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BOARD OF PUBLIC WORKS

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PRESENT

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HONORABLE NANCY KOPP

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

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PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone.

ALL: Good morning.

GOVERNOR HOGAN: Welcome to the Board of Public Works.

While you're here this morning, I would like to encourage every one of you to stop by across the street to our fifth annual blood drive, which we're hosting right in front of Government House, right across the street from the State House. We're hosting this to raise awareness and provide support for all of those affected by the various types of blood cancer. And you know, my own personal battle with cancer taught me that this disease really knows no boundaries and nearly every one of us has been impacted in one way or another with somebody that we love, a parent or a spouse or a child, somebody we care about has been impacted by this terrible disease. And this is just a great way. It doesn't take much time out of your day. But if you just go across the street and you can participate, sign up for a bone marrow registry or give a little blood, you know, they won't take all of it. They just take a little bit of it, so but the Blood Mobile is going to be parked outside until 3:30 this afternoon. And I'm going to check the list to see who --

(Laughter.)

GOVERNOR HOGAN: -- who goes over there. But we'd like to encourage those of you who feel so inclined to go over and do that. And with

that, I'm going to turn the floor over to my colleagues for opening remarks. Madam Treasurer? Madam Treasurer, anything you want to say to the group this morning?

TREASURER KOPP: Yeah, I was just thinking, Governor, I just want the people in this room, this is a personal thing that I hadn't thought about until you said this, quite candidly. I used to give blood annually. It was, it made you feel really good. And then some years ago I developed an illness which meant that when I went to the blood drive they didn't want me. And I couldn't do it anymore. And I just want to say to you, to folks here who can, you don't, it's one of these things you don't realize that you had until you lose it, the ability to give of yourself, really. And it's really important. And I just really urge people who have thought about it but haven't done it, or just say I know I'm going to do that but not gotten around to it, really to do it. Because you don't know until you can't how important it is to be able to give.

GOVERNOR HOGAN: Well, you give of your heart --

TREASURER KOPP: I do.

GOVERNOR HOGAN: -- even though they can't take your blood.

TREASURER KOPP: Heart and mind and all that --

GOVERNOR HOGAN: They won't take mine either, but you know. Maybe we'll get the Comptroller to give some.

(Laughter.)

COMPTROLLER FRANCHOT: Well, I noticed that the Budget Secretary, Secretary Brinkley, has a different look today. And he explained to us in the back room, and I'd like to have him do it again just --

MR. BRINKLEY: Well my sister has been battling brain cancer for seven years. She was to have surgery on Friday. The University of Maryland cancelled that. She did get, she was supposed to get her whole head shaved. She did have surgery yesterday but they only took a quarter of it. I had already committed and --

(Laughter.)

MR. BRINKLEY: -- so but it's in honor of my sister, Elizabeth. So thank you.

GOVERNOR HOGAN: Well, it looks good.

COMPTROLLER FRANCHOT: Yes.

GOVERNOR HOGAN: Any other comments?

COMPTROLLER FRANCHOT: Yes. I did want to just, well, indicate that I know Maryland students, teachers, administrators, and support staff have started the school year and I wish them all a great success. It's great to have them back in school the day after Labor Day. I don't know why I would mention that. But I wish everyone the very best.

And Governor, I would, if I could, just like to comment briefly about the Board of Revenue Estimates Fiscal Year 2019 Close Out Report, which was released last week. I think that provides a very important glimpse into our State's economic and fiscal health. We ended the fiscal year with \$216.6 million as a fund balance with a stronger than expected revenue growth from capital gains and increased revenue from sales and use tax collections. That's not from necessarily more retail activity. It simply is attributed to the Supreme Court's Wayfair decision, which allowed us to order the remote internet companies to collect the tax, six percent sales tax, that they should have been collecting over the years. But this is now law, that they need to collect and remit to us those six percent sales tax for sales into Maryland.

But contrary to the kind of bullhorn from 1600 Pennsylvania Avenue, our experts disagree with the rosy description of the nation's economy. And there are some indications that an economic downturn may be in our near future. These reasons range from unpredictable federal trade policies, a ballooning federal deficit, tepid sales tax performance, and also you may have seen the emergence of an inverted yield curve within the bond markets, which has historically been one of the most reliable indicators of a pending recession. Given the increasingly worrisome environment, I once again urge the Governor and the General Assembly to bank this one-time fund balance rather than simply add it to Maryland's spending pattern.

We must also resist the urge to adopt policies that, however well intended they may be, would require the State to dig deeper into the pockets of Maryland consumers who power our State's economy. Even in times of prosperity and calm, consumer tax increases carry a degree of risk. In a recession or on the eve of a recession, the unintended consequences could be severe. This should not be a partisan issue. It's just a matter of sound fiscal management. I certainly hope we don't repeat the mistakes that we made leading up to the 2008 Great Recession. Because I can remember, I'm sure the Treasurer on the Board remembers, very well the painful and tough decisions we had to make to balance our budgets because we were not fiscally moderate going into that difficult period. Governor, thank you very much for your leadership on all of the issues before the Board. And Madam Treasurer, thank you for, you lived that experience and --

TREASURER KOPP: Oh yeah. That -- yes.

COMPTROLLER FRANCHOT: So, anyway, I'm not asking if you agree with me. I'm just suggesting that we want to avoid that --

TREASURER KOPP: Well there are very tough decisions to be made. I did notice this morning in the news, in fact, there was a report about a decrease in business optimism in August. People are spending more but the leaders in the private sector are not as sure.

GOVERNOR HOGAN: All right. Let's get started with the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 15 items on the Secretary's Agenda. We are withdrawing Item 11. We also have nine reports of emergency procurements.

GOVERNOR HOGAN: Questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Yes. A5 and A6.

SECRETARY MCDONALD: Those are the emergencies from the Department of Human Resources. Deputy Secretary Greg James is here.

MR. JAMES: Good morning. I'm Greg James, Deputy Secretary for Operations at the Department of Human Services. I'm joined this morning by David Ayer, who is our Deputy Executive Director for the Social Services Administration.

GOVERNOR HOGAN: Good morning.

COMPTROLLER FRANCHOT: Great. And I want to thank you, Secretary James, and your team for the work and urgency you've had in returning to Maryland some of these youths that have been sent out of state for treatment. I think currently there are 17 out-of-state residential facility placed clients of yours, and that's a significant reduction from 64 in 2016. I know how difficult it is. That's terrific progress you've made. But I noticed later on the Agenda on one of the other contracts we're going to be looking at, not an emergency contract, two

Maryland youth are being sent to a facility in Virginia. What is it about this Arkansas facility and this Alabama facility that warrants us sending our kids so far away?

MR. JAMES: So the two particular youth in question in this case, and in the Grafton case as well, but in particular these two youth, are two of our most challenging cases. They present with significant mood dysregulation and very aggressive behavior, very complex needs. And we had exhausted all of our placement options in State, as well as exploring every other option out of state in the case of the Alabama placement. This was the only facility in the country that felt that they had the capacity to address the particular complex needs of this youth.

This is a significant problem that we have in Maryland right now that we're struggling with. We've seen a significant reduction in the number of residential treatment care facility beds over the past several years. We swung from having a surplus to now we're at a deficit position. So we've been working very closely with the Department of Health to address that. As part of their facilities master plan, they have carved out and are specifically looking at developing additional RTC beds in State so that we can hopefully avoid this problem in the future.

We've also identified a significant issue that we have where we have a group of youth who are, have needs that are very complex but don't

necessarily rise to the clinical level of an RTC placement. So we need to develop a new type of program to address that specific band of services that exceeds what a traditional either foster family, therapeutic foster care placement can serve when they become aggressive and agitated and need medical support, but don't require that all the time, which is what we would expect in an RTC.

COMPTRROLLER FRANCHOT: Okay. That makes sense. I applaud the progress you're making. But could you please tell me one thing about Millcreek of Arkansas and Laurel Oaks of Alabama? What is it these very, well, states that are not as sophisticated as we are as far as our medical facilities, what are they able to provide that is so unique that we have to send these kids halfway across the country?

MR. JAMES: And I think it's probably best to look at not as one particular specific thing, but how they bring together a combination of services. So in particular, for Millcreek, one of their specialties is acute stabilization. So when a youth becomes, very quickly moves from being well adjusted and happy and like any other youth, when they escalate very quickly they can become very violent, they can become very aggressive. The program Millcreek is very good at de-escalating those youth and not allowing them to reach a point of crisis that would require them to be hospitalized or seek a higher level of care. It's not impossible for us to have this in Maryland but we don't have that right now. And

the programs that do offer similar services felt like they did not have the capacity right now to be able to handle these youth.

COMPTROLLER FRANCHOT: Thank you for moving this forward and please keep us in the loop as to any other progress you make.

MR. JAMES: Thank you, Mr. Comptroller. And thank you to the Board for all of your continued support on this.

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

TREASURER KOPP: I have a couple, Governor on the --

MR. JAMES: Thank you.

TREASURER KOPP: -- appendix. Thank you. And we probably should get another presentation, actually, on the progress that's been made after you started this campaign, because it really has been very impressive and good all the way around.

However, A1, the Court of Appeals building, the mold issue. This is something we jump on schools about. We're now looking at school construction and I know across the State there is this issue of not repairing, for instance, the roofs in time so the mold starts, gets in and into the walls, etcetera. This is an emergency contract. It went from \$5,000 to \$50,000 for this particular instance. It didn't have to be an emergency. And we see this over and over again, small procurements that grow. There are only a couple of companies that come

in, so they are doing well. I'm not saying they shouldn't. I'm sure they do a good job. The question is, how do we get ahead of this problem? I mean, it's, I'm sort of surprised, actually, we haven't been sued by employees by now. But we haven't, and maybe they know that we're trying, but what's happening?

MR. CHURCHILL: Well, how to get ahead of the problem, one, we do need to be transparent. And that's part of the response here, is to let everybody know what is going on to deescalate so that it's not viewed as a crisis to someone's health, contribute to someone's health.

But what we're doing in terms of addressing this is regular maintenance and, you know, it's --

TREASURER KOPP: But it obviously didn't. You wouldn't have an emergency.

MR. CHURCHILL: Well, Madam Treasurer, that would be true if we historically had kept up with our building maintenance. There are so many instances that occurred in the past and that there was a fair amount of deferred maintenance. And so it's that old adage.

TREASURER KOPP: Yeah.

MR. CHURCHILL: You know --

TREASURER KOPP: Pay me now or pay me more later.

MR. CHURCHILL: Pay me now or pay me later. So we were, the benefit here is we were at the Court of Appeals doing a project, uncovered a

situation, and were able to address it there, started out with a designer to look at the situation, then moved to abatement. But that's how we get out of this, is get back into the regular mode of maintaining our buildings. We've also put into place, which we have talked about previously, a new system where we are running pilots to be able to indicate when we need to repair something early instead of getting to this point. So the future is promising.

TREASURER KOPP: Will it cover, whenever it comes into being, will it cover this sort of issue? Or was it just more systems maintenance?

MR. CHURCHILL: Well, I believe in this case it was a combination of things, including building envelope deterioration with windows caulking, that type of thing --

TREASURER KOPP: Yeah. Which is what usually our building -

MR. CHURCHILL: Yes. Yes.

TREASURER KOPP: -- I'm sure if you've visited the Comptroller or myself --

MR. CHURCHILL: Yes. But that's the way out of it, is just regular maintenance. And we're continuing conversation. I'm thankful for the Department of Budget and Management. They have been very receptive in our efforts and have added dollars to our critical maintenance fund. So, you know,

with continued focus on this we'll get through it. But we are getting through the period of where there was just continuing deferred maintenance on our buildings.

GOVERNOR HOGAN: For literally decades.

MR. CHURCHILL: Yes.

TREASURER KOPP: Always.

GOVERNOR HOGAN: Yeah.

MR. CHURCHILL: Yeah.

TREASURER KOPP: Yeah. I think that's very good. I think it would be very good if this Board could see a plan and see some numbers attached so we would know what it would cost, both in operating and in capital maintenance.

MR. CHURCHILL: Yes.

TREASURER KOPP: Because it is, it's a big chunk. That's why we're always behind on it. That's why all of the institutions in this State are behind on it. But to actually get a plan so we can at least keep what we've got and not have these very expensive emergencies.

MR. CHURCHILL: Well I can also add that the executive departments are working together. I've mentioned this before.

TREASURER KOPP: Yeah.

MR. CHURCHILL: And are getting some real traction in terms of standard operating procedures that are uniform across all departments so that it's not one that's moving forward with one area and the others are lagging. So --

TREASURER KOPP: I think it would be really good if we could see a coherent presentation of where we've come from, where we are, where we're going --

MR. CHURCHILL: Yes.

TREASURER KOPP: -- what the price is, just in a reasonable way.

MR. CHURCHILL: Sure.

TREASURER KOPP: Thank you. I appreciate that. I also had a question, Governor, somewhat the same, of A4.

MR. CHURCHILL: Ah yes, A4.

TREASURER KOPP: The Baltimore facilities and grounds State Center complex. My understanding -- another emergency, a really big potential emergency, where you would lose air conditioning and air handling across the whole complex, right?

MR. CHURCHILL: Yes.

TREASURER KOPP: My understanding, and you can tell me if I'm wrong because we just found out about this from your staff, that there were improvements made in 2000 --

MR. CHURCHILL: Mm-hmm.

TREASURER KOPP: -- which have subsequently been found to be just a mistake. I mean, they just --

MR. CHURCHILL: Okay.

TREASURER KOPP: -- I'll read you what your people said, if you want. But in 2000 --

MR. CHURCHILL: I have it.

TREASURER KOPP: You've got it? Okay.

MR. CHURCHILL: Yes.

TREASURER KOPP: So and I assume there have been periodic inspections since 2000.

MR. CHURCHILL: Yes.

TREASURER KOPP: I mean, that's 18 years or 19 years ago, and this problem was found some time ago.

MR. CHURCHILL: Well this problem was --

TREASURER KOPP: Or a harbinger of this problem. The problem now is that all the shut off valves turned out to be either inoperable or potentially inoperable in a short period of time, and you have to go in and redo the whole thing. It wasn't done before, we were told by your people, because they thought we were going to make progress with the State Center project and therefore put it off. I'm not getting into the State Center debate. You know we

disagree on State Center. But the fact that you would find something and put it off because you hope somehow it's going to be taken care of down the road, and now you're back. They found it. Thank heaven somebody was on site. They are making emergency repairs. It's pretty expensive but not half as expensive as it would be --

MR. CHURCHILL: If we had a catastrophic failure of that pipe, yes.

TREASURER KOPP: Yeah. So I mean, isn't there a way to put some sensors, A, to put some sensors in place. But B, when your staff does find something, or any agency staff does find something, that is potentially really significant, to bring it up to the top so that at last -- I assume you didn't know about this before a couple of months ago? I mean, before the emergency that this was a brewing emergency. I'm not saying you did. But maybe you should have.

MR. CHURCHILL: Well, in this case the system worked, in terms of our facilities folks, and in general, folks that have facilities, they go through and they do visual inspections. And they are looking for telltale signs of what could indicate a larger problem. That's what happened here. The pipes were covered. There was a shift in the pipe which we alerted to. We uncovered the pipe and thank goodness after inspection of that, because of that indicator, we were able to replace it. While it was at not necessarily the lowest cost, the lowest

cost would have been to do it in years past, but the lowest cost to the State now before it was a catastrophic failure.

TREASURER KOPP: I support this project.

MR. CHURCHILL: I know you do. I know that your focus has been steadfast on facilities upgrades and maintenance. But it goes back to my previous statement, that, again, from previous administrations, the rule of thumb was just to defer. And so when the, when it's clear that we cannot defer anymore, and that's my focus, that we have to get into inspection and put things in place that would be good for the entire system. So as you mentioned, indicators, modules, that's part of a pilot program that we're currently doing and we would be able to report back to you on the progress of that.

TREASURER KOPP: I don't want to -- but it's a good thing you found it.

MR. CHURCHILL: Yes.

TREASURER KOPP: That whole complex, the Preston Street complex, would essentially be unusable in the summer if you hadn't found this.

MR. CHURCHILL: If the pipe had failed --

TREASURER KOPP: And --

MR. CHURCHILL: -- yes, yes.

TREASURER KOPP: -- and your people had found things years in the past --

MR. CHURCHILL: Yes.

TREASURER KOPP: -- and obviously reported it, because otherwise we wouldn't know that.

MR. CHURCHILL: Yes.

TREASURER KOPP: And yet, we don't act until it's truly an emergency. I'm just saying. It's not the way it should be. Don't you agree --

MR. CHURCHILL: I agree that we are working towards --

GOVERNOR HOGAN: -- move on to the next topic --

TREASURER KOPP: Thank you. Yes, thank you, Governor.

GOVERNOR HOGAN: Neither Secretary Churchill nor I were here in 2000.

TREASURER KOPP: No --

GOVERNOR HOGAN: And if you look out in front of the State House, we have problems that nobody did anything about for 80 years --

TREASURER KOPP: I'm not saying a word.

GOVERNOR HOGAN: -- and we're now fixing them, but --

TREASURER KOPP: Absolutely. And there's got to be a way of getting in front of these things.

GOVERNOR HOGAN: -- that's exactly what we are doing. And I think they are doing a great job at it.

MR. CHURCHILL: Thank you.

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

COMPTROLLER FRANCHOT: Yes. Just a quick question on Item A9.

MR. DEMBROW: Good morning. May it please the Board, my name is Dana Dembrow, Director of Procurement for the Department of Health.

COMPTROLLER FRANCHOT: All right, thanks, Delegate Dembrow. And I appreciate the incredible work that Governor Hogan, you and obviously Lieutenant Governor Rutherford and Director Steve Schuh have done on the opiate crisis and I'm supporting this proposal. But why exactly was it an emergency? Why couldn't we have done it through the regular order of business?

MR. DEMBROW: That's a very good question. Mr. Gnall and I have had extensive discussions on what constitutes an emergency. And I have come around to agreeing with him that you can't have an emergency go on forever. This has been years now that we have seen this spike in opioid fatalities. Now, it was not anticipated three, four, five years ago that this would occur. To be an emergency under COMAR, it must be sudden and unexpected. So this qualifies as an emergency until we have notice that this is a problem that is ongoing. We're finally starting to see a plateau of the fatalities but we're still looking at close to five fatalities a day in the State of Maryland. And

unfortunately, that may not qualify as an emergency under COMAR because it is no longer sudden or unexpected.

If I may address this for just a moment, I'd like to do so. Because the definition in COMAR of an emergency is incorrect. I had written an opinion when I was on the Board of Contract Appeals some years ago pointing this out. It's just my opinion. But consider the hurricane that's hitting Florida right now. Somebody is going to end up buying chain saws or leasing trucks or tarps or drinking water, whatever needs to happen down there. Was it sudden and unexpected? No. I saw it on the news a week ago. Anybody that is reading the paper or watching the television knows that that hurricane is not unexpected. In Maryland, it would not technically qualify as an emergency. And that is not right. If it doesn't qualify as an emergency, it could take us a year to push a procurement, competitive procurement, to push that money out the door. So I would suggest that we ought to look at the COMAR definition of emergency and allow more of them to address a situation like this, the opioid crisis.

COMPTRROLLER FRANCHOT: Well, once again, I don't want to be remiss in the effort that your administration is undertaking on the opiate crisis. And your agency, I guess, Mr. Dembrow. But because it's I think very commendable. But I had to ask the question.

MR. DEMBROW: It's a very good question. And as I said, Mr. Gnall and I have spent a lot of time talking about that. And I have agreed at this

point, no more emergencies on opioid expenditures. But I do believe that's unfortunate.

COMPTROLLER FRANCHOT: Got it.

GOVERNOR HOGAN: You know, I think the question, I mean, I appreciate your long description of what a definition of an emergency is. But you know, I was the first governor in America to declare a State of Emergency on the opioid crisis but that was four and a half years ago. This contract being rushed before the Board as an emergency is the question I think the Comptroller has. Of course, the opioid crisis is an emergency, no matter how you define it. But why did this contract have to come before us as a, I mean, what was the short time frame? Is it because federal funding was about to expire? I believe that's probably why. I'm not sure. But --

MR. DEMBROW: And --

GOVERNOR HOGAN: -- it wasn't because of the federal definition of an emergency.

MR. DEMBROW: This expenditure is about one percent of the \$34 million --

GOVERNOR HOGAN: Yeah.

MR. DEMBROW: -- SOAR grant, the State Opioid Response money that was secured by Maryland. The contract was entered into in February.

So this has not been rushed. In fact, all of the money is required by the federal government to be expended by the end of this month.

GOVERNOR HOGAN: So that's an emergency. There you go, that's all you needed to say.

(Laughter.)

GOVERNOR HOGAN: Thank you. We had to spend the money by the end of this month. That's an emergency. I'm all for it.

MR. DEMBROW: Thank you.

GOVERNOR HOGAN: Thank you.

SECRETARY MCDONALD: And Governor, in case you were concerned, the Board was able to treat Tropical Storm Isabel back in the Ehrlich administration as an emergency under the emergency definition in COMAR. So I don't want anybody to be concerned that you wouldn't be able to handle --

GOVERNOR HOGAN: Okay. Great.

SECRETARY MCDONALD: -- a hurricane coming in.

GOVERNOR HOGAN: Yeah, thank you. I don't think it's going to hit us, but we'll keep our fingers crossed. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: No. Move approval.

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

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SECRETARY MCDONALD: Thank you.

GOVERNOR HOGAN: -- move on to DNR Real Property.

MS. HADDAWAY-RICCIO: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Jeannie Haddaway-Riccio, Secretary of the Department of Natural Resources. We have nine items on our Real Property Agenda today for which we are seeking approval. And I would just quickly point out that Item 9A was revised yesterday. I'm happy to answer any questions you may have.

GOVERNOR HOGAN: Questions on DNR? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing. You're off the hook. We're going to move on to the bald guy, the Department of Budget and Management.

MR. BRINKLEY: Good morning, Governor, Mr. Comptroller, Madam Treasurer. For the record, I'm David Brinkley, the Secretary of the Department of Budget and Management. We have submitted 16 items for today's Agenda. I'm withdrawing Item 10-S-MOD, 11-S-MOD, and 15-GM, leaving 13 items for your approval. Item 2-S is revised to note that Red House Communications has a local office in Baltimore, Maryland and therefore resident

business should say yes for Pinnacle and Red House Communications. So I have people here to address any questions or concerns that you might have.

GOVERNOR HOGAN: Questions on DBM?

COMPTROLLER FRANCHOT: Item 1-S.

MR. BRINKLEY: Marc Nicole, my Deputy Secretary, is here on the dental plan administration.

COMPTROLLER FRANCHOT: Great. I'm bringing this up just to underline the significance of these large contracts. This is a two-award contract and one of the awards is \$421 million to a Pennsylvania based company called United Concordia, which is the incumbent provider of these dental services for our employees. How would you describe United Concordia's performance on the current contract, which ends December 31st of this year?

MR. NICOLE: Good morning, Mr. Comptroller, Mr. Governor, Madam Treasurer. Marc Nicole, Deputy Secretary, Department of Budget and Management. I believe we have the contract manager here to take up those questions for you, Sherreon Washington.

MS. WASHINGTON: Thank you very much. Please be patient with me. This is my first time, not at the Board appearance, but however to speak in front of everyone here. So --

TREASURER KOPP: Good morning.

GOVERNOR HOGAN: Good morning.

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MS. WASHINGTON: Thank you very much. So Madam Secretary, Governor, Comptroller, in reference to the contract performance in reference to Delta Dental and United Concordia, currently they are performing satisfactory and we do believe that this is the most advantageous award as they are the incumbents and their compliance and they are on board with the satisfactory compliance.

COMPTRROLLER FRANCHOT: Okay.

MS. WASHINGTON: We do have some other organizational structures in which that the compliance is now also being monitored in even greater detail, in which we would have detailed, specific numbers in reference to their performance guarantees.

COMPTRROLLER FRANCHOT: Okay. Thank you for that. And how do State employees' benefits and costs compare to local government employees and our peers in the nonprofit sector with this kind of contract, in this dental plan area?

MS. WASHINGTON: I'm sorry. Can you repeat that again, sir?

COMPTRROLLER FRANCHOT: How do the benefits and costs of what we're providing State employees with this contract, how does that compare to local government employee dental contracts and our nonprofit peers?

MS. WASHINGTON: Okay. At this time, we do not have that information. I've been working with Jamie on this since August 16th as I

intercepted this position, and Jamie does have, working with me diligently to obtain that information.

COMPTROLLER FRANCHOT: Okay.

MS. WASHINGTON: And that will be forthcoming.

COMPTROLLER FRANCHOT: Thank you very much.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Well done.

(Laughter.)

MR. BRINKLEY: You can breathe now.

(Laughter.)

GOVERNOR HOGAN: Any other questions on DBM?

COMPTROLLER FRANCHOT: Yeah. The Secretary mentioned Item 2, I believe. I did have a question as to why Pinnacle would, which is a Maryland based company, would only get one of four contracts, with the other three contracts going to Pittsburgh based companies. On the criteria that you use to choose the winner of contracts in general, or contracts like this, is there a provision for favoring local companies?

MR. DEMBROW: No, there is not, Mr. Comptroller, nor is it allowed. We don't want Pennsylvania, the Commonwealth of Pennsylvania, for example, to discriminate against Maryland companies. Therefore, Maryland does not discriminate against other companies. However, understand that Red House,

while it is based in Pittsburgh, has a Baltimore office. This particular contract creates two new Maryland jobs in their Baltimore office, for which they already pay in excess of \$60,000 a year in lease and related overhead. So, yeah, it's a Commonwealth of Pennsylvania business, but it really also has a significant presence in Maryland.

COMPTRROLLER FRANCHOT: Right. Okay. Well, that's interesting about Red Stone. The only reason this caught my eye is that it seemed as if it was, the competition was almost a tie, that the technical, there's a slight advantage to the Maryland company, and on the price there's a very small advantage for the Pennsylvania company. So why not, why wouldn't it be legal in a tie situation to have as a factor, and I believe it is a factor somewhere, it may not be decisive, that we favor the Maryland company when the competition is so, you know, is so tight.

MR. DEMBROW: In this particular procurement, the evaluation committee could have recommended any number of probably about four different vendors. The price difference was only \$4,000. I recognize that. It's only a one percent difference. However, recognize also that the total spread in pricing, from the lowest price to the highest price, if you eliminate the outlier, among those eight vendors the total spread was \$15,000. So a difference of \$4,000 in that context was significant in the impression of the evaluation committee and they simply could not come up with a reason why the State taxpayers should pay an

extra \$4,000, as nominal as it is, to get one firm when another firm was perfectly capable, competent to do the work.

COMPTROLLER FRANCHOT: Okay. Thank you.

MR. DEMBROW: Thank you.

COMPTROLLER FRANCHOT: Sorry.

TREASURER KOPP: Just a second, if we could come back. But yeah, I get the in state, out of state, we don't want people, other states to penalize Maryland. But there is a provision for economic benefit.

MR. DEMBROW: Oh, yes. It's --

TREASURER KOPP: So that, how does that weight?

MR. DEMBROW: Yeah, it's generally weighted the least of the four criteria factors in most RFPs. So it's the least weighted item. And I have taken issue with that. I think it should be weighted heavier. In this particular case, Red House is recycling 95 percent of its proceeds back into the Maryland economy. So they scored fairly well on the economic benefit to the State. Pinnacle did as well. Both of these firms had a good economic benefit to the State, Pinnacle a little better than Red House because it is based solely in Maryland and that's what gave it the advantage. But it was not a sufficient advantage to outweigh the extra price. And we're trying to send a message to all vendors to give us the best pricing available and we're trying to promote competition. We're trying to do it with small businesses, in particular. And this

particular procurement has been discussed by me with the Governor's Business Ombudsman Roger Campos, from years ago, with Secretary Rhee, with MBE Compliance Director, with GOMA, Ms. Montague. We're really trying to promote small businesses and allow them to take advantage of State procurement contracts. These five contracts do that.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR HOGAN: Thank you.

MR. DEMBROW: Thank you.

GOVERNOR HOGAN: Other questions on DBM?

COMPTROLLER FRANCHOT: Item 5.

MR. BRINKLEY: Item 5, Steve McGowan, Executive Director of the Maryland 529 Plan. Is he here?

TREASURER KOPP: Mr. McGowan will not --

MR. BRINKLEY: It could be, then I have Michelle Winner, the Marketing Director, is the second name.

TREASURER KOPP: Yes, our Director of Marketing.

COMPTROLLER FRANCHOT: Yeah, I can just, I'm making a general comment about the program, which I think is terrific. And if they locate the staff, fine. But they can read the transcript, also. I happen to think this is a fabulous program, and Treasurer Kopp is the Chair of the Board.

TREASURER KOPP: And the Comptroller a member of the Board.

COMPTRROLLER FRANCHOT: Yes.

TREASURER KOPP: And his great representative, Justin Hayes.

COMPTRROLLER FRANCHOT: Yes, that is terrific that my representative does a great job. But I think it's a wonderful opportunity for Maryland families to deal with the issue of college affordability. Governor, I know you and the General Assembly have worked together to address the rising costs of higher ed. On my way down to the MACo Conference last month I had the opportunity to visit the Easton Family YMCA to speak with both children and parents about the rising costs of higher education and the benefits of saving early and consistently in our State's college savings plans. I don't want people to be disincentivized by all of this talk about free college and free tuition, etcetera. I mean, there, the vast bulk of Maryland families are doing the right thing and putting money aside for the cost of their children's college program. And the Kasemeyer Prepaid College Trust and the Kasemeyer College Investment Plan are very easy to set up. The tax savings are very helpful to a lot of Maryland families. The long term value for our kids is priceless. I just wanted to take a minute, Governor, and salute the good people at Maryland 529 and urge all Maryland families to start planning and saving early for their children's college education.

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GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Yeah.

TREASURER KOPP: Governor, could, Comptroller, I couldn't agree more.

COMPTROLLER FRANCHOT: Thank you.

TREASURER KOPP: And we have here with us today Michelle Winner, who is the Director of Marketing for 529, who was absolutely delighted with your visit and hopes there will be more of them. And Governor, we welcome your participation as well. And Erin Layton, the Chief Investment Officer, CIO, for the program, and the Acting Executive Director, who came to answer any questions you might have and I think the right question would be, isn't it a great program?

(Laughter.)

MS. LAYTON: It's an amazing program.

GOVERNOR HOGAN: That's a great question. Good answer, too.

TREASURER KOPP: Thank you.

GOVERNOR HOGAN: Thank you very much.

TREASURER KOPP: And let me tell you, it's a great program and it can be part of a package. So even if people are getting scholarships, even if

there is a waiver of parts of tuition, there still are other expenses and the College Savings Program Maryland 529 and our ABLE Program are there to help.

GOVERNOR HOGAN: Great. Thank you.

COMPTROLLER FRANCHOT: Thank you very much.

GOVERNOR HOGAN: Is there a motion on --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: Three-nothing. We're going to move on to the University System. I guess we don't have the University System.

VOICE: Sheila went to get him.

GOVERNOR HOGAN: Hm?

VOICE: Sheila went to get Joe. He's not in yet.

GOVERNOR HOGAN: We'll jump ahead to the Department of Information Technology. Welcome back. We had, the Secretary has been -- it's good to see you back on your feet.

MR. LEAHY: Well, thank you, Mr. Governor. I just want to take a moment of personal privilege. At the last meeting I attended, apparently it led to comments from you at MACo and others that I was stubborn. And I didn't want to leave people with that impression. And so to defend myself, very simply,

you know, all of us in your administration look to you for leadership and how you dealt --

GOVERNOR HOGAN: That's why you're stubborn?

(Laughter.)

GOVERNOR HOGAN: Is that what you're saying?

MR. LEAHY: How you dealt with cancer, which was brought up this morning, has set the bar pretty high. And so I wasn't going to let something as minor as a knee replacement stop me from participating in my duties, so.

GOVERNOR HOGAN: Yeah, don't be a baby.

MR. LEAHY: Thank you. That's right.

(Laughter.)

MR. LEAHY: So anyway, good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Michael Leahy, Secretary of the Department of Information Technology. Today, I have nine items on your Agenda. One is supplemental and we do have representatives available to answer any questions.

GOVERNOR HOGAN: Any questions on DoIT?

COMPTROLLER FRANCHOT: Item 6.

MR. LEAHY: Yes, Mr. Comptroller.

COMPTROLLER FRANCHOT: Yes.

MR. LEAHY: We have folks from SHA.

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MR. SLATER: Good morning, Mr. Comptroller, Mr. Governor, and Madam Treasurer. For the record, my name is Greg Slater. I am the Administrator for MDOT State Highway Administration. I have Carole Delion here, who works on our team, and we'd be happy to answer any questions you may have.

COMPTRROLLER FRANCHOT: Yes. This is a one-year sole source contract with StreetLight Data to collect and analyze transportation data created on mobile devices in the Baltimore County region.

MR. SLATER: Yes, sir.

COMPTRROLLER FRANCHOT: And I appreciate the May 31st letter you sent us, Administrator Slater, which provided additional information about Marylanders' privacy and personal data being protected. And I just want to confirm for the record that SHA will not be collecting individual personal data as part of this contract.

MR. SLATER: Yes. We can assure you that no personal information is collected, harvested, or held by any part of MDOT SHA or the company that we're doing business with.

COMPTRROLLER FRANCHOT: Excellent. Thank you for handling this controversial area.

MR. SLATER: Absolutely. Thank you.

GOVERNOR HOGAN: Okay. Thank you. Any other questions on DoIT?

COMPTROLLER FRANCHOT: No, move approval.

GOVERNOR HOGAN: Second?

TREASURER KOPP: Second.

GOVERNOR HOGAN: All right. We're going to move on to Department of Transportation.

MR. RAHN: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, my name is Pete Rahn, Secretary of the Maryland Department of Transportation. MDOT has nine items before you today. We are withdrawing Item 3-GM and it will come back at a later meeting for your consideration. Either I or representatives can answer your questions.

GOVERNOR HOGAN: Well, I understand you brought a few special guests with you here this morning?

MR. RAHN: Yes.

COMPTROLLER FRANCHOT: Oh, wow.

GOVERNOR HOGAN: I think joining us this morning are Nancy Connell, Brittaney Armstead, Ebony Brown, Jacquae Rubin, Jill Dunham, and Michelle Jones, who are graduates of the Department of Transportation's Procurement Academy. And the academy is a program that's designed to introduce current employees to the challenges and rewards of a career in

procurement. Maybe I'll try to join that academy. I might be looking for a job in a couple of years. But it's a rigorous six-month career program. And these graduates completed the training in procurement law, policy, regulations, and best practices, and I just want to have everybody give them a big round of applause while we present them with their citations.

(Applause.)

GOVERNOR HOGAN: Congratulations.

(Applause.)

TREASURER KOPP: That's where the ladies are going.

GOVERNOR HOGAN: Yeah.

COMPTROLLER FRANCHOT: So did Mark Nugent take the course?

(Laughter.)

GOVERNOR HOGAN: He probably could use it.

MR. RAHN: Governor, thank you for the recognition of our graduates.

GOVERNOR HOGAN: Well we appreciate --

MR. RAHN: This is our third class that we have produced and they have succeeded. Not everyone who enters succeeds in making it through the course. It is rigorous. We undertook this when we realized that there just weren't

enough qualified candidates throughout the other agencies for us to steal. So we decided we were going to --

(Laughter.)

MR. RAHN: We decided we'd better grow our own.

TREASURER KOPP: Though you try very hard.

MR. RAHN: Yes.

(Laughter.)

MR. RAHN: And they are hard to find and --

GOVERNOR HOGAN: Well you stole one from my office.

(Laughter.)

MR. RAHN: Yes, we did. We did. When we find a good one, we try to pick them up. But really, these candidates, our success in growing and utilizing this talent within the department has been terrific.

GOVERNOR HOGAN: Well, it's terrific.

MR. RAHN: So thank you very much for the recognition for them.

GOVERNOR HOGAN: Yeah, well thank you and congratulations, ladies.

TREASURER KOPP: Governor, could I put in a plug for something we have been plugging for for a long time. And that is after the reorganization of procurement in the State, an academy for the rest of the agencies of the State. I can think of few better investments, actually, than having a well-

trained and consistently trained core of procurement officers across the State. And it would be the great new beginning of the new system and new agency.

MR. CHURCHILL: Yeah, we're working hard toward that. And so we look forward to unrolling --

TREASURER KOPP: Yes.

MR. CHURCHILL: -- the procurement academy in future months.

GOVERNOR HOGAN: I mean --

TREASURER KOPP: Howard Friedlander would be in heaven.

GOVERNOR HOGAN: -- Nugent could be one of the professors.

It would be like Animal House.

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

(Laughter.)

GOVERNOR HOGAN: Yeah, but thank you. Any questions on Transportation? Is there a motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on Transportation. We're going to go to DGS.

MR. CHURCHILL: Good morning, Governor, Madam Treasurer -

GOVERNOR HOGAN: Hi, the University System lost their place so I'm --

(Laughter.)

GOVERNOR HOGAN: -- if you're not here, you go to the back of the line.

(Laughter.)

MR. CHURCHILL: 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 34 items on our Agenda today. We are withdrawing Items 7 and 14 and we are ready to answer any questions you may have.

GOVERNOR HOGAN: Questions on General Services?

COMPTRROLLER FRANCHOT: I just wanted to comment on 26-CGL and 28-CGL. Governor, I really appreciate the fact that I believe you awarded a \$350,000 capital grant program loan to Round House Theatre in Bethesda. I regret that I missed this wonderful facility's re-opening on August 24th, but I think the Treasurer --

TREASURER KOPP: Let me tell you about it.

COMPTRROLLER FRANCHOT: Yeah.

TREASURER KOPP: It was great.

COMPTRROLLER FRANCHOT: And a number of elected officials, community leaders, and area residents. This is a -- we talk about art being an invaluable asset to our communities and obviously it is to the cultural

life, but particularly it is I believe to the economic vitality of Montgomery County and the D.C. Region. And Round House is a world class theater that welcomes over 40,000 patrons annually. And I have enjoyed several shows there myself. I want to thank the Managing Director Ed Zakreski and the Artistic Director Ryan Rilette and the Board of Directors and volunteers and benefactors of Round House Theater for their hard work.

I also want to express my support, Governor, for you putting in your capital budget \$500,000 to the Takoma Park-Silver Spring Cooperative. Mike -- is it Mike Houston? Is he here? I think he was planning to be here, the General Manager. Well, I know more about it than the General Manager does because I go shopping there all the time. And most of the people in the Takoma Park region also appreciate the fact that this is not just a normal store, it is a beehive of economic activity and interaction for the community. We're talking \$10 million or \$12 million in revenues. They have recently gotten their license to sell craft beer. What could be better than getting my vegetables and my beer at the same place? And I just want to salute the State of Maryland for supporting an enterprise like this, which employs I think almost 60 people, is an economic catalyst for the region, and provides a tremendous, well it's in effect much more than a grocery store. It is a center of the region's commerce.

And both of those grants I believe are entirely appropriate and will be well spent, and along with all the other items that are on the Agenda. It's relatively small investments getting big returns. Thank you, Governor.

GOVERNOR HOGAN: Thank you.

TREASURER KOPP: Governor, could I, since we are pointing out truly excellent items, just point out Item 1, finally the lab on the Eastern Shore is going to be a great step forward, both for the State, for health, and for the Shore.

MR. CHURCHILL: Yes.

TREASURER KOPP: And I congratulate you on getting this far.

MR. CHURCHILL: Yes.

TREASURER KOPP: I mean, it's very good. And I can't help it, Item 11, Chrysalis House?

MR. CHURCHILL: Chrysalis House, yes.

TREASURER KOPP: That is a great program. The Comptroller I know has been there, and I know you have. It's a wonderful program that really meets a need. I think it ought to be expanded across the state. But the fact that the State is supporting a facility to support women and their families as they deal with difficult health problems is, it's just, these grants are so important to our communities. And people just sort of think of them as nice things to do. It's much more important than that. It really is supportive of the entire community.

And I want to congratulate, I don't know if anyone is here from Loyola University, but they have a project that I think ought to stand as a model for energy, dealing with energy and climate change. They are going to be carbon neutral and they are going to do it in a way that is both supportive of education and a very good investment in their plant. And if we're going to deal with climate change and with the rising cost of energy, and moving to a carbon neutral state, I would suggest we look at what Loyola and some of the other colleges are doing. And with the participation of your administration and the State.

GOVERNOR HOGAN: Great. Well, thank you. Are there any --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Second? Three-nothing on DGS and now we're going to go back to the --

TREASURER KOPP: University.

GOVERNOR HOGAN: -- late University System.

(Laughter.)

MR. EVANS: For the record, I was held outside.

GOVERNOR HOGAN: It doesn't count if you're outside.

TREASURER KOPP: The great University System.

GOVERNOR HOGAN: The great --

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: Questions on the University System?

COMPTROLLER FRANCHOT: Yes, Item 2-C.

GOVERNOR HOGAN: 2-C.

MR. EVANS: 2-C.

MR. OLEN: Good morning, Governor, Treasurer Kopp, Comptroller Franchot. Bill Olen, Executive Director of Planning and Construction, College Park Service Center.

COMPTROLLER FRANCHOT: Okay. So, what is Whiting Turner, the contracting company that you are hiring as a construction management at risk bid package, what are they receiving of the estimated contract cost of \$70 million?

MR. OLEN: Their percentage of the GMP, the guaranteed maximum price, for this Bid Package of about \$10 million is less than, around two percent. That's their fee.

COMPTROLLER FRANCHOT: Two percent of \$70 million?

MR. OLEN: Of --

SECRETARY MCDONALD: He's looking at the --

MR. OLEN: The Bid Package 1 --

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SECRETARY MCDONALD: Right, where you see the final value of the construction contract will be \$70 million. That's in the second paragraph of the project. He's looking at that. So he wants to know the \$70 million.

MR. OLEN: Okay. So the bid package 2 is \$9.7 million, about 2.3 percent of that is their fee. That's what --

COMPTROLLER FRANCHOT: And what do they do for that fee?

MR. OLEN: Just like a general contractor, a prime on any other project, they manage the subcontractors.

COMPTROLLER FRANCHOT: Okay. And do you have any oversight over the subcontractors that they select?

MR. OLEN: We do. We have on site quality assurance folks to make sure the product is being put in as specified and as drawn on design documents by the project manager that manages the overall project from design through construction --

COMPTROLLER FRANCHOT: Okay. And when we approved this last in 2017, we did a pre-construction services contract --

MR. OLEN: Yes, sir.

COMPTROLLER FRANCHOT: -- the estimated cost was \$63 million. Now it's \$70 million. What is that attributable to?

MR. OLEN: There was a delay of funding for a year. There was a decision not to move the project forward for a calendar year. So between that and

the market conditions, as you have heard, we're seeing the highest rate of increase on construction contracts, construction costs, mostly attributable to lack of folks in the trades. The majority of the projects I would say, at least projects under my purview, those trade contracts are only about 80 percent staffed. It is not uncommon to read an article about this side of the Rocky Mountains lack of qualified trade folks, electricians, masons, mechanical plumbers, you just can't find folks. There are just not enough people out there. And we're seeing the price increases on the projects because of a lack of competition.

Now on this project, there were approximately 12 trade contracts. Whiting Turner got at minimum three different bids on each package, so like concrete, excavating. So they got competition. We were worried they wouldn't get competition. They did. They did a great job at a remote location, an hour plus outside of the Beltway. So, we were very happy with their performance, finding folks and giving them some competitive prices, Maryland subcontractors, some of them local to that campus.

But what's driving up the construction costs right now as far as my projects, whether they are small, big, or large, are the lack of trades. We just can't find folks. On several projects that we hard bid, I know you are a fan of that, we hard bid earlier in the spring at College Park, we got zero bids. Now, they were risky projects and we didn't have folks that were interested in taking on risk. That is, that's not just to the University System. I pulled an article this

morning on some of the bigger contractors in the country are not going after fixed price contracts right now because of the risk of losing money.

I have a neighbor who works for a developer in the D.C. area. He doesn't do work for the University System so I can have open conversations with him. And I asked him how subcontractor bidding is going on his projects. He said they don't hard bid subs anymore. They can't get a sub to hard bid development projects, not State or federal project. He said everything is a negotiated contract. We don't have the opportunity to negotiate contracts with subcontractors. So back to your question, your concern, I'm very satisfied at this point of the performance Whiting Turner did to get subcontractor pricing in a very tight constrained market right now.

COMPTRROLLER FRANCHOT: Thank you. Governor?

GOVERNOR HOGAN: Any other questions on the University System? Is there a motion?

COMPTRROLLER FRANCHOT: Move approval.

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

(Whereupon, at 11:08 a.m., the meeting was concluded.)