
STATE OF MARYLAND
BOARD OF PUBLIC WORKS
ANNAPOLIS, MARYLAND

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PRESENT

HONORABLE BOYD K. RUTHERFORD

Lieutenant Governor

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Treasurer

HONORABLE PETER FRANCHOT

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PROCEEDINGS

LIEUTENANT GOVERNOR RUTHERFORD: Good morning, everyone. I'm sitting in for the Governor today. He's at a small business roundtable in Baltimore and it's something that is sponsored through Goldman Sachs, I believe, and so he's there representing the State, hearing what they are planning to do as well as challenges that our small businesses are facing.

I'm glad to be here, of course, with the Treasurer, Madam Treasurer, Mr. Comptroller. It's always a pleasure. Just to give a quick update on our COVID response, you know, it continues to be a challenge. But we're making strides. We have over 3.8 million Marylanders who have been fully vaccinated. Students are back in school, of course, where they should be, in school. Get those pesky kids in school and off the streets. Eighty percent of eligible Marylanders ages 12 and older have been vaccinated. Just in that cohort of 12 to 17 year olds, it's about 68 percent of them are vaccinated at this point. We continue to believe, of course, the best way to protect our young people as well as our not so young people is to get vaccinated, for everyone who is eligible to get vaccinated to do so. And you know, we're making sure that we're protecting those individuals that need the protection,

as we did early on, with individuals living in the skilled nursing facilities, and our healthcare workers, to make sure that they were vaccinated and we're continuing to make sure that individuals get vaccinated.

Now we're at a point now, you know, where 95 percent of Marylanders 65 and above have received at least one dose of COVID-19 vaccines. And you know, it's continuing to protect people. There's a couple of rankings out there that the CDC says that we're the seventh best in the nation in terms of vaccinated, fully vaccinated residents. Somebody here, Wallet Hub, or Hub Wallet -- I don't know who they are. But they ranked us sixth best, and they had a couple of different metrics in terms of how many, you know, teenagers and how many seniors. So they did, you know, grouped that all together. So we've been experiencing success.

We're now changing, and I think Secretary Schrader is going to talk a little bit about that, in terms of our approach and some things that we have to do to try to reach those that still have not become vaccinated, those who are willing -- oh, there's Secretary Schrader. Those who may be hesitant, they haven't completely turned it off. But you know, we're going to try to reach those individuals. It takes a slightly different approach, and remind people that without

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the vaccine, you are still at a significant risk of not only getting the virus, but possibly having more severe symptoms that will take you into a hospital and possibly resulting in death. And so that can't be stressed enough.

There are treatments, effective treatments, monoclonal antibody treatment is available in the State, 30 different facilities around the State. We have a lease that's later in the Agenda with City of Praise Church -- they changed their name, I think their official name is Jericho. But City of Praise, which has the monoclonal antibody infusions available at the church right there in Landover in the shadow of the Washington Football Team Stadium. There's an interesting story, I think you all probably know about that. But they moved there before the stadium and so they lease parking there, and at one point they --

TREASURER KOPP: Right --

LIEUTENANT GOVERNOR RUTHERFORD: -- \$70,000 a game that they were making. So --

TREASURER KOPP: That's good.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. Yes. I guess they prayed well on that. So with monoclonal antibodies, we have completed over 10,000 infusions in the State. It is believed to have kept 500 Marylanders out of

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the hospital and helped to prevent as many as 200 deaths from COVID. So if you do test positive for COVID-19, you know, talk to your doctor, of course, and find out whether monoclonal antibodies is best for you. Typically, it's for a person that may be in a high risk category. But even if you are not in a high risk category, it is worth talking to your doctor about whether this could work for you and what other procedures you should take. Again, vaccinations are the best way to protect yourself and the people you care for from COVID-19.

September is Recovery Month. We continue to focus on addressing, you know, even with COVID, the ongoing opioid crisis that we have, which has made things worse. COVID has made things worse in many cases for people who have been suffering from substance use disorder. Last week, I was in Western Maryland over in Hagerstown meeting with the Mayor and a number of City Council members as well as first responders and local representatives. And you know, the opioid crisis is a major issue for them. Similarly, you know, across the mountain in Cumberland, where I was a couple of weeks prior to that, they are expressing those concerns. And one of the things, and Secretary Schrader yesterday presented before our Commission to Study Mental and Behavioral Health the facility master plan for Department of Health. And the first phase of that plan is to

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construct crisis centers, 24-hour crisis centers, in four different parts of the State. And you know, those are going to be, those centers are needed. It may not be the end of it. I know that there are some counties that already have crisis centers. But it's an added resource, both for those who are suffering from substance use disorder as well as mental health crises, that there is a place to go. There is a lot more work to do with regard to both of these issues. And we will continue to work.

I'm going to just sidetrack for a moment. Speaking of crises, and maybe it's crisis avoidance, it's very important that all of our agencies talk to each other. Recently, the Board of Elections did a phishing exercise, phishing not in terms of, you know, catching fish or whatever, but a cybersecurity exercise. They are required, just like every executive agency, to contact our cybersecurity director, Chief Cyber Officer, when they are going to do these exercises. They did not. It caused a lot of angst and, you know, confusion, as well as bringing in contractors, and resources were tied up thinking that it was a real attack that was going on on the network, the State network. It could have all been avoided with a simple phone call, just to say that we're going to do this exercise. And I believe the Comptroller's Office was also not affected in a negative way, but resources were expended unnecessarily. So I just ask all agencies if, you know, even if you are an

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independent agency, if you are riding on the State network, and you decide you are going to do one of these exercises, just communicate with those in the DoIT to make sure that everyone knows what's going on. The comparison is if the State Police were going to do an exercise in Annapolis and not tell the Annapolis City Police that they are doing some type of exercise, you know, a hostage situation or whatever the case may be. They may deploy not knowing what exactly is going on. So just for future communications, it's very important.

Lastly, and on a much happier note, FIFA is coming to town. The World Cup is scheduled for North America in 2026. Representatives from FIFA are coming on September 19th and 20th to investigate Baltimore as a potential site for matches for World Cup international football. They are going to take in the atmosphere at M&T Bank Stadium and watch American football, but mainly to see the fans and to see the facilities that we have to offer here. I'm biased. I think our facilities are far better than what our competition is. We're right off the highway. We have the hotels right downtown. We have transit right there, the train coming up from D.C. is there, or down from Philly. And it sits in the middle of the City and not out in an industrial park or, you know, in South Philly somewhere. So we're looking forward to that. We have a lot of soccer fans here. We're going to,

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like I said, we're going to be at the stadium on Sunday and then various meetings and presentations with them on Monday. So for those of you who are interested in real football, I encourage you to, you know, wear your kits and show your enthusiasm. I know the Comptroller will. So. He's a fan. He's a big fan.

So with that, I'll turn to the Secretary's Agenda.

TREASURER KOPP: Could I --

LIEUTENANT GOVERNOR RUTHERFORD: Oh, I'm sorry. I was supposed to let --

TREASURER KOPP: No, no --

LIEUTENANT GOVERNOR RUTHERFORD: -- I got too excited about, you know, World Cup.

(Laughter.)

TREASURER KOPP: Just to build on your last, I think the Comptroller, I may be wrong, joined me and about four other legislators from Montgomery County --

COMPTROLLER FRANCHOT: Yes, in creating a new stadium.

TREASURER KOPP: -- in creating that new stadium. And we said it would be an international stadium and that teams from all over would come and play in it. It has taken a while, but this may be the fruition of that --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: -- of that hope.

LIEUTENANT GOVERNOR RUTHERFORD: Well, we have the facilities in the State. Yeah. So Madam Treasurer --

TREASURER KOPP: No, it just, it's a pleasure to be here. I hear your message, which is both good and cautionary on how we are doing at combating this, the pandemic in Maryland. And I just -- get vaccinated.

LIEUTENANT GOVERNOR RUTHERFORD: I know.

TREASURER KOPP: Really. This is enough. I just would like to observe the passing yesterday of a great Montgomery County educator, and member of the school board for a couple of decades, I believe, Pat O'Neill, who represented not just her district on the Montgomery County School Board, but all the children and all the families in the Montgomery County public school system, and the teachers, too. She will be sorely missed. And it's a shocking gap that just, was just created with her passing. And I just want to say on behalf of myself and

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our entire community to her family, we join in your grief. But also recognize that Pat's leadership was a blessing to us all. Thank you.

COMPTROLLER FRANCHOT: Thank you, Lieutenant Governor, and Madam Treasurer, I couldn't agree with you more about Pat O'Neill. She was the, almost like the Bruce Bereano of the School Board. She could remember things 30 years ago that had occurred, and could give the history of some of the policies that people were addressing and we will sorely miss her.

TREASURER KOPP: To make them more understandable. I mean

--

COMPTROLLER FRANCHOT: Yes --

TREASURER KOPP: -- educating.

COMPTROLLER FRANCHOT: Yes. And but anyway, I just thank you for bringing the World Cup. If that is successful, I am a huge fan also. And Governor, I know that would be great for the State of Maryland.

LIEUTENANT GOVERNOR RUTHERFORD: I think it would be. Yes.

COMPTROLLER FRANCHOT: I wanted to just mention briefly, as many Americans across our nation did this weekend, the 20th anniversary of the

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September 11, 2001 terrorist attacks. It's hard to believe that 20 years have passed since that horrific day which truly altered the course of human history. We remember and honor the 2,977 Americans who died that day, including 68 Marylanders. And the heroism and selflessness of our first responders and those 46 brave passengers and crew members of United Flight 93, who gave up their lives to prevent potentially even more deaths had the terrorists on board been successful in crashing the plane at its intended target in Washington. We remember and honor and mourn with the families who have lost loved ones that day and pay tribute to the thousands of law enforcement and first responders who risked their lives to save others. And the hundreds of thousands of service members, many of who never came home unfortunately, who went overseas in response to the 9/11 attacks. May we always remember, may we never forget the lives that were lost, the selflessness, the heroism that we saw that day, and the sacrifices that so many have made to protect the freedoms and liberties that we so often take for granted.

If I could just add a personal message on top of, it pertains to what the Treasurer and the Lieutenant Governor said today about COVID. In the last year and a half we have 10,000 deaths in Maryland alone from COVID. Think about it. 10,000 deaths in a 16-month period. 450,000 cases of COVID, 50,000

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hospitalizations. So as we remember on 9/11, I think we also need to share ourselves with our fellow Marylanders who are going through, a lot of them, through really tough times. And they are all by themselves. So, Lieutenant Governor and Madam Treasurer, and I didn't mean to build off your statements. But --

LIEUTENANT GOVERNOR RUTHERFORD: No --

COMPTROLLER FRANCHOT: -- I couldn't agree with you more as far as the need for vaccinations.

LIEUTENANT GOVERNOR RUTHERFORD: And thank you for, you know, the comments with regard to the 20th anniversary of the attacks on 9/11. I had the opportunity and honor to speak at the memorial in Baltimore at the Trade Center on Saturday. And you know, it was very moving. And I think all of us, you know, all of us in this room at least, well there may be a few people who are a little younger, remember exactly where we were 20 years ago and exactly what was going on. And I spoke of my experience, being a new appointee in Washington and literally feeling the impact from the Pentagon.

COMPTROLLER FRANCHOT: Mm-hmm.

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LIEUTENANT GOVERNOR RUTHERFORD: And seeing the smoke through my window because I didn't know that, only there a week to the day, know that the Pentagon was within about four miles as the crow flies from my office. And I saw the smoke go up, didn't know what it was, I literally thought it was a car bomb. And I found out later what it was and saw it from the roof of the building.

So with that, the Secretary's Agenda. Thank you.

SECRETARY GONTRUM: Good morning, Governor, Madam Treasurer, Mr. Comptroller. There are 17 items on the Secretary's Agenda this morning and two reports of emergency procurements. Item 16 is being withdrawn. I'm happy to answer any questions.

TREASURER KOPP: Governor, could I just ask for a really brief explanation of Item 1, the Circuit Court, what exactly is being changed?

SECRETARY GONTRUM: Item 1 is a proposed revision to the Circuit Court fee schedule. From the Administrative Office of the Courts, we have Ms. Sarah Kaplan and Mr. Jeffrey Luoma.

TREASURER KOPP: I must say that the written explanation is somewhat confusing.

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LIEUTENANT GOVERNOR RUTHERFORD: Are they online?

MS. KAPLAN: Good morning. I'm Sarah Kaplan. I'm the Juvenile Law Manager for the Administrative Office of the Courts. I'm here on behalf of State Court Administrator Pam Harris and thank you very much for allowing me to speak. And Madam Treasurer, if you have any specific questions, I'll give you a brief outline, and then if you have specific questions, please interrupt me to ask what it is you need to know.

(Indiscernible) actually appears on page three of the fee schedule. It is Section, I'll give you the exact page for that section, it is § 2(a)(2)(a) of the fee schedule. It's language that permits the Circuit Court to assess fees on a child, the child's parent, guardian, or custodian under Courts Article § 3-8A-19(g). That section, 3-8A-19(g), was actually repealed by 2020 Chapter 35, House Bill 36. It no longer is in the Courts Article. We're asking to have that language deleted because there is no longer the legal authority specifically in the Code to assess that cost.

TREASURER KOPP: So this simply is to conform your language to the law?

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MS. KAPLAN: Correct. And it's to conform -- yes, ma'am. It's to conform the fee schedule to what the statute allows for at this point in time, yes.

TREASURER KOPP: All right. And you haven't been applying, have you been applying that fee schedule?

MS. KAPLAN: The fee schedule in general is applied. My understanding is that language has not been applied --

TREASURER KOPP: Has not --

MS. KAPLAN: -- yes, ma'am, that that, because that law is no longer (indiscernible) that has not been applied since the law went into effect, which was 2020 October.

TREASURER KOPP: So this is not actually a change in terms of your procedures?

MS. KAPLAN: Yes, ma'am.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: I have a question on -- actually I have a question, a comment on Item 9 and a question with regard to Item I believe it's 12. Item 9, the comment is the Neighborhood BusinessWorks Program, or project, in the City of Indian Head, this sounds like a very, you know,

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very good project. I know exactly where this building is that's going to be redeveloped and bring a grocery store. It's in an area that is, that the City is working very hard to revitalize. It's kind of the main strip. It's a block away from the Black Box Theater and a relatively new coffee shop that is there, and I think I just wanted to comment that it will be a very good project, well deserved, and needed there in Indian Head.

But with regard to 12, I did get a few questions answered. I was very concerned. I saw that this was a 103-unit project that was going to cost \$37.8 million. That is extremely expensive. And it's around \$367,000 per unit. I believe there is someone from DHCD that is here to talk about that project?

SECRETARY GONTRUM: Yes, Governor. We have Mr. Brien O'Toole, Mr. Gregory Hare, and Deputy Secretary Owen McEvoy.

LIEUTENANT GOVERNOR RUTHERFORD: Now, I understand, at least the document that I have didn't include as many of the, if there is a second building. Are they literally here? Or are they on the --

SECRETARY GONTRUM: They are participating virtually, Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

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MR. MCEVOY: Lieutenant Governor?

LIEUTENANT GOVERNOR RUTHERFORD: Yes?

MR. MCEVOY: Yes, okay, you can hear me. For the record, Lieutenant Governor, Comptroller Franchot, Treasurer Kopp, I am Owen McEvoy, the Deputy Secretary for the Department of Housing and Community Development. Thank you very much for your question regarding the item. What isn't listed in the description is the scope of the project, which is Perkins 1, offers some contemporary amenities not found in the footprints where the buildings currently exist. These are very dilapidated old buildings, built I think in the 1940s, and because they are meeting newer and higher standards and replacing some very defective and obsolete elements, and they are also doing so in the COVID environment. The scope of work includes a nearly 16,000 square foot parking area, a large community center, it prices the construction contract near the apex of the construction cost spike and the infrastructure costs, basically stormwater management, were significant. And we allowed the higher than typical finishes because of the market rate units. And we extended the construction period to 18 months to accommodate the challenges that we've seen in the City and elsewhere working in the COVID environment. As everybody is very aware, there are supply

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chain shortages, there are significant construction cost increases over the past year and a half due to COVID, and that played into the price point of this particular project.

LIEUTENANT GOVERNOR RUTHERFORD: But I also understand -- oh, okay. I'm talking to myself. I also understand and it wasn't clear in the item, it's not mentioned in the item, but there is an additional building that's being built, which is a community center, is that correct?

MR. MCEVOY: That is correct, sir. That is correct, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Yes. That should have been included. I wouldn't have the, you know, probably the question. Because still even with upgraded, you know, finishes, you know, 103 units at \$300,000 in cost, \$366,000 per unit, is extremely high even if you were building, you know, high end, maybe not if you are selling it for a million dollars but if you are selling it for \$600,000, that's pretty high. So you know, a better explanation.

I did have another question and you probably aren't able to answer this and it goes to an issue that I think is hopefully the City is resolving. And that is my understanding is that the project when it was originally bid to the developers was for the Old Town Mall and the developers came back and said that it wouldn't

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work for them to be able to redevelop the Old Town Mall unless they had the additional property, which became Perkins Homes. Are you familiar with that happening? It's not your issue per se, it's a City issue.

MR. MCEVOY: Yes. We are not familiar with that issue. We are reaching out to our partners in the City to verify that claim, get a history on it, and we're happy to provide you with an update when we speak to our partners at the City of Baltimore.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. Okay. It will be interesting to hear from them. I've raised this type of issue with Mayor Scott as well as Council President Mosby, and I know this deal was done before their terms. But I've raised these issues before from a standpoint of fairness and just, you know, opportunities for developers. This one also includes, you possibly could have gotten a better bid if it was included in the beginning. And I should say the City could have gotten, not you, the City could have gotten a better bid. So it will be interesting to hear what the new administration says about this particular project and what they are doing to try to correct some of those challenges that have been in the past and hopefully in the past. So thank you.

I don't have any other questions.

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TREASURER KOPP: Governor, could I just note for the record that all of these Department of Housing and Community Development projects in their descriptions (indiscernible) and the public include significant progress in energy saving and environmental impact. And I just want to thank the department and the secretary for taking our concerns seriously, not only in moving in the right direction but in explaining and allowing people to see what they were doing. Of course, every good deed should lead to another good deed. And I would just hope that particularly when you are building new construction, you make a special effort to make it appropriate and sustainable for a future in which our climate is going to be very different and the impact of buildings on the climate and the impact of the climate change on our buildings and the people who live in them is going to be different permanently, probably. And I just appreciate the steps you are taking and the steps you are taking to let us know what you are doing, and hope you do even more. Thank you.

MR. EVANS: Thank you much. Thank you very much, Madam Treasurer.

TREASURER KOPP: Not every department is doing it, but thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Did you have a question?

COMPTROLLER FRANCHOT: Yeah, I just wanted to piggyback on the Items 11 through 14. I want to concur with the Treasurer, because she is a national leader in sustainability. I think that's essential. I also want to thank the Lieutenant Governor, because oftentimes we don't have people putting their hand up saying, this doesn't add up or doesn't figure. So thank God there was a community center, apparently --

LIEUTENANT GOVERNOR RUTHERFORD: -- the item --

COMPTROLLER FRANCHOT: -- situation. So I like these four items, 11 through 14. They are \$10 million cumulatively from the Rental Housing Works Program for the creation and preservation of 437 affordable rental housing units in Baltimore City, Montgomery, and Prince George's Counties. This, you know, I can't emphasize enough what a critical investment this is. We're making it for our very vulnerable neighbors, who are, you know, a percentage of the average median income in the State and can't afford the kind of rental units that a lot of people have. So we're doing these things in an affordable way. They are high

quality. They are income eligible individuals and families that take advantage of them. It also is a vehicle, frankly, for job creation and economic investment.

So I understand Secretary Holt is not here, but his able Deputy Secretary Mr. McEvoy is here. And if you could just take back to your team at DHCD and the dedicated work that they have, that carry on this progress. I don't know whether you are still there, Deputy Secretary.

MR. MCEVOY: I am, Comptroller. But I frankly didn't hear the question. You cut out there for a second. So could you repeat it, sir?

COMPTROLLER FRANCHOT: No, I didn't ask a question. I just

--

LIEUTENANT GOVERNOR RUTHERFORD: He's complimenting you.

COMPTROLLER FRANCHOT: -- yeah, I just said --

MR. MCEVOY: Wow.

COMPTROLLER FRANCHOT: -- that I said back to your team and congratulate them. But --

MR. MCEVOY: Absolutely. We will do that.

COMPTROLLER FRANCHOT: -- since you offered to answer a question, I will ask you a question on the payment of the federal rental relief funds. This is different. This is not affordable housing. This is direct payments. I believe the State has received \$401 million from the federal government and they are slated to receive another \$352 million in rental assistance funds to prevent evictions. So that's more than three-quarters of a billion dollars. And from news coverage and anecdotal accounts, we're simply not getting these rental assistance funds out the door quickly enough. I know that DHCD is working diligently to assist counties and local jurisdictions (indiscernible). I thank you for that. Is somebody drowning at the other end there? Are you guys okay? But I think we can all agree that potentially we've got a serious problem here. Because there are up to 2,000 evictions a month being filed in the court system, as we speak. The moratorium has been lifted. So we have three-quarters of a billion dollars somewhere between the department and the local jurisdictions. And I think we can all agree it's a serious problem that even one family gets evicted when we have that amount of money that can, in theory, tide them over.

So I guess I'm interested in your thoughts as to whether we are facing a serious eviction crisis, and at what point, I guess Mr. Deputy Secretary,

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does your agency step in and institute statewide policies on how these funds should be allocated and the timetables that they should be allocated on? And I'm, you know, I'll just reinforce my concern by saying we literally have hundreds of millions of dollars sitting in bank accounts and individuals and families across the State apparently are on the edge of homelessness, potentially. So the question is, how long are we going to take before we get good news from this situation? And Mr. Deputy Secretary, thank you for asking me what the question is. The question is, how can we straighten this out? Because not one family should be evicted while this money is sitting in our bank accounts, if we can avoid it. Because everybody is, you know, re-employable, etcetera. But this is a, I hope it's not a crisis but I believe that it could be. And let me ask some specific questions.

Are people, are we making payments to landlords or to tenants?

MR. MCEVOY: The answer to that question is both.

COMPTROLLER FRANCHOT: Well, how much money have we given to landlords? Estimate?

MR. MCEVOY: Estimate? I'd have to get back to you on that in terms of the split between landlords and tenants. We have set up basically a dual track program. We have a State based program that helps make direct rental

payments to landlords and State financed properties. The amount of money that we have spent in those payments, this is a very rough estimate, sir, but probably around \$20 million or \$30 million. And then the remainder would be flowing through the counties, through their locally set up rental assistance programs.

Currently as of July, and we are just now tabulating the August numbers, we have approximately \$100 million that has been disbursed and in process. We expect those numbers to get significantly better over the next few months as these counties along with our program ramp up reaching out to landlords, tenants, through a very aggressive marketing and outreach campaign. And we, you know, rest assured that our department is taking this very, very seriously.

Working with the General Assembly, we convened a work group earlier in the year to come to a consensus as to how this money should be allocated. The feeling was that a bulk of it should go through the counties, who had already set up rental assistance programs in the early stages of the pandemic using different sources. And part of the, not miscommunication, but I think problem with some of the statements regarding rental assistance is an understanding that before the emergency rental assistance program was even set up, that was through a piece of legislation in December, the stimulus in the final stages of the Trump

administration, in the State of Maryland more \$113 million in State, local, and federal funds were allocated for rental assistance statewide to approximately 30,000 renters. That's prior to the money that we are spending now. And there have been reports about, you know, different fund sources and some of the confusion caused at the local level, because frankly, and it's a compliment to a lot of the counties in this State, they saw the need for rental assistance programs, they scrambled to find money to fill them, and now this new money has a different set of rules that the local jurisdictions are working to catch up on. But we're encouraging them every day to spend their allocations as quickly as possible. We don't want one person to be evicted in this crisis with these amount of resources that are available. And it's a full court press at all levels of our department and through our local partners to get this money out the door within the time period that it needs to get out the door by.

COMPTROLLER FRANCHOT: Okay, that's a nice answer. But could you please tell me how many eviction cases are pending in the court system of Maryland right now?

MR. MCEVOY: That is court data. I can give you a general estimate, if that's good enough?

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COMPTROLLER FRANCHOT: Sure --

MR. MCEVOY: So the majority of evictions result from failure to pay rent cases. Pre-pandemic, just to provide some perspective, those averaged about 60,000 cases per month. Right now, as some of the protections have been lifted, the latest estimate we've seen is somewhere around 30,000 a month. But then the actual eviction rate is significantly lower. It's somewhere around 1,000-ish. Again, you would have to speak to the court system and we can work with your office to get the most up to date data from the District Courts. But we find that data encouraging, but you know, we're trying to put it in perspective and we understand that this is a very nervous time for a lot of Marylanders and we're working every day to ensure that nobody loses their home through an eviction during this crisis.

COMPTROLLER FRANCHOT: Well, thank you for that. We did call the court system this morning.

MR. MCEVOY: Okay.

COMPTROLLER FRANCHOT: And found out information that it's between 1,000 and 2,000 evictions are being filed monthly. So --

MR. MCEVOY: Okay.

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COMPTROLLER FRANCHOT: -- if you could find out the exact number that are pending --

MR. MCEVOY: Sure.

COMPTROLLER FRANCHOT: -- and get back to us as to why you are not intervening right now with these funds. I mentioned the \$401 million that has come to the State, \$143 million went to the eight big counties. \$258 million you kept in your department. Why would you permit any evictions given that amount of money? And you know, you can comment on that. But also, when you give money to landlords, do you have a signed contract that they are not going to evict the very people that you are compensating them for?

MR. MCEVOY: We absolutely do. We have very stringent policies regarding any county that has accepted money from us has to include in their distribution to any landlord that there is a period that they cannot evict. I can get the exact requirements to your office within the next week or so.

COMPTROLLER FRANCHOT: And when are you expecting the additional \$352 million in rental assistance funds to come to the State from the federal government?

MR. MCEVOY: So that's to the entire State. The local eight jurisdictions will take an allocation. We estimate our direct allocation to the State of Maryland through our department to be about \$204 million. I would have to check with our Division of Finance to see what steps we have taken to receive that money.

We are meeting with the work group that we convened earlier in the year to take steps to decide how to spend that second tranche of money. We actually meet next week with the work group. And we are full stop, full court press, working every day to ensure that this money gets into the hands of the people that need it the most.

TREASURER KOPP: Is that a public meeting?

COMPTROLLER FRANCHOT: Excuse me, the Treasurer had a --

TREASURER KOPP: Is that a public meeting next week?

MR. MCEVOY: I would have to check with the Secretary's office. It's a work group. I don't exactly know what the open meetings rules are with a work group.

TREASURER KOPP: I'm not asking what the open meetings rules are. I'm asking whether your meeting is going to be an open meeting.

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MR. MCEVOY: I can check with the Secretary's Office and get back to you. Obviously, we would welcome public input.

LIEUTENANT GOVERNOR RUTHERFORD: Many of these issues came up at MACo from a couple of the large jurisdictions, including County Executives Elrich and Pittman. They were concerned with handling the red tape that the federal government has put on with regard to this and it was slowing, they were saying it was slowing down their process. I know immediately after that, the Governor asked Secretary Holt to meet with the, you know, the county executives who were expressing this concern and challenge that they were facing to kind of walk through the process with them to hopefully help them be able to meet those requirements. It was both the red tape, but also just their capacity in their departments to be able to do all the, cross all the Ts and dot all the Is in getting the money out. And they were saying that was a lot of why it was being delayed at the county levels.

COMPTROLLER FRANCHOT: Yeah, no, I appreciate that. I appreciate that and I'm not trying to make anybody look bad. I'm just suggesting that we've got up to 2,000 eviction notices a month, and those have been building up since the COVID experience, I assume. We have a lot of evictions pending.

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And you know, some of these landlords, I spoke to a landlord the other day, he received a \$5 million check from you guys. Does that come with a contract that in fact the evictions, until people are fully employed again, cease? Or what is it that you are requiring when you give that kind of a check to an obviously large landlord?

MR. MCEVOY: There is a time period that landlords are not permitted to enter into any sort of eviction proceedings. Off the top of my head, it's either 90 days or six months. I'll have to check with our program people and I can get back to you and your office on that.

COMPTROLLER FRANCHOT: Okay. Well, I'm just suggesting that you and Secretary Holt have perhaps you need to do a little bit more emergency work to make sure we're covered as far as the taxpayer dollars that are being given directly to landlords, that there is some agreement that we don't pay them and then they start evicting people. And I'm not doubting your word, Deputy Secretary. I'm just saying please if you could get on top of this situation. This is not county money that I'm asking about. I'm asking about your money that you control and you are giving in significant amounts to big landlords, but also I take it to little landlords. And I would just like to see some data that it will be reassuring that we're not going to have some terrible instances of homelessness, please. Thank you. I'm not --

TREASURER KOPP: Comptroller --

COMPTROLLER FRANCHOT: -- yeah, thank you.

TREASURER KOPP: -- this obviously is an issue of great concern to us, to the Legislature, to the people of the State. I wonder if it would be helpful if the Secretary could prepare a brief presentation for us on exactly what is happening with the evictions, with the federal money, with the State money, with the local, the whole, the picture of what is happening in Maryland.

COMPTROLLER FRANCHOT: Great idea. I think we should invite the judiciary. Because the idea that we're processing evictions --

TREASURER KOPP: Yes --

COMPTROLLER FRANCHOT: -- at the same time that we're paying money out, and not a small amount, I just think we need to get --

LIEUTENANT GOVERNOR RUTHERFORD: -- separation of power --

TREASURER KOPP: -- we can start with the Secretary, but it's so cheap for a landlord to prosecute, to take it to court. The fees are so low in Maryland to take a case that it's a matter of --

LIEUTENANT GOVERNOR RUTHERFORD: Okay --

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COMPTROLLER FRANCHOT: Not one family should be evicted while we've got all this money as a relief. And I just, I just urge everybody, Deputy Secretary, you asked me for some questions, there are some questions. I'm sorry if I ruffled your feathers. But if you could give Secretary Holt our, at least the Treasurer and I, and I assume the Lieutenant Governor, and also and the Governor obviously from his actions down at MACo, you've got to do something. Please.

MR. MCEVOY: Well, we are more than happy to put together a presentation. I will speak to the Secretary right after this meeting. You know, we are very confident in the plan that we've set forth. We have the metrics that you all have requested. We just need to put it all together and we're happy to present when it is convenient for the Board.

COMPTROLLER FRANCHOT: Thank you. Thank you, Lieutenant Governor.

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

COMPTROLLER FRANCHOT: None. Move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Second?

TREASURER KOPP: Second.

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LIEUTENANT GOVERNOR RUTHERFORD: Okay we all -- all right. Department of Natural Resources?

MS. HADDAWAY-RICCIO: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, Jeannie Haddaway-Riccio, Secretary of the Maryland Department of Natural Resources. We have ten items on our Real Property Agenda today. We are withdrawing Item 4A-1. And with that, I'm happy to answer any questions you may have.

LIEUTENANT GOVERNOR RUTHERFORD: Before we go through, you know, the Agenda, of course it's no secret that I enjoy going to the State Parks. I've hit 50 of the 75. I'm not sure what my next one is. I think we're going down somewhere on the Eastern Shore in the next couple of weeks. So it's great to be able to explore the parks and explore the State, from the mountains in the west to the waterways on the Eastern Shore. And you know, there are so many activities that one can take in, from kayaking and canoeing to snowshoeing, or just walking through our parks. The department has a number of great world class park facilities, but of course they need to be maintained. That's been a challenge over many, many years. And I know the Legislature, and I met with Delegate Luedtke not too long ago, is exploring solutions to some of those challenges. Many of them

are statutory limitations on how DNR can fund the maintenance of their facilities. But one thing that we can do as an agency, or for the agency as an executive department, is increasing their delegated authority on construction. And so as of today, I am directing the Department of General Services and the Office of State Procurement to increase DNR's delegation for construction procurement from \$50,000 to \$100,000. Now, that may not seem like a lot. But it can streamline some of the maintenance projects that they have in the parks to be able to get that done themselves and to be done fairly efficiently. So with that, continue with your --

TREASURER KOPP: Governor, could I assume that somehow there will be some reporting back by DNR to the Board or to DGS or someplace where we can keep track of what -- I couldn't agree more --

MS. HADDAWAY-RICCIO: Yes.

TREASURER KOPP: -- having authority.

MS. HADDAWAY-RICCIO: Yes. Most definitely. And we have been working with DGS and the Office of State Procurement on this issue. We were one of the first departments to have our staff go through the procurement training, which we were very happy to have that professional development

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opportunity for our staff. So we'll continue to work with OSP and of course the Board on all of those items.

TREASURER KOPP: Great.

COMPTROLLER FRANCHOT: Yes, well I'm delighted to be joined by the Treasurer and the Lieutenant Governor in advocating maintenance. Because for 20 years I served on the Appropriations Committee and whenever I asked about the maintenance fund it was always described to me as a sponge. I remember initially I said, a sponge? What does that mean? They say, we put the money in the maintenance fund because come the end of session we need to grab it back and use it for something else. So I don't know whether the distinguished colleague of mine from the Appropriations Committee ever experienced the term?

TREASURER KOPP: -- it was actually --

COMPTROLLER FRANCHOT: -- but --

TREASURER KOPP: -- the agency that called it a sponge, or former Delegate Maloney.

COMPTROLLER FRANCHOT: Yeah, well somebody did. But I applaud, I mean, Lieutenant Governor, I really appreciate your attention, and Madam Treasurer also, if we just don't take care of what we have. And you know,

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thank you, Madam Secretary, for making some small progress. I had a quick question on 1A. Is this, there's a bit of history with this item with Beverly Beach. I just wanted to confirm that the issues that came up a few years ago surrounding public access had been addressed?

MS. HADDAWAY-RICCIO: They have. In fact, this item allows for continuing enhanced access to the property, including realigning the roads and providing parking within the park, which will make it safer for pedestrians. They are also going to use this funding to add some additional amenities. So this continues to build on some of the previous items that you have seen to create better access at this facility.

COMPTROLLER FRANCHOT: Excellent. Thank you.

TREASURER KOPP: Could I just ask one question of the Secretary?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: This actually goes back to the prior Agenda. I thought it was on yours. But Item 17, which is one of your projects, the Resiliency Through Restoration Initiative?

MS. HADDAWAY-RICCIO: Yes.

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TREASURER KOPP: In the remarks on it -- I have no problem, I support the item. The Resiliency Through Restoration Initiative, formerly the Coastal Resiliency Program, and then it goes on to describe it. But the adjective coastal keeps popping up throughout the description, and I just, I'd like you to look at that description and see whether it's completely accurate or whether there should be some indication that we're going beyond immediately coastal concerns. I mean, we include the coastal concerns but it's broader than that. And that does not come through in this description, really. Not the description of the item, the description of the --

MS. HADDAWAY-RICCIO: Of the program? Sure. Yes. And thank you for recognizing that. We do want to make sure that the public understands that the program is available statewide. In fact, the Lieutenant Governor and I had the pleasure of touring the West River United Methodist Church site not too long ago, which is a great example of these projects. And this particular project is in Baltimore County. But there is quite a bit of flooding, stormwater concerns --

TREASURER KOPP: Exactly.

LIEUTENANT GOVERNOR RUTHERFORD: Mm-hmm.

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MS. HADDAWAY-RICCIO: -- that are ever increasing in this neighborhood. So these nature based solutions that will be provided through the design and construction will help them to address that.

TREASURER KOPP: And I just think people should know.

MS. HADDAWAY-RICCIO: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: That's a good point.

MS. HADDAWAY-RICCIO: But we can work to update that language.

TREASURER KOPP: Yes --

LIEUTENANT GOVERNOR RUTHERFORD: But yes, and Madam Treasurer, you should try to get out to one of those areas where they have done that renovation. Havre de Grace is very, you know, they have done that at Havre de Grace as well. I mean, also down at Assateague.

MS. HADDAWAY-RICCIO: Mm-hmm.

LIEUTENANT GOVERNOR RUTHERFORD: But, you know, you mentioned the United Methodist facility --

MS. HADDAWAY-RICCIO: Yes, we would be happy to host you at any time.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: I just want to clarify on 4A, you are really kind of modifying, you are taking out the first project is being deferred. But project numbers two and three are still on the Agenda, correct?

MS. HADDAWAY-RICCIO: Yes, that's correct. So we're withdrawing Subitem 1. Item 2 and Item 3 would remain for your approval.

LIEUTENANT GOVERNOR RUTHERFORD: Very good. I just want to commend the 9A, the project that is taking place there. That's a property being purchased in Howard County. The Howard County land is extensive. But I appreciate what is being done adjacent to Patapsco Valley State Park, which is a wonderful park, which we did First Day Hike. Any other questions?

COMPTROLLER FRANCHOT: No, move approval.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. All in favor, thank you.

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MS. HADDAWAY-RICCIO: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: University System?

MR. HICKEY: Good morning, Governor, Madam Treasurer, Mr. Comptroller. Tom Hickey, representing University System of Maryland. We have four items on our Agenda for your consideration and are happy to answer any questions.

LIEUTENANT GOVERNOR RUTHERFORD: I don't --

COMPTROLLER FRANCHOT: I don't either. Move approval.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: Hey, you don't want to ask him any questions?

COMPTROLLER FRANCHOT: No, I don't want him to ask me any questions, no.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

MR. HICKEY: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you very much. Department of Transportation?

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MR. SLATER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, my name is Greg Slater, Secretary of the Maryland Department of Transportation. The Maryland Department of Transportation has 22 items for your consideration today. I do want to highlight three items on the Agenda today for the Board, MAA Items 1 and 3 [4], and then the MDOT Item 6.

First on the MAA items, they are associated with the Southwest Airlines aircraft maintenance hangar. In 2019, BWI Thurgood Marshall produced a total economic impact of \$9.3 billion for the State. Today is actually the 28th anniversary of the first Southwest Airlines flight out of BWI Marshall Airport. I recently had a discussion with one of my predecessors Jim Lighthizer on how that all kind of came to fruition. For over 25 years, Southwest Airlines has grown to become a dominant carrier at BWI Marshall, with over 65 percent presence in the Airport. They have 210 departures a day into 64 cities. And so the first item is a site development. This is going to enable a maintenance hangar facility project that MAA will need to provide the infrastructure improvements in preparation for the site. It's located in the northwest quadrant of the airfield, which is currently unused. It's being presented as the Airline Maintenance Facility Site Development and Taxiway F Relocation.

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The second item is a ground lease. So it's 27 acres of land, almost 1.1 million square feet, that will be leased to Southwest Airlines to construct this maintenance facility. Southwest Airlines is now going to invest about \$75 million to finance, design, construct, and operate a 128,000 square foot facility to do maintenance on their aircraft today. Over the course of this, we are going to receive about \$66 million in revenue, but it also will commit Southwest to a long term partnership with the State of Maryland where they expect to grow both direct and indirect jobs as part of that partnership. So it has really been a wonderful partnership.

LIEUTENANT GOVERNOR RUTHERFORD: Can I interrupt just for a --

MR. SLATER: Absolutely.

LIEUTENANT GOVERNOR RUTHERFORD: Yes, this is a particularly exciting project. It's one of the few maintenance, I believe they have only two current maintenance facilities in the country. This would be the third. And as I understand, it's going to add over time about 450, you know, high paid airplane mechanic, jet mechanic jobs to the area. Probably about six years, maybe seven years ago, Ricky Smith and I went down to Southwest in Austin and they

were talking about it and I was excited about it, but they said, oh, we can't talk about it at this point. There were still negotiations to take place with Southwest. Even though they sounded like they were definitely going to do this in Maryland, they still were kind of, well, they haven't made a final decision yet. And then they had to go through the NEPA process once the decision was made. But it is very exciting in terms of bringing these additional jobs to the area. So it's a very big story for Maryland that they are making that investment here.

MR. SLATER: It really is. And that partnership today, because of Southwest, we have a lot of leisure travel that comes in and out of BWI that has put us on track to really recover much faster than some of the other surrounding airports.

LIEUTENANT GOVERNOR RUTHERFORD: Business travel is not picking up quite as fast because of this, because of technology.

MR. SLATER: Because of the technology, sir, yes. And then the other items I want to highlight is associated with the Purple Line. That's MDOT 6-GM. So the Purple Line is currently progressing under this interim direct control of the State. We are continuing to manage over 150 contracts on the Purple Line. Currently, we are working to relocate miles of overhead electric and underground

utilities for water, gas, sewer, storm drain in Prince George's and Montgomery Counties. We are working today on the construction of the Sleaford Road underpass, completion of the Plymouth Tunnel, the east portal there, reconstruction of the College Park bus loop at the WMATA green line station, and installing new traffic barriers to improve safety along University Boulevard. And we are working on the Glenwood storage yard. I am happy to report that the car shells for 26 vehicles in the base have already all been fabricated and we now have 12 of the vehicles are fully assembled and undergoing testing up in New York running those Purple Line cars.

TREASURER KOPP: What are the total number of, what do you expect, is that --

MR. SLATER: Twenty-six vehicles in total for the Purple Line.

TREASURER KOPP: -- vehicles for the Purple Line.

MR. SLATER: All the shells are done. Almost half of the entire vehicles are manufactured. So things are moving well. Our concessionaire partner, PLTP, is continuing to kind of work with us on the resolicitation. Bids are going to be received at the end of September and we anticipate returning to the Board at

the end of the year with a revised P3 agreement to reflect that new design build contractor with an updated cost and schedule and all of the associated details.

Before the Board today is a modification to the settlement agreement. The P3 agreement and the settlement agreement modification really serve two purposes. One, to reflect the extended resolicitation period to bidders based on continued due diligence, and two, to pay off certain debt already accrued on the project.

First, the resolicitation of the design build contractor selection timeline. The ongoing resolicitation has involved multiple rounds of one-on-ones with the interested contractors and the pre-qualified bidders and we have had the opportunity to hear from them firsthand. We have issued a few addenda and actually responded to about 550 questions that they have. So they have had generous access to the project site.

But during the resolicitation, the proposer teams requested across the board just some additional time to look at the remaining work, how it ties in with the existing work, dig into the designs, those types of things. And we have granted them that time in the middle of the process because it was very clear to us

in what they communicated to us that more time in that due diligence will get us a better value on the bid at the end. And it was very clearly tied to that.

But under the existing settlement agreement, the P3 agreement terminates on November 17th. So this modification will update the P3 agreement and the settlement agreement to reconcile that 100-day kind of extension we gave them for that due diligence to get away from some of the trigger dates. So all parties to the settlement agreement agree that extending the overall resolicitation period is going to allow the State to get that best value and secure the best contractor possible.

The second item is associated with funding of future payments, advance funding of some future payments on the Purple Line. As the project and the market conditions have evolved since the original settlement agreement, MDOT has identified actions to maintain the current optimal selection process. Project activities to date include approximately \$1 billion of construction that is already completed. In 2016, PLTP issued about \$313 million in private activity bonds to partially fund the construction. The construction was funded through bonding, equity, and State and federal funding. In both the original bond documents and the settlement agreement, the bond holders themselves have had certain rights and approvals and protections involving the project. You know, so what we are

proposing today is to pay off those bonds to make sure that everyone is aligned in the project success and restructuring of the best path forward. So paying off those existing bonds essentially removes the bondholders from the design build contractor selection process. You know, today the banks have final sign off on the builder that we select. And so our interest is in the best long term success of the project and that doesn't always align with the bondholders. The exact amount is going to be dependent on the prevailing interest rates at the time of the payment. But it is, otherwise would have been paid to PLTP through these future availability payments. These are not additional costs, it just represents advance payment for work already completed.

There are significant benefits to the project on this. It helps us mitigate the risk by separating the work and the financing activities completed today versus the ones that are moving forward. But it also saves the State more than \$100 million in interest over the 30-year concession. So both of these actions were really not available to us nine months ago with the financial situation that we're in. But we've had a pretty significant recovery and in the time that the settlement agreement was signed, it wasn't available for us. But our six-year

revenue forecast is (indiscernible) and we are back before the Board to really do that in the best interests of the project.

This modification is going to allow us to extend that replacement period to February 17, 2022 and modify those provisions in the P3 agreement and the advance payment of the bonding and certain debt. But as noted previously, this modification doesn't increase the contract authority because the payment from PLTP would advance fund a portion of the P3 agreement. Together they will remove some unnecessary restrictions we have in our process.

So with that, I thank you for your consideration and myself and my team are here to answer any questions that you may have.

COMPTROLLER FRANCHOT: Yes, well thank you. It was an excellent presentation. And I understand now the forward payment of \$375 million to facilitate the restructuring of the project financing associated with the selection of a new design build contractor made perfect sense to me. I guess the question is are we drawing down the Transportation Fund prematurely and, you know, denying some other projects the possibility of moving forward?

MR. SLATER: Sure. Excellent question. So, you know, the short answer is yes, these dollars do come from the Trust Fund. You know, they were

dollars that weren't available to us nine months ago, but are now as we've recovered in new car auto sales and revenue. But we felt like we really wanted to make sure that we make the project a success. This gives us a really good path up.

LIEUTENANT GOVERNOR RUTHERFORD: I just bought a new car, so --

(Laughter.)

LIEUTENANT GOVERNOR RUTHERFORD: -- why the price was so high.

MR. SLATER: And it really does, we want to make sure that we have a successful Purple Line running and that all parties are aligned in their interests in the success. So you know, the short answer is yes, there is an impact to the Trust Fund. But long term, this is money that the Trust Fund would have paid over the course of the 30-year concession.

TREASURER KOPP: But just to follow up the Comptroller, are there specific alternative projects that will not be done or will be delayed because of it?

MR. SLATER: So there were no projects cut. Essentially, as we were recovering we had this money available to us and options to fund these types

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of efforts. So we didn't actually have to delay or cut projects. Essentially, the projects were all kind of delayed and impacted based on COVID, but then the recovery came.

COMPTROLLER FRANCHOT: Well, aren't we expecting money from the federal government down the road?

MR. SLATER: We are. I'm very excited about an infrastructure bill that seems to be progressing. And we have a lot of, to lean back on the previous conversation, we have a lot of backlog of maintenance that I would love to invest in.

COMPTROLLER FRANCHOT: Mr. Secretary, I don't know if Director Smith happens to be with us, but I wonder if he could bring us up to date on, not the maintenance facility, but, which is a great development. But the noise pollution issue caused by the FAA's 2016 flight --

TREASURER KOPP: Before he does, could I just, one thing about Item 6.

COMPTROLLER FRANCHOT: Oh yes.

TREASURER KOPP: And that is, it sort of follows with what I was saying to the Secretary about her item description. Working with our staff, you all

came up with a very clear presentation, a helpful one, and a convincing one of why this is in fact a good project. But you couldn't tell that from the item description. So just, I mean, we shouldn't have to --

MR. SLATER: Point taken.

TREASURER KOPP: -- pulling teeth.

MR. SLATER: Point taken. Thank you.

TREASURER KOPP: Thank you.

MR. SLATER: Executive Director Smith, are you on the line?

MR. SMITH: I am here. Can you hear me?

MR. SLATER: We can, Ricky. Thank you.

MR. SMITH: Good morning, Governor, Comptroller, Madam Treasurer. I did hear the Comptroller suggest that I give an update on something. I did not hear, he muted out, I didn't hear what he wants me to update.

COMPTROLLER FRANCHOT: Yeah, it's the old issue of noise pollution caused by the FAA's 2016 flight path alterations.

MR. SMITH: Sure.

COMPTROLLER FRANCHOT: And I know it's Howard County but other counties that are, they were very concerned. And I'm just wondering if there is any update.

MR. SMITH: Sure. Comptroller, thanks for the question. Again, I'm Ricky Smith, Executive Director of the Maryland Aviation Administration for the record. And so we have made great progress with respect to the noise mitigation efforts. As you alluded to, there were a number of lawsuits, both the State of Maryland and Howard County. These lawsuits, all of those suits have been settled. In the case of Howard County, both of their lawsuits were, the court ruled against those lawsuits. In one case they dismissed the lawsuit because it was outside the statute of limitations and on its merits. In the case of the State, we filed an administrative petition through the Attorney General's Office. The judge ruled that because of the statute of limitations, that he would not rule in our favor. However, the FAA decided that they would work with us to expedite the environmental assessment that is enabling us to do the aircraft maintenance facility, for example, that is on the Board's Agenda.

Now, we've also worked very closely with the Roundtable, which is a group formed to work with the Airport, as well as Southwest Airlines to develop

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a proposal to the FAA to take corrective actions on the flight path that came out of their Next Gen changes. Last year, we worked with the Roundtable and their technical committee to prepare those proposed corrective actions. They were forwarded to the FAA. The FAA is now going through what they call their PBN process, which is a very formal, technical process for evaluating flight path changes. We are working with them and so we expect that they will make a decision on the recommendations from the State, in essence, in the coming months, and then they will go through an environmental assessment process to get those flight path changes approved formally by the (indiscernible). So that's where we are now.

We have also done a lot of work to upgrade our noise monitoring system. This is how we get accurate information on the level of noise that the community is experiencing. We now have state of the art noise monitoring systems. We were one of the first airports in the country to issue noise monitoring systems so we're very excited to have those upgraded. And we're also working through the Secretary's Office, the Secretary's Office has funded a study in response to a legislative action with the University of Maryland Baltimore County to study the health impacts of aircraft noise. And so that study is still underway. The Airport

itself is not actively involved with that study. That is being coordinated through the Secretary's Office. And so Comptroller, if you have, unless you have other questions, those have been I guess the most significant developments over the last year or so.

COMPTROLLER FRANCHOT: Ricky, thank you. And congratulations again on the Southwest maintenance facility. I happened to take a flight on Southwest recently. The Airport was basically empty because of the situation, I guess. But there wasn't an empty seat on the plane.

MR. SMITH: Yes.

COMPTROLLER FRANCHOT: And every employee of Southwest Airlines, I swear to God, maybe it was just the time of day, had a smile on their face. They were welcoming. They were, you know, just unbelievably good customer service. So it's a great airline. Not to promote it, but thank you for working with them to make Baltimore something special in the country as far as a Southwest hub. Good work.

MR. SMITH: Well, thank you, sir. It's a joy working with Southwest Airlines. They are annually recognized as one of the best employers in the country, so it's not a surprise to hear your experience with their employees.

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COMPTROLLER FRANCHOT: Although I hear Secretary, former Secretary Lighthizer is taking all the credit.

MR. SMITH: Well, there's plenty of credit to go around and anyone who had anything to do with this project deserves credit and we're just happy to have the support of the Board of Public Works today, and hopefully we'll get your approval.

COMPTROLLER FRANCHOT: Excellent. Thank you. Thank you, Governor.

LIEUTENANT GOVERNOR RUTHERFORD: Thank you, Ricky. I just want to point out three items that I'm happy to see. The Motor Vehicle Administration in 10-C is utilizing the Small Business Reserve Program. Thank you. I think Special Secretary Rhee is probably on the line. Also, State Highway has two items where they used Small Business Reserves. One of them is a \$1.7 million project. So I just want to thank the department for continuing their efforts to utilize small businesses and the program.

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

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LIEUTENANT GOVERNOR RUTHERFORD: Thank you, Mr. Secretary. The Department of General Services.

MR. REICHART: Good morning, Governor, Madam Treasurer, Mr. Comptroller. For the record, I'm Nelson Reichart, the Deputy Secretary of the Department of General Services. Today we are presenting 63 items on our Agenda. DGS is withdrawing Item 19-CGL, 44-S-OPT-MOD, and 51-T [51-IT] Subitem 5.1 at this time. The Agenda features \$96,474,000 in capital grants and loans, including \$77,569,000 to colleges and \$5.7 million to the Baltimore Zoo. DGS is also awarding contracts to three Small Business Enterprises, two Minority Business Enterprises, and one preferred provider. We have representatives available to answer any questions that you have about our Agenda.

LIEUTENANT GOVERNOR RUTHERFORD: I guess you have 32 CGL items. That's a lot. I guess it's down to 31 with 19 being pulled off. 19 looked to be a challenge, and I guess I just would ask that, you know, in the future, and I don't know if there was something that DGS could have done to, you know, take a closer look at this one and maybe even contact the legislator who put through the bond bill for it, that it just really wasn't an appropriate, it looked like not an appropriate use of the money.

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MR. REICHART: Okay.

LIEUTENANT GOVERNOR RUTHERFORD: But you know, it was great to see the CGLs ranging from the Boys Club, Hyattsville Police Headquarters, you mentioned the Zoo, a number of athletic fields, the Days End Horse Farm Rescue. I don't know if anyone has been out there. It's a wonderful program that they are doing. I believe they are moving to the old site of the volunteer fire department, they are moving there where they will have more space. Bon Secours --

COMPTROLLER FRANCHOT: Bon Secours, mais oui, très bien, très bien.

LIEUTENANT GOVERNOR RUTHERFORD: -- they are getting funding. The Hippodrome, which is back up and operational, I believe they are scheduled to bring back live performances there. NorthBay Education, something that is wonderful. You mentioned the community colleges from Western Maryland to the Eastern Shore. And then I wanted to point out Item 26-CGL, which is over at Montgomery College. The Katherine and Isaiah Leggett Math and Science Building. It's a very wonderful legacy item. I was with Katherine Leggett this weekend I mentioned at the 9/11 memorial in Baltimore. She was very instrumental

in the creation of that memorial there. I actually went up to New York to select the girder from the old World Trade Center to be placed there with the designers. I know that they are honored. And like I said, the horse rescue, a wonderful program and project. Any questions on General Services?

COMPTROLLER FRANCHOT: Yes. I have one on Item 50. This is a rare bird that I have not seen before in my 14 years, but it's a request from the Department of Information Technology to modify a contract with Deloitte Consulting to increase the contract authority through the remainder of the term by \$8.7 million. I don't have any problem with that. But then, there is something added on that I've never seen before, which is a dramatic decrease in Deloitte's limitation of liability. Services provided under this contract relate to Amazon Web Services for MD THINK.

So according to my notes, when the contract was originally awarded in 2017, the limitation of liability was tied to the not to exceed contract total, which at that time was \$50 million. As of today, excluding the proposed modification before us, the total contract value is \$119 million. And if I'm understanding this correctly, that would also be Deloitte's current limitation of liability on this

contract. So the question is, you know, I don't mind the additional funding, is it Deputy Secretary or Secretary Reichart?

LIEUTENANT GOVERNOR RUTHERFORD: Deputy.

MR. REICHART: Deputy Secretary --

LIEUTENANT GOVERNOR RUTHERFORD: It doesn't say one or the other --

COMPTROLLER FRANCHOT: -- see that far. You know, you have a lot of experience here, Nelson. So if you could please just tell me exactly what the problem is with the -- or how does the State of Maryland benefit from giving back this liability?

MR. REICHART: Liability? I'm going to ask Suresh Nair, the Director for Cloud Infrastructure and Security, to address the problem, and Greg James may also be on the line.

LIEUTENANT GOVERNOR RUTHERFORD: Well let me just say, the unlimited liability has been a major issue in terms of competition, particularly in the IT realm. One of the reasons that we do go through Deloitte to get the web services is because Amazon won't do business directly with us because of our terms and conditions. So we have to go through essentially a middle man to

get those Amazon services. But it has been a challenge in many of our contracts because, you know, and in this case, and I think the DoIT people probably could talk about it just as well as the DHR people, or DHS now.

This is a very different situation than like the example that is often given by the Assistant Attorney General is they talk about the healthcare exchange. You know, as you know, the healthcare exchange just wasn't done well. It was never brought to the Board of Public Works. It was excluded from there. You know, it was a bad feel to begin with. This is a situation where actually the State is developing this, developing the project. And so it's reducing the liability from a standpoint that what they are actually involved in and versus the entire system of, you know, MD THINK. But I'll let the experts go and talk further about it. But this has been an issue. We have raised it in all of the procurement task forces that I've been involved in, since I was in DGS. But now with the IT companies, many of them are refusing to do business with us because of that aspect.

COMPTROLLER FRANCHOT: I can see that, Lieutenant Governor. But this is an existing contract that Deloitte entered into with us, and all of a sudden we're taking on as a State roughly \$77 million in new potential liability. And I just don't think that it's correct to do that, given the original contract on

which this is based. I can rationally understand what you are talking about as far as other contracts that are given out. But right here, I just think the State is giving something up unnecessarily.

LIEUTENANT GOVERNOR RUTHERFORD: So did you have some folks on the line there, Nelson?

MR. REICHART: Yes. Suresh Nair, Director.

MR. JAMES: Good morning. This is Greg James, Deputy Secretary for Operations at the Maryland Department of Human Services. And respectfully, if I can defer, I believe Secretary Leahy from the Department of Information Technology is on line and available and prepared to speak on this item, which is a DoIT contract that DHS avails itself of with our close partnership.

MR. LEAHY: Certainly. Good morning, Governor, Madam Treasurer, Mr. Comptroller. I certainly understand the gravity of your question and there are two material facts that I think are important. First is that a large amount of this contract funded was for the actual AWS services which have been consumed. So once they are consumed, that liability is gone. We're not holding them accountable for things we have already used. So then the remaining funds under the contract, as you said, we initially estimated the contract costs at \$50

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million. As you know, that was an estimate. We have discussed that through many meetings about MD THINK's additional funding over the years. And the Deloitte services that had been provided as part of their professional services under this contract were effectively discrete work orders, if you will. Many of those work orders are in operation, have been incorporated into the MD THINK platform and various applications that are already up and running. So Deloitte originally approached the State asking for the liability to be lowered to an amount that would basically track the current outstanding work that they were doing this year, which would have been about \$30 million. We found that unacceptable for some of the reasons you have stated, that there are potentially other aspects of how the work being done today will integrate with the things that are already operational, but we did think at the same time that it was commercially reasonable to establish the limitations of liability in alignment with a multiple of that amount. And since the \$50 million amount was in place, and the estimates of additional work that are yet to be done by Deloitte comes to less than \$30 million for the rest of the contract, we found that acceptable.

You know, from the standpoint of what does the State obtain for this because we are effectively lessening the liability under the entire contract, it's our

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belief that this doesn't actually reduce the liability for any work that is still in process, because they are acting as advisors. As the Lieutenant Governor said, the State has operated as the integrator here, not Deloitte, so they are advising us when we ask questions about various aspects of how we look forward to building these systems to work together.

And then secondly, to your point and to the Lieutenant Governor's point, you know we do take the concerns raised by vendors very seriously. You, you know, yourself have said many times that we want to hold people accountable for the work they do, but at the same time we want to be reasonable business partners. This practice is fairly common in commercial contracts and, you know, in my prior practice utilized this many times. So we believe that we are not putting the State in any risk of additional liability by keeping this term at the \$50 million limitation mark. And we think in terms of what it gives the State, is it adds to our good will of demonstrating to these vendors that we are a reasonable partner and that we are attempting to do business with them in a way that benefits both them in doing the work for us and our citizens in putting these systems together.

COMPTROLLER FRANCHOT: Well, I'm a reasonable partner.

But --

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MR. LEAHY: I know you are, sir.

COMPTROLLER FRANCHOT: --but what bad things would happen if we approved the amount, \$8.7 million, but did not approve the new liability cap?

MR. LEAHY: Well I don't know that anything bad would happen, other than we took this on saying that we thought the \$50 million cap that we suggested was reasonable and so then the only issue is that we are going to look like we at DoIT either don't know what we're talking about or are out of synch with what we believe to be the State's desire to, as you said, be a reasonable partner.

COMPTROLLER FRANCHOT: Well, I would suggest that to my colleagues but I'll defer to them, obviously. You know, I have the utmost respect for Deloitte. Seriously, they are a great company. But I really don't see the inhibition, why we should be bashful about protecting the State. Because I take it what your view is is that it's only the forward advice that they give us. But it's certainly clear to me they are liable in some way for previous advice that they have given us on this contract. It doesn't just vanish. So why wouldn't we keep our protection?

MR. LEAHY: Not at all, sir. We're not arguing that it does vanish. We have taken the position that the State is the integrator. That we in taking their advice have put a number of systems in place that have been operating successfully and in terms of the platform itself for over two years now. And that to hold someone, and in an advisory position, liable for decisions we ultimately made, we saw as not legally sufficient to garner our ability to obtain those liability demands. And our --

COMPTROLLER FRANCHOT: Yeah, but they signed the contract. Right? They are not, they are not a small --

LIEUTENANT GOVERNOR RUTHERFORD: But you wouldn't have a case, he's basically saying.

COMPTROLLER FRANCHOT: They signed the contract.

LIEUTENANT GOVERNOR RUTHERFORD: It's not a contract issue. It would be, you know, whether you can sue them for something that they have advised us on that we made the ultimate decision on a system that is operating now. And it would be hard to prove that they were, you know, malpractice or anything of that nature.

COMPTROLLER FRANCHOT: Well, why did we have the original contract?

LIEUTENANT GOVERNOR RUTHERFORD: Because, you know, and that is the issue we've been fighting for the last, you know, how long, 16 years, that the contracting officers have been using this boiler plate language for many, many years. The Assistant Attorney Generals have stepped outside of their lane to say if you alternate, alter those liabilities, provisions, that it doesn't meet legal sufficiency, which is an absolute lie because lawyers do not make business decisions. That is a business decision. That is the decision of the government. Their job is to point out risks. If they are going to say that there is a risk associated with it, that is fine. But unless they can point to a statute, or a regulation, or a precedent, they have stepped outside of their line. So finally we are doing this. We changed with the operations, I should say, the Chief Procurement Officer, with procurement reform. We have gone forward with giving contracting officers much more flexibility with regard to making these kinds of decisions. And this covers the amount of risk associated that they could potentially be liable for. But, you know, just to have these blanket unlimited liability, we have contractors out there

that don't want to do business with us. We have construction firms, when I was at DGS --

COMPTROLLER FRANCHOT: Well, it's not unlimited. It's just that we're going with \$119 million deal which we had with them. It's an impressive figure. But I don't want to belabor the point and I understand where you are coming from, Lieutenant Governor, and for prospective contracts I don't have a problem. But for this one, I do. So I'm happy to vote for the \$8.7 million but I'm not voting for giving up \$77 million in liability protection.

LIEUTENANT GOVERNOR RUTHERFORD: I don't know if we can bifurcate that.

TREASURER KOPP: So, yes, I guess I do have a couple of questions, also. And I guess, Mr. Secretary, you are speaking as both the IT guru and an attorney, are you?

MR. LEAHY: Well, I spoke as an attorney with regard to my private practice previously that I have incorporated terms like this into agreements that were made at arms' length that as work was finished, that would no longer impact the system under which it was completed, those liabilities would drop away. The fact that the contract originally was entered into with a not to exceed amount was

because at the time we were all in agreement that the \$50 million was an estimate. And I suspect that there was considerable concern, but I'll leave this to Secretary James because he was directly involved, that we weren't certain what advice we would need from Deloitte since we were acting as an integrator for the first time as a State. And as it turned out, we probably needed far less of their advice than originally anticipated as possible.

TREASURER KOPP: I guess as a layman I am trying to think this through and I think I understand what you are saying. But basically, we contracted with Deloitte to set up a platform --

MR. LEAHY: Well, no. We were setting up the platform. I apologize for interrupting. We had Deloitte act as the intermediary for selling us the bandwidth through Amazon Web Services, and then also for advising us in how we would build and operate these systems in the cloud, since they had more experience with the cloud than we did at that time.

TREASURER KOPP: And you followed their advice?

MR. LEAHY: Well, I would have to ask Mr. James to speak to that specifically. I am not aware of any instances where we did not follow their advice.

But you know, the project was under the control of DHS and to my knowledge, you know, we had no disagreements with anything they advised specifically.

TREASURER KOPP: Okay. And maybe it is -- I mean, what I hear you saying is that what Deloitte did essentially -- well, let me go to Mr. James. Because I'm not sure if we went back and looked at the discussion originally that this view would be reflected.

MR. JAMES: Certainly. So again, for the record, this is Greg James, Deputy Secretary for Operations at the Department of Human Services. And one of the things, one of my responsibilities in this role is I have worked extensively with the MD THINK project so I feel confident to speak on this topic.

I think that in terms of the original \$50 million liability limit, it was, as Secretary Leahy had stated, it was an estimate and a best belief at the initial start of this contract relationship. But I don't know that we always had a clear understanding of what role Deloitte was going to play, how much of this was going to be the AWS resale components, which are basically rented on a monthly or sometimes even hourly or per minute basis, and how much of this work was going to be done by the Department of Human Services and our team. Ultimately, the way that this MD THINK project has worked, as Secretary Leahy stated, is the State

has been the integrator. So what does that mean? We have been responsible for the design, the construction, and the operation of this platform. It doesn't fall to an external vendor, it falls to the State team that designed and put this together. And to that end, to the extent that we have had staff from Deloitte who have worked on this project, basically we told them what we wanted to do, we gave them the plans, we told them what materials to use, we hand-picked which members of Deloitte's team were going to assist on this, and then we inspected their work after it was completed. And it went into operations as part of the MD THINK platform, which has been in operation since I believe 2018 now without issue or problem. We have been through two successful open enrollments with the health benefits exchange on the platform with no problems, no issues there, including their extended open enrollment during COVID-19. So at this point, we feel like the work that Deloitte did and provided to us back in 2017, 2018, 2019, even 2020, has well proven itself in terms of its reliability and its functionality and based upon that, I would agree with Secretary Leahy's assertion that the liability of Deloitte is relatively limited here because the State is really the driver and the designer for this platform.

COMPTROLLER FRANCHOT: Well, speaking as a lawyer I think you are wrong. But --

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TREASURER KOPP: We do have a lawyer for the Board of Public Works.

COMPTROLLER FRANCHOT: Oh good, where are they?

SECRETARY GONTRUM: Mr. Bohannon.

TREASURER KOPP: Well, what I was going to say is I wonder if it would make sense, as the Lieutenant Governor suggested, to bifurcate --

LIEUTENANT GOVERNOR RUTHERFORD: I don't know if we can bifurcate, but that's a question for --

TREASURER KOPP: A question to bifurcate the item and --

LIEUTENANT GOVERNOR RUTHERFORD: -- I don't know if we can, you know, if the contract deals with the liability aspect, if they are modifying a contract and it's modifying the liability, there is a question of, you know, whether it's severable and whether the vendor will actually sign it.

COMPTROLLER FRANCHOT: Well, let's take a chance. It's entirely appropriate. Just because you say that they are doing what we told them to do, therefore they don't have liability, I think that's just complete nonsense.

LIEUTENANT GOVERNOR RUTHERFORD: But I think he's talking about in the past, work that has already been done, that is working

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successfully. I think there is a lot of concern about the project that was done with the health exchange that was a separate vendor that did the whole platform, delivered something that never worked. This project is moving along. This is just adding additional businesses to, or not businesses, but executive agencies to the platform that we developed with their advice. They are just a consultant. They are on the outside. We are the developers here, the integrator as it's called. So it's a very different situation than if they were building the system for us. And they really aren't.

TREASURER KOPP: And I understand that, although that wasn't necessarily the way it was presented originally. And I wonder, for instance, I guess you are saying there is essentially a statute of limitations that since it has been working well for two years there is no liability, it would be limited --

LIEUTENANT GOVERNOR RUTHERFORD: More like three years. I don't know about a statute of limitations, but it's like it would be hard to prove that they were, you know, there was some kind of --

TREASURER KOPP: Back then.

LIEUTENANT GOVERNOR RUTHERFORD: -- back then that they said something that we acted on that was wrong and that didn't occur for another three years --

TREASURER KOPP: That would be the question, yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- or four years, depending on when that advice was provided.

TREASURER KOPP: Mr. Bohannon, can you address this?

MR. BOHANNON: Certainly. So there is no requirement in statute for a liability limitation provision of any sort, right? This is a matter of discretion and in terms of how the contract is shaped. Initially, it's really going to be left up to the agency and the procurement officer to shape the procurement and the contract in the way that they believe best serves the best interests of the State. This particular provision is in front of you, in front of the Board today, because it does represent a material change from the contract that the Board originally approved, right? So that's why it's in front of you as a proposed modification. That's why the Board usually does not see these types of provisions. It's one of the provisions that's in the background in a contract and it is worked out between the procurement officer and the Attorney General in terms of what they believe best fits the risk picture for that particular procurement. And that's really --

TREASURER KOPP: Well most procurements don't have limitations of liability, do they?

LIEUTENANT GOVERNOR RUTHERFORD: Most have unlimited liability.

TREASURER KOPP: Right --

MR. BOHANNON: Yes. It's simply a matter of -- yes. So that's where it is. So in terms of what is in front of you today, frankly it is a matter of a policy decision in terms of whether or not you believe this provision and this

modification fits the best interests of the State or not. It's not really a matter of is it legally required or legally unrequired, what does the law say you have to do. It becomes a matter of what are the interests of the State and what do you think best protects the interests of the State. Certainly there are arguments, as are being made, that the State, there is risk here and the State needs to protect itself from that risk. Certainly what we have heard from the department is that the department believes that there are other kinds of risks in terms of their ability to continue working with this vendor. So ultimately it's going to be a policy decision for you.

I think it's certainly within the purview and the authority of the Board to say that they approve part of the modification, but would ask the agency to try to renegotiate the other, if you wish to do that. You can approve in part, you can approve in whole, you can deny in part, you can deny in whole. I think any one of those options are certainly on the table for you as the Board to take.

Now of course, the vendor might agree or disagree. So that's, they are an independent actor. They can take actions as they believe is appropriate for their business as well.

TREASURER KOPP: So you are saying as our legal advisor, there are no constraints and we should do what --

MR. BOHANNON: I believe, right, what you believe is appropriate to protect the best interests of the State on this. Yes. So, I mean, if you think the

modification proposed by the department protects the interests of the State, you can certainly approve it. If you would rather see, balance that risk picture differently, I think you could say no to the modification and ask the department to reconsider and bring something back differently.

TREASURER KOPP: What about the question of -- that would be instead of bifurcating it.

COMPTROLLER FRANCHOT: Couldn't we just, if we approve the money but not approve the change in liability. And so --

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, I think he said you could do that. It's going to be a question of what the vendor decides to do --

MR. BOHANNON: Whether or not the vendor decides to sign off on that is going to be up to the vendor. But you could certainly say we would approve the modification to the amount but not approve the modification to the liability, and then it would go back to the vendor. And if the vendor agrees to it, then it's done. If the vendor disagrees, then I would expect that the department and the vendor would have other conversations and would probably be bringing something back to the Board as a follow up proposal.

COMPTROLLER FRANCHOT: I would be happy to make that motion that you articulated at the beginning of your statement just now. And I just

think it makes sense to make sure that we're not giving something up unnecessarily. And for example, when we added \$48 million to this contract in May of 2020, did they raise any objection to the increase in liability? No, I take it, is the answer. So I think this is something we need to --

LIEUTENANT GOVERNOR RUTHERFORD: Well, I would rather see us withdraw it than just sit there and bifurcate. Because I just think it's a bad decision to, you know, it's something that needs to be changed. Just because no one has ever done it before, or hasn't done it in a long time, because it's all boiler plate language that's in the back of the contract that has just been followed for years and years and years, I'd rather see us just pull the contract and they can brief everyone and talk to Deloitte and see if Deloitte will agree to, you know, taking on liability that is completely unnecessary, that they probably have to go back to their board or, you know, some group that looks at their liability and compliance aspects before entering into this agreement when their liability is not going to be unlimited. They are not going to have to pay us for a system that we created and put in place that has been operating for four years. And is the envy of human service agencies across the country. They are constantly asking the Governor and myself about, hey, MD THINK. And we have to get briefed so we can even tell them what it is.

TREASURER KOPP: Well I think if the Lieutenant Governor is proposing to defer it so that we can get further understanding, I would support that.

COMPTROLLER FRANCHOT: I would also. Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: OK, so we'll defer this item -- for a later time. Any other questions on --

TREASURER KOPP: Later time being two weeks from today.

LIEUTENANT GOVERNOR RUTHERFORD: (Indiscernible.)

SECRETARY GONTRUM: Three weeks Madam Treasurer (Indiscernible).

COMPTROLLER FRANCHOT: I do have an item that I think the Treasurer would be very interested in. I'm sure you are also, Lieutenant Governor. Item 51, the State is purchasing 7,660 thermal printers at a cost of roughly \$4.1 million. They are going to provide (indiscernible). But I believe traditionally the State has paid 50 percent of the cost for this kind of equipment and I'm told by the locals that the State is not going to pay 50 percent. So I wonder if the Administrator --

TREASURER KOPP: Yes, 3.2. Item 3.2

LIEUTENANT GOVERNOR RUTHERFORD: Yes, Item 51 3.2, right.

COMPTROLLER FRANCHOT: I'm sorry.

LIEUTENANT GOVERNOR RUTHERFORD: Yeah, no, that's, okay.

COMPTROLLER FRANCHOT: Item 3.2. If the Administrator, Administrator Lamone is here, maybe she could tell us whether the State is going to cover, as it traditionally does, 50 percent of the cost for this kind of equipment.

MR. REICHART: Is Administrator Lamone available and Nikki Charlton, they should be available to answer your questions.

MS. LAMONE: Hi, Linda Lamone, Administrator of Elections here. We have not paid 50 percent of the cost of the pollbooks historically. It has been 100 percent county funds.

COMPTROLLER FRANCHOT: Well, what is the problem with paying 50 percent if the -- I take it we are mandating these? Or we're not, or this is a State decision that we're going to use these pollbooks?

MS. LAMONE: Well, it's a State decision to replace them because the pollbooks are end of life, I mean not the pollbooks, these are the printers for the pollbooks. They are at the end of life. And I believe that it has been the decision of the Secretary of Budget and Management that the counties are to pay 100 percent of this.

COMPTROLLER FRANCHOT: Yeah, well that's not a good decision. So I would suggest that you somehow get together with DBM and also the local election agencies. They are, God knows they are under enough stress already just because of what is going on in the country. And I would strongly

recommend that this cost that, you know, we're at the State level basically in charge of, these 7,660 thermal printer replacements, I guess, that we pay 50 percent. And you know, maybe you could get back to us on that, Administrator Lamone, and let us know whether that, in the new era of concerns about voting, since we are making the decision here at the State level with this equipment, I would really recommend that you guys take, or ask DBM to take another look at it.

MS. LAMONE: I would be very happy to do that, Mr. Comptroller.

TREASURER KOPP: Governor, could I just, I gather this actually is a DBM decision, or an administrative decision, not necessarily the State Board of Elections' decision or Administrator Lamone's decision. Having said that, I agree strongly with the Comptroller. And --

COMPTROLLER FRANCHOT: Would you recommend pulling this item --

LIEUTENANT GOVERNOR RUTHERFORD: -- withdrawn.

COMPTROLLER FRANCHOT: Yes --

TREASURER KOPP: I think it's absolutely essential that the pollbooks be --

COMPTROLLER FRANCHOT: I couldn't agree with you more.

TREASURER KOPP: -- be replaced. We want the safest and most secure election that we can have. There is no question about that on my part, or I

believe anyone else's part. But I do not understand why this is not a 50/50 split between the State and the counties as is traditional.

LIEUTENANT GOVERNOR RUTHERFORD: I guess the --

TREASURER KOPP: And I think the fiscal '21, and we're now in the fiscal '22 budget, did anticipate a split but it wasn't the same split as we have always had. Elections are a statewide responsibility implemented locally. At one time, it was all State, and then to save money we shifted some responsibilities to the counties. I just, I agree with the Comptroller.

LIEUTENANT GOVERNOR RUTHERFORD: This item --

MS. LAMONE: Governor, may I just add, this is Linda Lamone again, we don't have enough printers to conduct the elections next year. So we can't, we need this contract.

TREASURER KOPP: What happens if the contract --

LIEUTENANT GOVERNOR RUTHERFORD: Delayed for three weeks?

TREASURER KOPP: -- is delayed for three weeks?

MS. LAMONE: I think it puts it in jeopardy because all the supply chain issues that all of these vendors are having, we're having difficulty getting delivery of these things as it is. And delaying it could jeopardize that.

LIEUTENANT GOVERNOR RUTHERFORD: I just --

TREASURER KOPP: I think getting the machine is the most important, is the most important thing. But having said that, I hope it can be worked out in the budget, in the '22 budget, 2023 budget, or amendments to the 2022 budget that could come down this session, to reimburse the counties. I mean, the counties, everyone has hard times and sharing the burden has been a good Maryland tradition. But --

LIEUTENANT GOVERNOR RUTHERFORD: Yes the challenge -

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TREASURER KOPP: -- we do need the --

COMPTROLLER FRANCHOT: I have a good Franchot tradition, which is I don't believe it. Because it's too easy for an agency to say, oh no, great harm would occur if somehow there is a delay. No. You guys brought this at this time and it's subject to frankly being amended. And the local jurisdictions are quite upset at this. And I would urge, you know, you to pull this back, bring it to the next meeting with a DBM decision that would be a 50/50 split. That's the right way to do it. This idea that, oh no, we brought you the contract, let us put a gun to your head and say you're somehow going to interfere with an election.

LIEUTENANT GOVERNOR RUTHERFORD: (Indiscernible).

COMPTROLLER FRANCHOT: But this would be November, this is this November? Or a year from November?

LIEUTENANT GOVERNOR RUTHERFORD: Primary --

TREASURER KOPP: The primary.

MS. LAMONE: It's for the primary election.

COMPTROLLER FRANCHOT: That's --

MS. LAMONE: We're going to need added precincts because of redistricting. We don't have enough printers.

LIEUTENANT GOVERNOR RUTHERFORD: Yes --

MS. CHARLTON: This is Nikki Charlton --

COMPTROLLER FRANCHOT: It's --

MS. LAMONE: Nikki?

MS. CHARLTON: -- the Deputy Administrator. We are looking and plan to finance these through the State Treasurer's Office. And so the fiscal impact will be shared over multiple fiscal years. So we do have the opportunity to do what you are asking, is to talk to DBM and work with the Maryland Association of Counties to put something in place, hopefully even before the first payment is due. So if that helps you with your decision on this Agenda item, I just wanted to throw that out there as a consideration.

LIEUTENANT GOVERNOR RUTHERFORD: You're financing it?

TREASURER KOPP: Is this a lease? You're doing it through the lease program?

MS. CHARLTON: Well, so the local boards have asked for us to finance it so maybe I'm using the wrong term. I'm sorry. We refer to it as just financing it through the State Treasurer's Office so that it's spread out over the multiple years to lessen the fiscal impact in any one year.

LIEUTENANT GOVERNOR RUTHERFORD: So okay, so if it's -
-

COMPTROLLER FRANCHOT: Who is representing the DBM here? Is Mr. Brinkley available?

LIEUTENANT GOVERNOR RUTHERFORD: I think he may be on, he may be coming in --

COMPTROLLER FRANCHOT: If David assures us that he is going to negotiate something where the MACo concerns can be addressed, I would drop my normal opposition to somebody saying do this or something bad is going to happen. But you know, is he available?

LIEUTENANT GOVERNOR RUTHERFORD: Is Secretary Brinkley on? Or anyone from DBM?

TREASURER KOPP: Or can somebody call him?

COMPTROLLER FRANCHOT: I mean, I have a lot of confidence in Secretary Brinkley. But, and it's not a big amount of money. But really, why do we even have the Board of Public Works if all of these contracts that come before us are, well, if you don't approve it bad things are going to happen. So --

TREASURER KOPP: And I, but the thing is, with the Board of Elections, the Board of Elections is in the middle.

LIEUTENANT GOVERNOR RUTHERFORD: Right.

COMPTROLLER FRANCHOT: Well, yes, but they are the ones that are bringing the contract to us.

TREASURER KOPP: They are.

COMPTROLLER FRANCHOT: Why didn't they do it a month ago?

TREASURER KOPP: Did the Board of Elections suggest it be 100 percent local funded? Did you suggest that to the Secretary of DBM? I doubt it.

MS. LAMONE: No.

TREASURER KOPP: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: I guess it's just because the polling books weren't paid for in the 50/50 split typically, so then the printers, it was assumed that the printer is the same. It sounds like Nikki is saying that there may be a way to negotiate this. Because it's not all going to hit at one

time, that possibly even before the first payment there could be, you know, something arranged with the counties and DBM, of course --

TREASURER KOPP: To reimburse.

LIEUTENANT GOVERNOR RUTHERFORD: -- to reimburse or take a portion of it off even before the payment is made. And if not, with subsequent payments. Because it sounds like this is a lease arrangement that is being done. So you are going to have additional payments that are going to have to be made that we can credit the county for certain payments going forward.

TREASURER KOPP: Well, what the Comptroller I think is suggesting is that we trust --

COMPTROLLER FRANCHOT: Yes. Well some, I'd like to get --

LIEUTENANT GOVERNOR RUTHERFORD: -- he's saying don't trust --

COMPTROLLER FRANCHOT: I'd like to get the Secretary on the phone. Sometimes I find \$2 million in my seat cushion here.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, good.

COMPTROLLER FRANCHOT: But that's all we're looking for. And I would, you know, I have great confidence in DBM's ability to fiscally make a commitment. But I'd like to, is he available? He lost connection.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, okay.

TREASURER KOPP: He does have a bad connection.

LIEUTENANT GOVERNOR RUTHERFORD: Is he on yet?

VOICE: He's on the call. I think he's still connecting to audio, sir.

LIEUTENANT GOVERNOR RUTHERFORD: Hello? Mr.
Secretary?

VOICE: -- network connection issue, sir. I see him here, but you
can't hear him talk.

COMPTROLLER FRANCHOT: Can he use sign language?

LIEUTENANT GOVERNOR RUTHERFORD: He's only audio, so
--

(Laughter.)

VOICE: The Secretary is now connected. He was self-muted. So
when he turns on his microphone, we should be good.

LIEUTENANT GOVERNOR RUTHERFORD: Unmute.

COMPTROLLER FRANCHOT: Unmute.

MR. BRINKLEY: Hello?

LIEUTENANT GOVERNOR RUTHERFORD: Hey --

MR. BRINKLEY: Man, I apologize. The last I had was Secretary,
I guess the DoIT people were talking about the contract and the next thing I knew
this whole system here shut down in my office, but the rest of the team was trying

to get things up and running. So I apologize to the Board and everybody else. So if you can please repeat the question?

COMPTROLLER FRANCHOT: Mr. Secretary, if I could, there is a \$4 million request to replace the pollbooks --

LIEUTENANT GOVERNOR RUTHERFORD: Pollbook printers.

COMPTROLLER FRANCHOT: -- pollbook printers. These were, you know, something that cost the State and the counties money back in 2006. They need to be replaced. And there is a little bit of a kerfuffle over MACo folks have called and said they want a 50/50 split. So if you could find \$2 million in your forward thinking, I would be appreciative and it will allow me to vote for this.

MR. BRINKLEY: I think we're okay on the 50/50 split. And again, I don't have the notes in front of me. We had some other requests before which was the State would cover 100 percent. We are not okay with that. We want some local participation. So.

COMPTROLLER FRANCHOT: Okay.

TREASURER KOPP: 50/50.

COMPTROLLER FRANCHOT: 50/50 sounds great.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. It sounds like he's willing to work out a 50/50 deal. I guess one of the requests came in for

the State to pick the whole thing up. So it sounds like at one point, and that's probably where the --

TREASURER KOPP: That was --

LIEUTENANT GOVERNOR RUTHERFORD: Hello, one county.

TREASURER KOPP: But this is statewide --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

COMPTROLLER FRANCHOT: Yes.

MR. BRINKLEY: Yes, we generally are very cooperative on the 50/50 split.

LIEUTENANT GOVERNOR RUTHERFORD: Okay.

COMPTROLLER FRANCHOT: Thank you.

LIEUTENANT GOVERNOR RUTHERFORD: You can always ask for more --

TREASURER KOPP: Thank you, Mr. Secretary.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. So I think we --

MR. BRINKLEY: I apologize on this end. It certainly is operator error. It's a good thing I'm not flying an airplane.

LIEUTENANT GOVERNOR RUTHERFORD: Thankfully. Okay.

COMPTROLLER FRANCHOT: Okay. Thanks, Mr. Secretary.

LIEUTENANT GOVERNOR RUTHERFORD: It's good to see you. Okay. So I guess this item --

COMPTROLLER FRANCHOT: Great. And then I have one item on 46, unless you all want to do it. This is the Department of Health, 46-S-MOD and 48-S-MOD. Obviously I listened to the Lieutenant Governor and think that he and Governor Hogan have done a very commendable job at protecting the health of Marylanders. And I know we're highly ranked as far as vaccination rates. Anyway, and I'm very glad to see these are not emergency contracts. This is the standard procurement process. But I did have a couple of concerns.

Item 46 is a contract with Ernst & Young for a vaccination campaign support service through June of next year. The cost of the extension is \$22 million. That's a 394 percent increase from the cost of the original contract. Item 48 is a request to extend the contract with Hagerty Consulting for vaccination campaign staffing, also through next June. The cost of this extension is \$39 million, a 220 percent increase. And I guess my question for the Secretary is, you know, we're adding approximately \$61 million total in additional vaccine distribution. Given the good position of the State, is this something that really makes sense fiscally? I mean, we talked about 82 percent, 95 percent different groups. And I'm just wondering whether you have any detailed information on how these funds will be used, because it's a pretty drastic increase.

MR. SCHRADER: Right. For the record, Dennis Schrader, Secretary of Health. Governor, Comptroller, Madam Treasurer, we have been planning this in accordance with the Board's request with the next phase of the COVID operation. And our next horizon would be June of next year. We are anticipating, you know, COVID in various forms. And these would cover two things. One, as you mentioned, EY is providing us the strategy and supply chain management along with the future planning for how we would want to operate. Some of the things we are looking at for the future right now are how we are going to vaccinate the 900,000 children that are under 11, of course five to 11 we think is the next phase. We're not sure exactly when that will occur, but it could be later this year, early next year, and then there will be a huge demand. So we're doing that planning now. That's just an example.

We have to continue operating our testing operation, hospital surge planning. We're very concerned about pediatrics this fall, so we've got a major operational plan going on there, in addition to the contact tracing, PPE management, etcetera. So we are anticipating this operation to go for quite a while. We are out of the emergency operations phase and we're now into the long term incident management phase, where we're trying to embed this into our routine, although up tempo, operations. When we were at our peak, we were about 11,000 people working on this. And that's when we had all the mass vax sites, many, many

testing sites spread across the State. Right now, we have about 3,000 people working on this. Half of those are State employees. But we do need staff augmentation. These two particular contracts make up about 160 people, or five percent of the total 3,000 people that are engaged at the moment.

COMPTROLLER FRANCHOT: Okay. But do we have any of the mass vax sites remaining open?

MR. SCHRADER: Mass vax, no. But we are doing mobile and mobile operations. And I think I said back in the spring, we anticipated that when we moved from mass vax to mobile, because we still have about 970,000 people to vaccinate that are 12 and older, that it was going to be a lot harder to do, because we had to find the people. There is a lot of analysis that goes in. It was going to be probably more expensive. For example, all of our Guardsmen are now winding down and going back to their civilian employee or doing their combat training. So that was a major resource for us. We have also sent many of the State employees back to their agencies, because our goal is to keep the economy open. And so many of the agencies needed their people back, because we reopened the State. So the gap is being handled by many contractors, not just this one.

LIEUTENANT GOVERNOR RUTHERFORD: Mr. Secretary, let me also just, as I understand, as we are preparing to roll out additional shots at the

congregate facilities, that particularly the Hagerty Consulting is going to be instrumental in that deployment to the skilled nursing facilities.

MR. SCHRADER: That's an example, yes, sir. I mean, we have many of those kinds of activities going on. But in congregate care is one of them, where we are engaging, both for continuing to get their staff vaccinated, but also planning when, you know, the additional shots that will be required for the nursing homes. So that is an example.

LIEUTENANT GOVERNOR RUTHERFORD: -- the staff.

COMPTROLLER FRANCHOT: Yeah, no, thank you. That's a good explanation. I just had one other question, not for the Secretary but --

TREASURER KOPP: And could I just, right in there, in the description of the Hagerty, the contract description --

MR. SCHRADER: Yes.

TREASURER KOPP: -- it talks about the six mass vaccination sites, etcetera. You are saying, I understand what you need, that that is actually a change to that description --

MR. SCHRADER: Right.

TREASURER KOPP: -- but not to the type of services --

MR. SCHRADER: That's correct. They are, what they are providing us is what I would call the operational layer. We have the strategy layer

with EY. The Guard was providing us a lot of the operational layer. But with their departure from the field, Hagerty is known, their expertise is in incident planning and management operations. So that is correct.

TREASURER KOPP: This is just another example of the information, the description --

LIEUTENANT GOVERNOR RUTHERFORD: Well, this is what the Comptroller --

TREASURER KOPP: -- from the prior --

MR. SCHRADER: Yes, from MEMA --

TREASURER KOPP: -- from MEMA --

LIEUTENANT GOVERNOR RUTHERFORD: Yes, it's not his --

TREASURER KOPP: -- but if the people we represent, the public and the taxpayers of the State, look at this --

LIEUTENANT GOVERNOR RUTHERFORD: When they read this, they don't --

MR. SCHRADER: That's fair. Yes, that's a fair point.

LIEUTENANT GOVERNOR RUTHERFORD: My office can contact MEMA to, you know, make sure they understand the concerns --

TREASURER KOPP: There is a reason for these words --

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

TREASURER KOPP: -- to be here.

LIEUTENANT GOVERNOR RUTHERFORD: Words have meaning. So we'll talk to them. I know it's not directly in terms of their presenting it, it's not your responsibility.

TREASURER KOPP: Right.

LIEUTENANT GOVERNOR RUTHERFORD: But I will make sure our office talks to MEMA about this.

COMPTROLLER FRANCHOT: I'm happy to move approval.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. I'm just going to mention two quick things before that. And this is, Nelson, this is going to you. On Item 60, it's the lease, Court Commissioners, and I know it's a temporary lease, until they move to the North Calvert facility. But it looks like the Court Commissioners are going to be on the 14th floor?

MR. REICHART: That's where they have located, yes.

LIEUTENANT GOVERNOR RUTHERFORD: Oh, okay. I thought you would have commissioners on the first floor.

MR. REICHART: The first floor?

LIEUTENANT GOVERNOR RUTHERFORD: Yes.

MR. REICHART: I guess it's the space that was available. I can go back and ask them.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Just a --

MR. REICHART: Yes.

LIEUTENANT GOVERNOR RUTHERFORD: -- question from a logistics standpoint.

MR. REICHART: A lot of that is done by video now.

LIEUTENANT GOVERNOR RUTHERFORD: Okay. Yes. Just, that's the issue we have at State Center, letting people --

MR. REICHART: -- in the building, yes.

LIEUTENANT GOVERNOR RUTHERFORD: And then just, you know, I had mentioned before, this is listed as Jericho Baptist but it's now called City of Praise, just the fact that they are doing the monoclonal antibodies there. We would not have gotten the monoclonal antibodies there if it wasn't for the relationship with Ernst & Young. They have a federal contract and when the feds came to them asking about deploying monoclonal antibodies, particularly in areas with high minority populations, they came back to us, and the fact that the feds were very happy with what we were doing with the faith community, we were able to bring it to that location in Prince George's. And it has been quite successful so I just wanted to point that out.

TREASURER KOPP: That's terrific -- good news.

LIEUTENANT GOVERNOR RUTHERFORD: Yes. We had a motion?

COMPTROLLER FRANCHOT: Move approval.

TREASURER KOPP: Second.

LIEUTENANT GOVERNOR RUTHERFORD: All right. Thank you. I think we're good.

(Whereupon, at 12:20 p.m., the meeting was concluded.)