. We're just going to make your life much more miserable by approving this expansion. And having said that, I'm not clear what if anything we could do. But I appreciate the Governor saying maybe somebody can do something to put in, urge the jurisdiction to put in new restrictions. Who likes to hear loud music at night? Nobody.

MR. MAY: And we'd be happy to follow up in any way, if we can. And if you would like us to reach out again --

COMPTROLLER FRANCHOT: Please do.

GOVERNOR HOGAN: That would be great, thank you.



GOVERNOR HOGAN: So it's a 1,000-square foot deck and the city and the county support it and approved it, and you reviewed your particular part of it. But, you know, let's just communicate to the folks that aren't happy about it.

MR. MAY: And if I can make one point, too, to even enable, was our understanding of 16.1.04 of the Environment Article, the prohibition on non-water dependent activities, to get over that requires, to even be able to build up to that 1,000-square foot requires a local municipality --

GOVERNOR HOGAN: Yeah.

MR. MAY: -- or local power to actually adopt an ordinance to even allow that. So there was actually, Chesapeake City did actually go through a process and amend their ordinance to even allow this to occur. So --

GOVERNOR HOGAN: Great. And they had public input and public hearings when they went through their process, I'm sure. All right.

TREASURER KOPP: Thank you.

GOVERNOR HOGAN: Thank you.

MR. MAY: Thank you.

GOVERNOR HOGAN: Any other questions on the Secretary's Agenda?

TREASURER KOPP: I have one question. You can get back to me, I think. On Item 7, the DHCD project, the EHCD Enterprise --

SECRETARY MCDONALD: Correct.

TREASURER KOPP: -- it wasn't clear to me how much they were getting as opposed to handing out in micro-loans?

SECRETARY MCDONALD: Is Mr. Maneval here? Is DHCD --

TREASURER KOPP: You can just find out. Yeah. Thank you.  
Thank you.

GOVERNOR HOGAN: Is there a motion on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on the balance.  
Now we're going to move on to the DNR Real Property Agenda. Secretary Belton?

MR. BELTON: Good morning, Governor --

GOVERNOR HOGAN: Good morning.

MR. BELTON: -- Mr. Comptroller, Madam Treasurer. It is a beautiful day. Thank you for pointing that out, Madam Treasurer. We take responsibility for that at the Department of Natural Resources. We have, and for the record, my name is Mark Belton, the Secretary of the Maryland Department of Natural Resources. We have seven items on our Real Property Agenda for your approval this morning.

GOVERNOR HOGAN: So Mr. Secretary, I'd like to start with Item 4 because we've got some folks that came all the way up from Crisfield to talk. We've got Rick Pollitt, the City Manager, and Dean Bozman, the Code Enforcement Officer, to come talk about Item 4. Thank you for joining us.

MR. POLLITT: Thank you, Governor. Governor Hogan, Comptroller Franchot, and Treasurer Kopp, I'm afraid I'm by myself today. Mr. Bozman was not able to make it. But I did not come alone. I have a Styrofoam cooler with three fresh Smith Island cakes there.

I'm representing Mayor Kim Lawson, who has a tradition of trying to come to Annapolis when Crisfield is on the Agenda, and mainly just look at me as a great big thank you note. The Mayor couldn't get away from his job today but he did want to have me come and just express thanks to DNR, especially Carrie Lhotsky. She has done just a fantastic job getting us through the point where we're now ready to go forward with a really nice kayak launch in Crisfield. It's going to be a terrific complement to our park. It will be very close to our wind turbine so we can bring that into the whole natural setting of the Crisfield Park and what we're trying to do with green energy and also buy the kayaks for the folks who love to come to Janes Island and to Crisfield in general. So we certainly want to thank you, thank DNR, and thank you all for your consideration. And I want to thank Mr. Perry, too, of your staff, who met me downstairs and brought these cakes up here. That would have been a real --

SECRETARY MCDONALD: But I notice there is a not a cake for the Board Secretary.

(Laughter.)

GOVERNOR HOGAN: You know what? You know we haven't actually seen these cakes. Are you sure he brought them?

(Laughter.)

MR. POLLITT: They were in there when I left it.

(Laughter.)

SECRETARY MCDONALD: You might like that fourth for the Board record. No, thank you very much.

GOVERNOR HOGAN: Thank you very much and thank you for giving a shout out to the staff at DNR. I think they do a wonderful job as well. And maybe we can get down there a little early for Tawes and try out the kayak ramp.

MR. POLLITT: Absolutely. And if we have any luck next door with the General Assembly, we'll put you in another golf cart ride.

(Laughter.)

GOVERNOR HOGAN: That sounds good. Well thank you so much. Any questions of Mr. Pollitt? Thank you for joining us.

MR. POLLITT: Thank you all very much. Have a wonderful day.

GOVERNOR HOGAN: Thank you.

SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: Any other questions on any of the items in the DNR Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Very good. Thank you. We're going to go on to DBM.

MR. BRINKLEY: Good morning, Governor.

GOVERNOR HOGAN: Secretary Brinkley.

MR. BRINKLEY: Governor, Madam Treasurer, Mr. Comptroller, for the record, David Brinkley, Secretary of the Department of Budget and Management. We've brought six items for your consideration. Items 5-S and 6-S are supplemental and I have people here to address any concerns or questions you may have.

GOVERNOR HOGAN: Thank you, Mr. Secretary. I know there are a couple of people signed up to speak on a couple of items here. First we have Douglas Trotter, I believe, who is here to speak about Item 1, the MTA Call-A-Ride contract. Is Mr. Trotter here with us?

SECRETARY MCDONALD: I believe he is.

MR. BRINKLEY: And Deputy Secretary Jim Ports --

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GOVERNOR HOGAN: I think we'll hear from Mr. Trotter first and then we'll ask the MTA to follow up and respond. Good morning.

MR. TROTTER: Good morning, Governor. Good morning. I'm Douglas Trotter. I'm the CEO and the President of Secure Exchange Solutions. I've been a Maryland resident my entire life, except for a couple of voyages to Texas. I'm an Independent. And I was asked to be a subcontractor on this bid for the MTA, their Call-A-Ride program.

My background, this just goes to establish some credentials, I was a naval officer in the intelligence community. I was employed by NSA for 15 years. I was a senior executive at the agency and my last job is I ran codes and cyphers for the United States of America and worked directly for the President.

I did all the nuclear stuff. So I know security, the most valuable security in the world, our nuclear defenses. At the same time I managed over \$3 billion worth of procurements. I left the agency, went to think tanks, went to be a partner at Booz Allen & Hamilton. Left, with Booz Allen I worked on commercial and federal work. I did the CSX project and took CSX out of Maryland to Jacksonville. It's not always a proud thing I did. I became the CTO, the Chief Technical Officer for EDS in Plano, Texas, headed up the General Motors account, about a \$4.6 billion account, and I ran about \$2 billion worth of procurements there. Then I retired. And then I started ventures and I had four

venture firms in Maryland that have all been successful and gone on. This is my last one. I say that all the time.

Also I have cofounded the Information Security Institute at Johns Hopkins University. I'm a member of, I was a member of the School of Engineering at Hopkins, the Whiting School. I'm a Smithsonian Laureate, whatever that means. That means I have a time capsule someplace with my work. I have five patents and two patents under evaluation, all on security. And I was asked to look at this based on the last Board of Public Works a year and a half ago. And somebody came to me, can you modernize this system? And I said, you know, let's take a look at it. And I went back and I researched ever since the beginning of the program, which was 2005, when a company was given a contract to do the specifications for this system.

Now remember in 2005, technology was totally different, totally different, than today. And that company, which I believe, I will leave my notes with you, was given the opportunity to bid on the implementation of the specs which according to Maryland law is against it. If you really want to look at Maryland law. The person that develops the specifications and bids on the contract is in direct violation of Finance laws.

But at the same time MTA says in their opening bid, when you ask them about integrity, they say we follow COMAR and we follow the FARs, the Federal Acquisition Regulations. There's a problem there. Okay? The Federal

Acquisition Regulations subchapter, subsection 9.5, prohibits that totally. And when I was at Booz Allen I used to do (indiscernible) for the government, communications and security systems. And that means we could never bid on the job that we managed. Never. Okay? I have no, conflicts of interest are unbelievable.

So that was one point. Okay? The second point is that ever since 2005-2006, the Maryland State government has spent about, let me see, I have it here, over \$57 million on this program. Okay? But until July 1, 2017, all the work done under this program was illegal. And no one said anything. I just couldn't believe it. They had to pass a law in 2017 allowing taxicabs to use the system. And I said, why hasn't this been corrected by the Legislature? I don't know. But who benefits from taxicabs? Well, the Public Service Commission said taxicabs can get an 11.5 percent raise on the fee that they charge the State. And at the same time the taxi company takes 9.5 percent, the fee from the driver. So without doing anything, a taxicab gets a 20 percent raise of Maryland State money. This is an amazing fact. And no one corrected it.

Then we bid. I took a look at it and I said, technology has evolved in such a way that it can change the entire complexion of the system. So we went out and reviewed commercial off the shelf software. We managed that together in two parts. One is the security part. Because one of the major thrusts of the RFP



was we need innovation and we need security. Okay? And I can show you an example of security that you use. You use --

GOVERNOR HOGAN: Mr. Trotter?

MR. TROTTER: What?

GOVERNOR HOGAN: I hate to interrupt. But we're going to have to, in the interests of time because we have a lot of --

MR. TROTTER: Okay. Let me just get to the bottom line.

GOVERNOR HOGAN: -- if you can just tell us why you're here?

MR. TROTTER: Okay. We --

GOVERNOR HOGAN: And what it is that you want to talk about

--

MR. TROTTER: Okay.

GOVERNOR HOGAN: -- about Item 1, the MTA Call-A-Ride contract. Because we --

MR. TROTTER: Okay. That's fine.

GOVERNOR HOGAN: -- we really can't hear the rest of the history. I'm sorry. I didn't want to cut you off. So I want to get you to wrap it up.

MR. TROTTER: Okay. I'll wrap it up. The Call-A-Ride contract was run totally out of the ordinary. There's no documentation given to the suppliers. Nothing. No questions ever asked. Nothing. Okay? In total blank.

Then we get a call that we're disqualified after six months, eight months. Okay? No questions were ever asked of our corporation. And I've written you a letter, okay, on all the qualifications.

The reason why we were disqualified is they did not want to open up our cost proposal and the cost proposal is very simple. Okay? What you have before you is you have a contract of \$48 million or something like that, a total contract of \$89,900,000. Okay? We bid \$23 million. Now tell me how in the heck if we're not totally technically disqualified for some reason there is that big of a gap? Okay? And you spent already \$70 million on this job and you're going to spend another \$98 million. And the only reason the MTA did not, did not put the sixth year on that, it would raise it over \$100 million. Now is there any fraud in the system? Ten percent. There's ten percent fraud in this system, if there's a penny. And no one addresses it ever. So I guess that's my complaint. I'm a taxpayer. I don't like to see \$65,558,640 wasted.

GOVERNOR HOGAN: Thank you.

MR. TROTTER: Thank you.

GOVERNOR HOGAN: Thank you, Mr. Trotter. I think we're going to have maybe MTA address that concern. I don't know who wants to talk.

MR. PORTS: So, well Governor, I'll take a shot at this.

GOVERNOR HOGAN: Deputy Secretary Ports?

MR. PORTS: Thank you. So just to address the last comment by Mr. Trotter, the reason that we did not open the bid is that it's a competitive sealed bid and we're prohibited from opening those bids when they are non-responsive. And the, Mr. Trotter is the subcontractor. The contractor that we were dealing with that submitted the bid was the ones that were deemed non-responsive. And just a few other things.

The 2017 legislation that he points to, there was a gray area in the law according to the PSC. Taxicabs are used throughout the United States for mobility. There's no question about it. I ran transit in Harford County. I used them in Harford County. And it was always thought to be part of approved law. But apparently there was a gray area and there was a technical change to make sure that it was clear.

The original contract, look, in 2005 I was Deputy Secretary back then, too, to be honest with you, when we started this program. And --

GOVERNOR HOGAN: It seems like you would have moved up by now.

(Laughter.)

MR. PORTS: I was number two then, number two now. Maybe I'll be good enough to be number one, but I doubt it right now. But we've got a good number one right now so --

(Laughter.)

MR. PORTS: Thanks for pointing that out, though, Governor.

(Laughter.)

GOVERNOR HOGAN: The Secretary --

(Laughter.)

MR. PORTS: But if I'm not mistaken, and my memory may be a little off on this, I'm not sure, but I believe it was KFH that helped us try to develop the competition between the mobility providers at the time as well as the Call-A-Ride. And again, if I'm not mistaken, because it's going back a few years, but we had a, we had started the program and we allowed it to function for six months because it was a brand new program that had never been done in the State. It was created to help people, disabled people and elderly folks, get around easily and for less money than our regular mobility providers. It also gave them extra access because it was easier to get a taxicab than it was to schedule a share ride through mobility.

So it was a very creative program. So we waited about six months or so, I'd have to check with procurement on that, but six months or so to see how it worked out, and then we created an RFP. If there was anything that was done inappropriately at that time, we would have had a protest at that time. And we've had several modifications to this contract since 2005, not just in the previous administration I worked in but in the previous administration to this one, and there's been no alleged accusations as far as not answering things.

And just to clear up one other thing that Mr. Trotter said, he mentions that we did not answer questions. We answered 26 questions that were submitted by Mr. Trotter and we did that on eMaryland Marketplace. Because once we receive a question from any potential bidder, we have to let all the bidders know the same information. And we did that. And we also answered and we published those responses, by the way, on February 23, 2017 and May 5, 2017, and we also a total of 73 questions and answers were published and including those, as I mentioned, from Mr. Trotter. And we also answered questions from a submittal of a PIA request. So I think we've gone up and above on that.

We've also answered questions through email. And the bottom line is when we went to contact the prime in this case the prime could not be located for several weeks. FedEx, as a matter of fact, basically told us the business was closed, or nobody was there, and so we didn't have a whole lot of wiggle room. We deemed them non-responsive.

GOVERNOR HOGAN: Okay.

MR. PORTS: And I don't know what else we could do at that point.

GOVERNOR HOGAN: Thank you, Mr. Ports. Any other questions on DBM? I think we have a couple of, we have a speaker, we have

Nancy Pineles from Disability Rights Maryland that has signed up to speak on Items 5 and 6.

COMPTROLLER FRANCHOT: May I just note for the record that, Governor, two and a half years ago, you and the Treasurer and I voted against the single bid contract because we wanted competitive bids. And I'm happy to see that despite the disqualification of Mr. Trotter's group, there were two bids. And that's not easy and I want to obviously recognize my colleagues and we're good but we're not that good, to determine every nuance of the contract. But as long as there's competition, that's a big step forward. So thank you for implementing that. I know the winner apparently had an emergency contract to allow you to get this other through. And Mr. Trotter's group really can't appeal because, as you say, the prime is the only person that can go to the Board of Contract Appeals.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Thank you, though.

TREASURER KOPP: Can I just clarify one thing about that? The actual contractor, not the subcontractor, the contractor that was disqualified?

MR. PORTS: I'm sorry, could --

TREASURER KOPP: The contractor was disqualified?

GOVERNOR HOGAN: The prime contractor.

MR. PORTS: Correct. The prime was --

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TREASURER KOPP: The prime.

MR. PORTS: -- not responsive, correct.

TREASURER KOPP: The prime was not responsive. And where is that now? They protested, you responded --

GOVERNOR HOGAN: No, they did not --

MR. PORTS: They did not protest. We tried to contact them. As a matter of fact --

TREASURER KOPP: They --

MR. PORTS: -- the prime had mentioned to us that they did not want us to speak about this contract.

TREASURER KOPP: And share their disqualification?

MR. PORTS: Well I'll share offline.

(Laughter.)

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Thank you.

GOVERNOR HOGAN: Okay. Do we have Nancy Pineles from Disability Rights Maryland?

SECRETARY MCDONALD: We believe Ms. Pineles is not here. We called --

GOVERNOR HOGAN: Not here? Okay. Any other questions on the DBM Agenda? Actually, I was asking my two colleagues here but --

(Laughter.)

GOVERNOR HOGAN: -- we'll go ahead and let you have a question.

SECRETARY MCDONALD: If you are going to speak, you need to be at the podium and introduce yourself.

GOVERNOR HOGAN: Come up --

SECRETARY MCDONALD: -- court reporter.

GOVERNOR HOGAN: Come to the podium.

SECRETARY MCDONALD: And we need your name. There's a court reporter that needs to be hooked into you at that microphone.

MR. HEYMAN: Thank you. I'm sorry. My name is Barry Heyman. I worked with Mr. Trotter on this contract. And I don't think he expressed what is really the problem here. This was, the bid that MJM, the present and current and only contractor for this Call-A-Ride contract for the last ten years, and if you approve it for another five years or whatever, is for close to \$90 million. Mr. Trotter's bid is for around \$25 million. Now --

GOVERNOR HOGAN: Actually Mr. Trotter doesn't have a bid. He was not a prime contractor.

MR. HEYMAN: Well he was a sub. Right. He was a sub. But I know what the bid was because I was part of the --



GOVERNOR HOGAN: I think we're done with this item, though.

Because --

MR. HEYMAN: I'm sorry. I'm sorry, Governor, what?

GOVERNOR HOGAN: We're done with this item. So thank you very much for coming in.

MR. HEYMAN: All right. Well.

GOVERNOR HOGAN: Any other questions?

TREASURER KOPP: -- say that the prime contractor did not --

GOVERNOR HOGAN: There's no standing for them there. They can't talk to somebody that didn't get a bid, that wasn't a bidder. The prime contractor is not appealing the bid. There is no issue here.

TREASURER KOPP: -- protest.

GOVERNOR HOGAN: We can't address it. Any other questions on the DBM Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing, DBM. Move on to the University System Agenda.

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

GOVERNOR HOGAN: Any questions on the University System for Mr. Evans? I think we may have a question, Mr. Evans.

COMPTROLLER FRANCHOT: Yeah. So Item 3-C, you get a big A+++ because you are rewarding a design build contract --

(Laughter.)

GOVERNOR HOGAN: Yeah, I wasn't expecting that one.

COMPTROLLER FRANCHOT: -- construction company for construction of a new 900-bed residence hall and 1,200-seat dining facility. The cost of the proposed contract is \$19,875,000. As I live and die --

(Laughter.)

COMPTROLLER FRANCHOT: -- please.

MR. EVANS: We do do --

COMPTROLLER FRANCHOT: Gold star.

MR. EVANS: -- design build --

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR HOGAN: -- Mr. Evans get one of those Comptroller's coins?

COMPTROLLER FRANCHOT: Yeah.

(Laughter.)

GOVERNOR HOGAN: Something like that.

COMPTROLLER FRANCHOT: No. I'm very pleased to see that and please keep me in the loop as far as how that project moves forward.

MR. EVANS: Yes, sir.

GOVERNOR HOGAN: Thank you. Any other questions? Thank you very much.

MR. EVANS: Thank you.

GOVERNOR HOGAN: Motion on the University System?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. We're going to move on to Information Technology.

MR. LEAHY: Good morning, Mr. Governor, Madam Treasurer, and Mr. Comptroller. For the record, I'm Mike Leahy, Acting Secretary of the Department of Information Technology. Today we have ten items on the Agenda, two are supplemental, and we are withdrawing Item 5-IT. We do have agency representatives here to answer any questions you might have.

GOVERNOR HOGAN: Thank you, sir. We have some speakers signed up for a couple of items. But before we get to those, I'd like to talk about Item 2. This is a \$1.9 million contract to provide statewide live streaming video services for State agencies to broadcast their public meetings and to provide transparency that Marylanders expect from State government. At the Board of Public Works here we set a high bar for transparency. As we speak, this meeting

is being live streamed. It's also archived. Unfortunately for the proceedings downstairs in the Legislature, this is the standard.

(Laughter.)

GOVERNOR HOGAN: This is not a joke. This is actually, only if you're in this building and you have one of these old wooden boxes like I have in my desk can you follow what's going on in the Legislature.

Secretary Leahy, would it be possible for the General Assembly to piggyback on this contract?

MR. LEAHY: Yes it would --

GOVERNOR HOGAN: In order to live stream their floor sessions?

MR. LEAHY: Yes, it would, Governor.

GOVERNOR HOGAN: Well maybe we can talk to them about that. Last year we provided the funding for it --

TREASURER KOPP: Governor, here you go, here's the Senate. They are still in session. You don't need one of those boxes. Anywhere, anyone all over the country can hear.

GOVERNOR HOGAN: We're one of 43 states in America that do not live stream the proceedings on the floor of the House or the Senate.

TREASURER KOPP: These are being live streamed. That's exactly what it is. It's not video --

GOVERNOR HOGAN: We get audio?

TREASURER KOPP: -- you have to listen to the words --

GOVERNOR HOGAN: I like to see what's going on.

TREASURER KOPP: But anywhere around the nation, people can call in and then it's archived and you can hear it over and over and over again if you want.

GOVERNOR HOGAN: Well there are only seven states in the America that don't have video live streaming and we have a bill to try to fix that. And I just wanted to point that out, that we could easily do it. We provided the funding for it. We can put it on this contract.

TREASURER KOPP: I'm not sure how many people want to sit there and watch 188 politicians --

GOVERNOR HOGAN: I think most people in Maryland would like to see the transparency --

TREASURER KOPP: But this, seriously, so people understand, it is live streamed. It's audio only. It's absolutely true.

GOVERNOR HOGAN: Well I was talking about video live streaming.

TREASURER KOPP: Oh, okay.

GOVERNOR HOGAN: Yeah. That's totally different. We are in the, you know, we've moved on. I mean, you can actually see things now. It's

like television. But anyway, we have some speakers lined up for Items 6 and 7.

These are --

COMPTROLLER FRANCHOT: Could I just add some comments

--

GOVERNOR HOGAN: Sure.

COMPTROLLER FRANCHOT: -- on the live streaming? I love the live streaming that's done by the Board of Public Works. It's a wonderful picture. It makes all of us look remarkably good.

(Laughter.)

COMPTROLLER FRANCHOT: But the audio is horrible. Nobody can understand any of it, barely, yeah, unless I get one of these. So please, Madam Secretary, get a new contractor or tear up the old contract and join in with this group so that --

TREASURER KOPP: Do an RFP.

COMPTROLLER FRANCHOT: -- you know --

GOVERNOR HOGAN: You know --

COMPTROLLER FRANCHOT: -- and maybe it's deliberate. Maybe nobody wants to hear what I have to say. But that's --

GOVERNOR HOGAN: I think sometimes about halfway through they turn it down just --

COMPTROLLER FRANCHOT: No, it's when the, when it goes blank. But I know that I'm not cooperating right. But seriously --

(Laughter.)

GOVERNOR HOGAN: I've got a button underneath the desk.

COMPTROLLER FRANCHOT: Anyway, I would love to see an improvement in the audio.

GOVERNOR HOGAN: Yeah. You know, I'm embarrassed to say that since I'm in every one of these meetings, I've never actually watched one. But I'll go back and check and see how you sound on the video.

COMPTROLLER FRANCHOT: You look good, Governor.

GOVERNOR HOGAN: Thank you. So I lost where I was now. We have these items that want to come --

SECRETARY MCDONALD: Secretary Ports had some good news on those items for IT --

GOVERNOR HOGAN: Oh, good.

SECRETARY MCDONALD: -- the MDTA one, before the contractors get up. I think it was just the contractors were here who were going to be recommended for award and they were excited, they wanted to give you their names.

GOVERNOR HOGAN: Okay.

SECRETARY MCDONALD: So maybe Mr. Ports would like to tell you about the MDTA, two contracts.

GOVERNOR HOGAN: Yeah, well we're trying to make some service, customer service upgrades, and safety upgrades on the E-ZPass system. And we've already provided \$275 million in toll relief and we cut tolls at every facility in the State for the first time in 50 years. We also eliminated the monthly E-ZPass fees on the transponder and but do you want to talk before we bring up the other folks? Go ahead.

MR. PORTS: Well I'll just, I'll be very brief and then you can bring some folks up and then we'll see if there's any concerns. But this is a perfect example, I believe, of what the BPW has asked us to do, which is increase competition. What we did before, we would have a ten-year contract, or, and it would be one contract and they would do all the services. To put aside the fact that the incumbent always gets the job, again, which you can see we're, we don't do all the time, we had to convince the entire world out there, the bidding, the contractors, that we were serious about competition. Because if they think the incumbent is going to win it, nobody competes because it costs a lot of money to do so. And so what we did is we split this into two different portions to increase competition. There are some companies that can do all of it, very few in the nation that can do both, and then there are many companies that do one portion and many companies that can do the other portion.



Now when they bid they can bid for one, or the other, or both. And so we were opening this up as wide as we could for competition and we had a tremendous amount of competition bidding on these contracts, on both parts. So we were excited that we got national recognition as far as competition goes. And so we're excited to bring these forward to you today.

GOVERNOR HOGAN: So we have signed up to speak on Item 6, Maryland Transportation Authority Electronic Toll Collection, Janet Eichers and Darby Swank. Maybe we don't.

SECRETARY MCDONALD: I think they were concerned that somebody else might be here. I think they were just here for the questions, the contractors.

GOVERNOR HOGAN: Oh, okay. We have from TransCore Phil Andrews and Tracy Marks.

SECRETARY MCDONALD: Right. Remember that Prince George's County rule number two about trading your seat when you're ahead. But I think --

GOVERNOR HOGAN: Everybody that signed up today decided to take a hike.

MR. PORTS: We must be doing a good job.

GOVERNOR HOGAN: Yeah. Any questions?

COMPTROLLER FRANCHOT: Yeah. Let me just ask the, if I can cut to the chase here, and ask a question that relates to actually Mr. Trotter being here and trying to get some traction when he was a subcontractor and that obviously, that avenue of the Board of Contract Appeals not being available to him. But now we have a situation where one of the bidders, I believe, is protesting before the Board of Contract Appeals. I fully understand that both vendors recommended for the contract award are reputable and but since we're talking about the integrity of the procurement system, why would we prematurely cut off the appeals process? Obviously there are savings. There are always savings from new contracts that may or may not appear. But by the way, we're going to talk about Motorola in a minute, a famous contract that continues to metastasize, I guess, and spread and increase. So why wouldn't we allow the appeals process to move forward here?

MR. PORTS: So --

COMPTROLLER FRANCHOT: And --

MR. PORTS: Oh, I'm sorry. I'm sorry. I didn't mean to --

TREASURER KOPP: Governor, I mean, can I just jump on that for a second? The specific question is what is the substantial State interest which forces us to act now?

MR. PORTS: Okay. So there's a few things. And I'll kind of gloss over them and then I'll have probably Kevin Reigrut come up and get more

specific if you like. But Mr. Comptroller, you mentioned earlier today about the added cost to the taxpayer.

COMPTROLLER FRANCHOT: Right.

MR. PORTS: And this is a perfect example of an incumbent not winning a contract. As a matter of fact, they did bid on both of them. They came in third on one and fifth on the other, fifth out of five. And we deemed that their protest at this point is nothing more than them trying to wait out the system and basically get paid for months and months while it goes through the court process. And so the savings in that respect is about \$800,000 to \$900,000 per month that we would be saving the citizens of Maryland by moving on it today.

Now we don't believe they are going to win. And I've heard you mention this before, if I'm not mistaken, why don't we bring contracts forward in the face of protest when we know that we're, if we don't we're just rewarding back behavior? And I know those aren't exact, your exact words, but why would we allow a process to go forward when we know that at the end of the day all they are trying to do is look at, you know, lining their own pockets and for a few months when we could, if we don't delay, if we don't delay we impact -- I'm sorry. If we do delay, if we do delay, we would impact all the customer service improvements that we're going to get, the safety, the environmental gains that we could get from CO, the savings from CO, the fuel economy gains, and congestion relief. And so all these things, all these advantages that we would gain by moving

this forward today would have to wait as well as we'd have to pay the current contractor \$800,000 to \$900,000 per month more for a protest we believe we're absolutely going to win.

COMPTROLLER FRANCHOT: Okay. Well that's perfectly appropriate, I guess. But in your view, but I happen to disagree with it.

MR. PORTS: Okay.

COMPTROLLER FRANCHOT: Because why would we need a Board of Contract Appeals?

MR. PORTS: Well --

COMPTROLLER FRANCHOT: Let's send the whole group packing because those arguments are very, very general, that any incumbent that loses a contract and protests that contract is somehow lining their pockets by dragging everybody through a big delay. Let me ask you a question about the I495 and I270 expansions over in the Washington area. It's my understanding that there will be tolls added on portions of those highways. I was wondering what, how does that affect the contracts that are before the Board today? Are we going to anticipate substantial modifications to add funds or would those new tolling systems and related services be part of a separate competitive procurement process?

MR. PORTS: So I would have to answer that part, as we don't know what we don't know. That RFP hasn't been defined yet. It could be a

separate tolling facility and operation or it could be modified through working with the competitors from all over the world, all over the known universe, I'm sorry Mr. Governor, all over the known universe to have it work with MDTA. So those decisions haven't been made yet because that's, we're very, very much premature in that process.

COMPTROLLER FRANCHOT: Okay. And let me just ask about the transition from staffed toll booths to exclusively video tolling whereby no cash transactions will be conducted. Monetary currency collection will be discontinued entirely. I, obviously this is going to have a transition period because there are a lot of people that, to my amazement, don't use E-ZPass. And so can you help me understand how the department is planning to publicize and educate the public about what is obviously a significant transition from where we are today?

MR. PORTS: Well I'll answer part of it and I'll probably have Kevin come up and answer more fully. One, we're working with the, first of all we're working with employees on a transition plan. So we've already started that process. And where employees transition out into other jobs, because we're trying to find them other jobs within the State, we use contractors in those positions until this new contract goes through. So we are working very closely with employees. We want to be as fair and equitable as we can for that.

Two, very recently, I believe it started in September, MVA, Motor Vehicle Administration, has now put on their website that anytime you do a driver transaction, a vehicle transaction, a question will come up do you want an E-ZPass? And we've sold I believe about 3,000 so far, over 3,000. So we're getting the word out that way. And of course we're going to have a much more robust public outreach as we move forward. But let me ask Kevin Reigrut to come up --

GOVERNOR HOGAN: -- monthly fees to help people want to --

MR. PORTS: I'm sorry?

GOVERNOR HOGAN: Doing away with the monthly fees helped people want to get them as well.

MR. PORTS: I tell you, when we did away with the monthly fees, as you may recall, Governor, when the previous administration implemented the monthly fees about 90,000 people gave up their E-ZPass. As a matter of fact, I was one of those. And the reason I did it was not monetarily necessary, but out of principle. Because I didn't feel like you should be charging me for something I may or may not use every month. And so when you decided to get rid of that monthly fee and save the citizens lots and lots of money, millions of dollars over the course of years, we had an influx of people purchasing those, plus, Mr. Comptroller, not my commercial, you get a 20 percent discount if you have an E-ZPass and you get through a whole lot quicker than sitting in those lines waiting for cash. And so we're doing everything we can to encourage that. But you're

right, the monthly, the monthly fee reduction that you implemented a couple of years ago has been an absolute success and is driving our numbers up like crazy for E-ZPass use. And Kevin?

COMPTROLLER FRANCHOT: If you hadn't gotten rid of that E-ZPass, you probably would be Secretary of Transportation.

(Laughter.)

MR. PORTS: I'm telling you, we've got a great Secretary right now.

MR. REIGRUT: And Mr. Comptroller, to follow up on your inquiry relative to all electronic toll conversion, we fully anticipate that with any facility in Maryland that we would look to convert that we would need between nine and 12 months of aggressive public outreach, which would include in person and online town hall meetings. We're having continued conversations, as Deputy Secretary Ports mentioned, with all of our toll collector staff. Because the conversion to all electronic tolling has been a part of MDTA's strategic vision since about 2004. Which is a point that you made about E-ZPass transponders and the need to increase the utilization with an evolution to all electronic tolling. That's precisely why we want to get started on this new contract. Because the new contract gives us a vast supply of new methods to communicate with our customers to encourage E-ZPass utilization to make that transition much quicker, much more efficient, and much more effective for them.

I know that the Deputy Secretary mentioned safety. To me, that is one of the key elements of this. National studies indicate a 77 percent reduction in vehicle accidents at toll plazas because of all electronic toll conversion. There is also an extraordinary environmental benefit. We estimate 21 to 90 tons of CO2 would not be emitted daily with AET conversion; 2,100 to 10,800 gallons of fuel not being burned; and 3,500 hours of traffic delay congestion being eliminated with AET which is precisely why we're here today to request your permission to move forward.

COMPTROLLER FRANCHOT: Okay. So just finally, what bad things, Mr. Deputy Secretary, or you, sir, would happen if we held up these two contracts? They total \$360 million. I guess what I'm hearing as far as the protest goes forward, I guess what I'm hearing is that this, there's a dollar amount attached to the per month? How does that come up with? How do you come up with that?

MR. REIGRUT: The estimation is simply by calculating the amount that would be charged by the incumbent under, in a protest period, versus what MDTA would be paying under the new contract terms. And the difference is about \$900,000 per month.

COMPTROLLER FRANCHOT: And that would go on for how many months, you estimate?



MR. REIGRUT: It's unknown. It would be until the Board of Contract Appeals issues a ruling and any further appeals were exhausted.

COMPTROLLER FRANCHOT: Well I think from my standpoint the integrity of the system mandates that you let the appeal move forward. Because otherwise we're just going to be in a situation where the Board of Contract Appeals doesn't have any integrity.

MR. PORTS: Actually, Mr. Comptroller, and I don't want to disagree with you --

COMPTROLLER FRANCHOT: And I don't know whether this number is correct or not, of \$900,000, but --

MR. PORTS: I don't like to disagree with you, because we're good friends, right?

COMPTROLLER FRANCHOT: Sure.

MR. PORTS: But, but, the, we take, we allow many contracts to go to the Board of Contract Appeals. Many. But quite frankly, there is also a part of the law that allows the Board of Public Works to award in the face of a protest. So someone in their wisdom allowed both to occur. It's not a mandate that it has to go to the Board of Contract Appeals. It's, that is the process if you want to allow it to go to the Board of Contract Appeals. But there's also a part of the process that allows an agency or a department or the Board of Public Works to award in the face of an appeal.

COMPTROLLER FRANCHOT: And I hope that they do screening live, or whatever it is, I hope they do that of the Board of Contract Appeals because I think it's the right thing to do. We're talking transparency and accountability. We're talking a very large contract, over 13 years. I'm sure the companies are very reputable. I'm sure the process over there can be expedited and limited to some reasonable three or four months. And I understand there is a monetary difference and I think it's worth paying that in order to get this right, particularly as far as what's going to happen with the toll contract in the Washington area.

GOVERNOR HOGAN: Let me just say that this doesn't happen very often, Mr. Comptroller, but I'm going to disagree with you respectfully. Yeah, deferral of this will delay the transition into enhanced safety and customer service. It will require us to pay more money. Those are important considerations. All the things you talked about, the environment, the saving people waiting in line, and traffic, in doing this conversion. But more importantly the thing that you and I have both focused on and talked about for three years is we want to have competitive bids. We want to get more people to bid on these contracts. We don't just want the incumbent contractor to get renewed. They were in fifth place on the bid out of five. And we are getting competition. And we are getting good qualified bidders. And I'm afraid if every time someone protested, which every single incumbent do, then, you know, people aren't going

to bid anymore. Because they're like, I'm not going to wait, you know, to go through this. You know, I'm going to put a bid in at a certain number, and then it's going to take a year-long court case or a Board of Contract Appeals argument. And then you know I wouldn't bid if I was, if you didn't think you were ever going to get a contract. So I'm ready to move forward on it. But I understand the Comptroller's concern.

COMPTROLLER FRANCHOT: I just want to say it's a scurrilous rumor that I'm paying him \$20 to disagree with me.

(Laughter.)

COMPTROLLER FRANCHOT: But --

GOVERNOR HOGAN: You know, we have a Democratic primary coming up in June. I just want to make sure that I argue with him a couple times before --

(Laughter.)

GOVERNOR HOGAN: Although, I don't think he has any --

COMPTROLLER FRANCHOT: I guess, Madam Treasurer --

TREASURER KOPP: I have to say, I have to say that this is an unusual position for all of us.

(Laughter.)

TREASURER KOPP: But my question of the Secretary, the Deputy Secretary --

MR. PORTS: Thanks.

(Laughter.)

TREASURER KOPP: What is the substantial harm? And as I understand it, the substantial harm is public safety? That there will not be the reduction in harm that there could have been?

MR. REIGRUT: That is correct.

TREASURER KOPP: Public safety, cost, and the environment. And anyone has a right to appeal but the company that is appealing is not the second place --

MR. PORTS: It's not.

TREASURER KOPP: -- winner. They wouldn't be getting the contract.

MR. PORTS: If it was, we would probably go to the Board of Contract Appeals.

TREASURER KOPP: So I --

MR. PORTS: I mean, we would.

TREASURER KOPP: So I must say actually for the reasons the Governor cited, I would agree with him.

GOVERNOR HOGAN: She acts like she's surprised --

(Laughter.)

COMPTROLLER FRANCHOT: So we're separating that item.

GOVERNOR HOGAN: We'll separate that item out.

SECRETARY MCDONALD: Okay.

COMPTROLLER FRANCHOT: I have one other item.

GOVERNOR HOGAN: Go for it.

COMPTROLLER FRANCHOT: Item 3.

GOVERNOR HOGAN: Item 3?

MR. LEAHY: Yes.

GOVERNOR HOGAN: What is Item 3?

COMPTROLLER FRANCHOT: That is an extension or modification of an existing contract with Motorola. And this is for the implementation of the statewide public safety wireless communication system. My own field enforcement division uses this system. They are very complimentary of it. But I happen to think it's a bit of a boondoggle and a sweetheart arrangement with Motorola, as much as I like Motorola and go back, I think it's a fine company. But this is a just completely out of control contract that started well before you, Governor. And if I could just ask a few questions about it?

In 2010, eight years ago, I raised the same concerns I'm raising now, that the State locked itself into an eight-year, \$345 million contract with Motorola, despite appeals from the other bidder and concerns regarding MBE

commitments at the time. I voted against the contract and I continue to have the concerns I raised then. And I have more concerns today.

It's my understanding that the construction of the system is four years behind schedule. According to the company it's delays in State budget allocations. But correct me if I'm wrong, Mr. Secretary, part of the reason why the department is asking approval for this four-year extension and additional one-year renewal option is that you need additional funding to complete the construction of the system? But I thought that was what we allocated with the original \$345 million contract. So I'd like just a couple of clarifications on this to make sure that our taxpayers' credit card isn't being charged twice for the project that has received appropriations since 2010 and that the funds from the extension renewal option will instead be used for the operational aspects of this system.

And while we're on the subject of the operational aspects, can you verify that each of the radios that we're going to buy, or supposedly the people who are going to use the system have to buy, are Motorola phones? Nobody else, no other radio fits. What's the cost? I believe it's \$6,000 per radio. A cost that's borne both by the taxpayers of the State through the contract, but also separately by the local governments that join the system, most of whom have I think been very resistant to date. So if we can agree on the cost of the system which we're being asked to increase by \$61 million, that's being asked, that's an enormous amount of money. And then how about this concern that I have about locking our

first responders into an expensive technology that will be over a decade old by the time the system is implemented? The irony here is that this system is out of date once it starts. Who knows what is going to be available technologically as we -- so it has boondoggle written all over it. I have voted against it. I will continue to vote against it. Because it's just an open checkbook here.

MR. LEAHY: Would you like me to --

COMPTROLLER FRANCHOT: Please.

MR. LEAHY: -- answer? Thank you, Mr. Comptroller.

GOVERNOR HOGAN: It seems like you need to respond to that.

(Laughter.)

MR. LEAHY: I think so. To begin, as you said, there has been some considerable confusion, and some of it on my part, about what has occurred in the past and what the expectations were of this contract. As you stated at the beginning, it is my understanding that there were budget constraints that money was not put in the budget to complete the project in the original time allotted. And so to fulfill that, the issue before us is a question that is actually three questions. The first is, what is the actual cost of completing the construction and implementation that as you say is a bit behind schedule? The second question goes to how does the completion of that system and the warranties associated with it interact with the actual costs of maintaining the operations and doing repairs and ongoing work for the parts of the system that are out of warranty? And then

the third part is given your concern, which I share, with attempting to sort of cut the Gordian Knot and find the simplest answer as well as the correct answer both economically and with regard to systems.

The proposal that is before you takes into account the fact that it is a concern of mine and the folks that are working on this day to day that to the extent there is still agreement that the system should be put in place throughout the State for public safety, my concern goes to the question that if while it is accepted and under warranty, I have significant concerns about the difficulty one may face if part of the system is under warranty and part of it is operationally separate in terms of what contractor is responsible for maintaining it. It's very much akin to the circumstance that I'm sure you've seen before, that if a roof is installed on a building and the roof fails, the contractor that put the roof on says, it's the materials. The materials are no good. That's why it failed. And the folks who manufactured it, put the materials together, said no, it was installed improperly.

And so what has been put before the Board originally looked at an attempt to keep all of those questions separate and have the potential exist for the system being built, part of it being under warranty for Motorola and then part of it being subject to maintenance and operation by a separate vendor. It's my opinion that what has been put forward to you today actually does lower the estimate of the cost of maintaining the system by about \$41 million and also takes into effect



that the one-year option is an option when the entire system is up for maintenance, which I believe is one of the concerns you've always raised. That we want to make certain that the State gets the most value for the dollars spent. And although the past about this contract may well lead us to believe that there was other technology ten years out that would be far superior, we take these contracts on based on the assumptions of what is a viable technology at the time. There have been upgrades to radios and other equipment during this contract because of technologies that have been improved. And the expectation of future technology, since we can't tell when a revolutionary change is going to occur, that there are none on the horizon that would give me cause to say that continuing with this path would foreclose utilizing technologies that are likely to be a better value for the State.

So in conclusion, you know, what we're trying to propose here is a way to bring all of these together to make certain that the questions about responsibility are addressed and that the one option year, which we would only undertake if indeed we determine that there were reasons that a competitive situation either needed more time, and I don't see that given the amount of time we have left under this contract, would allow us to put the entire system under maintenance and get the efficiency costs dealt with in that way. So I hope that answers --

COMPTROLLER FRANCHOT: No, it was a very impressive presentation. But what about the \$6,000 Motorola radios?

MR. LEAHY: Well as you've said, I am going to have to defer to the folks that are dealing with the actual technology it's implementing. I'd like to bring Mr. Farley of my staff up.

GOVERNOR HOGAN: Thank you.

MR. FARLEY: Good morning, Madam Treasurer, Governor, Comptroller. My name for the record is Norman Farley. I'm the Director of Statewide Interoperable Communications. And to address your concerns about the cost of the radios, yes, Motorola radios are expensive. There are various models. There's a, I think there's a \$3,000, \$4,000, I mean, there's even an \$8,000 model. So it depends on what you get. And that's list price before the reductions that we get on the contract due to mass purchase.

However, the system is built to what's called a P25 standard so that manufacturers with other radios that build P25 radios theoretically are supposed to work on the system. We have done some tests and we've had some successful results with that. However, we do know there have been other radio systems around the country and some federal ones that I'm familiar with where they had major issues and it cost them a lot of extra money because they had the, they had one vendor that purchased the back end of the system and then another vendor purchased what they call the walkie-talkies, the subscriber units, was from

a different vendor. Even though it was the same standard, and for some reason, they weren't working very well. And the vendors were going like this, and it wound up costing the project more money in the end to correct on it. So this way that's the contract that we've had. We've purchased most of the radios already. What needs to be completed in the project is the actual construction of phase four and phase five, and then conducting the maintenance of the system.

COMPTROLLER FRANCHOT: So the total cost now with today's action would be \$406 million for this project. I said your presentation was impressive. Not impressive enough to get me to vote for it but --

(Laughter.)

COMPTROLLER FRANCHOT: -- it was a good effort all around.

MR. FARLEY: And if I could add, sir, the base cost for the project, the \$345 million to complete the project, that's not changing. That's going to come under the ceiling. The \$41 million additional that's put in is actually to support the maintenance, the O&M of the project during that four-year period.

COMPTROLLER FRANCHOT: Yeah. So I would appreciate it if three, six, and seven, the other two we talked about on a related --

GOVERNOR HOGAN: We'll separate those out.

COMPTROLLER FRANCHOT: -- register this.

GOVERNOR HOGAN: Absolutely. Thank you very much.

TREASURER KOPP: Can I just, just make sure I understand where the savings are coming from? That's from the projected cost of out year options which you are reducing, and then folding a portion but not 100 percent of that into the base and maintenance?

MR. LEAHY: Well the presumption is that maintenance in the out years, the options, would be at a presumed cost of \$20 million a year. What we are saying in this proposal is that the costs will be lower than that and we've locked them in at the lower rate.

MR. FARLEY: Right. The current contract has seven one-year options at \$20 million apiece.

TREASURER KOPP: Right.

MR. FARLEY: We would be -- for \$140 million. And so instead of doing that \$140 million, we're adding \$20 million, I'm sorry, \$41 million for the four years' worth of maintenance and there's \$20 million for the option year. So a total of \$61 million versus \$140 million.

COMPTROLLER FRANCHOT: No but the issue, Madam Treasurer, if I could just --

TREASURER KOPP: Yeah.

COMPTROLLER FRANCHOT: -- the locals are not going to use this. It's going to be --

MR. FARLEY: We have --

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COMPTROLLER FRANCHOT: I know you have a couple on the Shore and God bless them over there.

MR. FARLEY: We've got six counties right now, two more that are considering it. We've got 14,000 what we call primary users, both State and locals, and another 25,000 interoperable users right now and the system is only about 60 percent completed.

COMPTROLLER FRANCHOT: Trust me. When they realize what they are, I assume most of them have cancellation provisions.

MR. FARLEY: Well actually the issues, I mean, the locals, it's going to be harder for them because if they go it by themselves, they have to buy the radios and the back end and maintain it. And they get hit with even a higher bill than if they go with the State.

GOVERNOR HOGAN: Thank you. Before we move on, I want to mention Item 9 and commend, I don't know if he's here, but I want to commend Secretary Moyer, the Department of Public Safety and Correctional Services is here? Oh, there he is. Secretary Moyer and also Pete Landon, who is our Director of Homeland Security. I want to thank them both for their work on this statewide master contract which will eventually allow Maryland counties to make texting, be able to text to reach 9-1-1 and make it accessible to all residents in Maryland with a cell phone. I think it's terrific. Over 70 percent of 9-1-1 calls currently come from cell phones and this contract will provide a valuable public

safety tool. Also for Maryland's 1.2 million deaf and hard of hearing residents, and anyone in an emergency situation such as a domestic violence incident or someone that's not able to, where making a voice call would be dangerous or impossible. And this is an important component of Maryland's emergency number system. It's a statewide effort to upgrade the State's existing system, which is antiquated, 1960s era infrastructure. And our new program called Next Generation 9-1-1 is terrific. So I want to thank you. This is probably 1920s --

(Laughter.)

GOVERNOR HOGAN: You can flip to go to the Senate or the House, by the way. This did not cost \$6,000. These are \$6.

(Laughter.)

GOVERNOR HOGAN: But thank you for that. Any other questions on this Agenda?

COMPTROLLER FRANCHOT: Could I just follow up on that, Governor? I want to thank and salute my, I'd like to salute a Senator, State Senator Craig Zucker, and longtime friend of mine, for his leadership and advocacy which led to the establishment of this program. And I'd particularly like to thank your administration, Governor, specifically the leadership at the Department of Public Safety and Correctional Services, for moving swiftly to implement what I agree with you is a very important program. This will especially benefit Marylanders with disabilities by giving them access to critical

first responder services by using text messaging. I think it's a huge leap in the right direction. And we as a State should be very proud for adopting and implementing this terrific program.

GOVERNOR HOGAN: Well, thank you. And thank you for giving the Senator a shout out. I also want to thank Senator Cheryl Kagan from Montgomery County who has a number of 9-1-1 bills that I just discussed with her this morning at the Women's Caucus Breakfast. So both of them are --

TREASURER KOPP: And has been pushing for this.

GOVERNOR HOGAN: Yes. She was pushing me. So --

(Laughter.)

GOVERNOR HOGAN: -- she was pushing a lot of people. It's very good. So any other questions on, this was a long Information Technology. You normally, you know. I guess do we want to separate out the motions?

SECRETARY MCDONALD: Separate motions on three, six, and seven.

GOVERNOR HOGAN: Should we do one together on three, six, and seven? Or do you want three?

COMPTROLLER FRANCHOT: Well I'm just happy to be noted in opposition to all three of them.

SECRETARY MCDONALD: Okay. All right.

GOVERNOR HOGAN: So there's a motion for Items 3, 6, and 7, which I'll make a motion.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Seconded by the Treasurer and voted against by the Comptroller.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thank you. And now there --

SECRETARY MCDONALD: Now --

GOVERNOR HOGAN: -- is there a motion on the remainder of the Agenda?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

GOVERNOR HOGAN: Second? Three-nothing on the remainder of the Agenda. We're going to move on to the Department of Transportation Agenda. Although it seems like we've already been talking --

(Laughter.)

MR. PORTS: It's been a long day, Governor.

GOVERNOR HOGAN: I'd like to recognize the long, longstanding Deputy Secretary --

(Laughter.)

GOVERNOR HOGAN: -- since 2004.



MR. PORTS: Good morning, Madam Chairman, Mr. Comptroller, and Governor. For the record, my name is Jim Ports and I am still Deputy Secretary of the Maryland Department of Transportation. The Maryland Department of Transportation is presenting 13 items today. At this time MDOT is withdrawing 11-GM-OPT. And we're happy to answer any questions you might have.

GOVERNOR HOGAN: I have no questions. Do my colleagues?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Move approval. Three-nothing. You got off easy.

(Laughter.)

GOVERNOR HOGAN: Now we're going to move on to Secretary Churchill, Department of General Services.

MR. CHURCHILL: Well, good morning, Governor, Madam Treasurer, and Mr. Comptroller. For the record, I'm Ellington Churchill, Secretary for the Department of General Services. The department has 29 items on our Agenda and we are withdrawing Item 10-LT. We have agency representation to answer any questions you may have.

GOVERNOR HOGAN: Any questions on General Services?

TREASURER KOPP: Could I just say, Mr. Secretary, again I've noticed as we go through the entire Agenda, not necessarily in DGS, but these

emergency procurements of overaged, I don't know what they are today, boilers, infrastructure, which I truly believe cost us more because we don't catch things in time and therefore lose the efficiencies of the new generation and secondly spend all this money patching old stuff that doesn't work as well. I know they are not all in DGS but they are throughout the Agenda. And I look forward to the day when you can bring all those people together, whomever, and get us a plan for doing preventive maintenance and then coming in and replacing things at the appropriate time, not just at the last minute when it's an emergency and costs more.

MR. CHURCHILL: Well I thank you for that --

TREASURER KOPP: And I believe you agree.

MR. CHURCHILL: And we are working on that. We are actively working with other departments to really understand our facilities needs and I can of course confirm with the Department of General Services we have a robust inspection and maintenance plan. Sometimes that doesn't catch all the items and so --

TREASURER KOPP: You can't be 100 percent but --

MR. CHURCHILL: -- yeah, but we are working on that.

TREASURER KOPP: Well I really do think it saves the employees, it saves the taxpayers.

GOVERNOR HOGAN: Absolutely.

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TREASURER KOPP: And I appreciate --

GOVERNOR HOGAN: The same thing we need to do in our school systems as well.

MR. CHURCHILL: That's right. That's right.

TREASURER KOPP: Exactly the same.

GOVERNOR HOGAN: Yeah. Exactly.

TREASURER KOPP: Exactly the same thing.

GOVERNOR HOGAN: Any other questions on DGS?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing. Thank you very much. This concludes the Board of Public Works.

(Whereupon, at 11:46 a.m., the meeting was concluded.)