
STATE OF MARYLAND
BOARD OF PUBLIC WORKS
ANNAPOLIS, MARYLAND

January 26, 2022
10:06 a.m.

PRESENT

HONORABLE LARRY HOGAN

Governor

HONORABLE DERECK DAVIS

Treasurer

HONORABLE PETER FRANCHOT

Comptroller

JOHN GONTRUM

Secretary, Board of Public Works

ELLINGTON CHURCHILL

Secretary, Department of General Services

JAMES PORTS, JR.

Acting Secretary, Department of Transportation

JEANNIE HADDAWAY-RICCIO

Secretary, Department of Natural Resources

LISA GRIGSBY

Recording Secretary, Board of Public Works

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

CONTENTS

Subject	Agenda	Witness	Page
Moment of Silence for Baltimore City Fire Department Lieutenant Paul Butrim, Firefighter Kelsey Sadler, and Firefighter Kenneth Lacayo		Governor Hogan	5
Presentation of Customer Service Hero Award to Jacqueline Singleton		Governor Hogan	6
Amendment to the Lease Agreement between the Maryland Stadium Authority and Baltimore Orioles Limited Partnership	SEC 12, p. 18	John Gontrum Michael Frenz	12
Settlement in <i>Sondra Arsenault v. State of Maryland, DPSCS</i>	SEC 18, p. 24	John Gontrum	16
Settlement in <i>Tonia Froehlich v. State of Maryland, DPSCS</i>	SEC 19, p. 25	John Gontrum	16
DNR Agenda	DNR	Jeannie Haddaway-Riccio	18
USM Agenda	USM	Tom Hickey	18
Design Services During Construction for the Purple Line Project	DOT 6-AE, p. 68	James Ports Holly Arnold Matthew Pollack	20

Construction Quality Control Inspection Services for the Purple Line Project	DOT 7-AE, p. 70	James Ports Holly Arnold Matthew Pollack	20
Quality Assurance Services for the Purple Line Project	DOT 8-AE, p. 73	James Ports Holly Arnold Matthew Pollack	20
Modification of Contract for On-Call General Engineering Consultant Services	DOT 10-AE- MOD, p. 79	James Ports Holly Arnold Matthew Pollack	20
Segment 6 Water and Sewer Utility Construction Services for the Purple Line Project	DOT 12-C, p. 86	James Ports Holly Arnold Matthew Pollack	20
Construction Services for Continuing Operation Step Forward	DOT 13-C, p. 88	James Ports Holly Arnold Matthew Pollack	20
Modification of Public-Private Partnership Agreement Purple Line	DOT 16-GM- MOD, p. 94	James Ports Holly Arnold Matthew Pollack	20
Modification of Contract for Light Rail and Metro Third Party Track Maintenance and Emergency Response Services	DOT 17-M- MOD, p. 106	James Ports	34
Battery Operated Electric Buses (Pilot Program)	DOT 14-E, p. 90	James Ports	35
Electronic Pollbook System	DGS 42-IT, p. 193	Ellington Churchill Linda Lamone Nikki Charlson	36

HUNT REPORTING COMPANY
 Court Reporting and Litigation Support
 Serving Maryland, Washington, and Virginia
 410-766-HUNT (4868)
 1-800-950-DEPO (3376)

PROCEEDINGS

GOVERNOR HOGAN: Good morning, everyone. I want to welcome you all to the Board of Public Works.

I'd like to start today by taking a moment to pay tribute to the three Baltimore City firefighters who died in the line of duty earlier this week in what was truly a horrific tragedy. And our hearts go out to the families and to their brothers and sisters in the Fire Department. The flags remain at half-staff in the honor of Lieutenant Paul Butrim, Firefighter Kelsey Sadler, and Firefighter Kenneth Lacayo. And I would just like to ask if you would join me in a moment of silence for these fallen heroes.

(Moment of silence.)

GOVERNOR HOGAN: Thank you.

A fourth firefighter, John McMaster, was seriously injured and we're all pulling for him to make a speedy recovery. And he seems to be doing much better and we're very thankful for that. I want to ask all Marylanders to keep all of the families and the entire Baltimore City Fire Department in their prayers.

I also want to give a brief omicron COVID-19 update. This is day 22 of the 30-day state of emergency which we declared in order to combat the surge of the COVID-19 omicron variant. The current data continues to show very encouraging trends. Our COVID-19 positivity rate peaked 21 days ago at 29.98 percent and it has been dropping rapidly. It is now at 12.5 percent, which is a decline of 58 percent. Our positivity rate is lower than 44 other states. Our case rate peaked 18 days ago and has already declined by more than 65 percent. And as of today, Maryland has the lowest COVID-19 rate in America, the lowest case rate in America. Both our case rate and positivity rate are declining among all age

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

groups and hospitalizations in Maryland peaked on January 11th at 3,462. They are now down 35 percent to 2,232 and they are dropping at the fastest rate in America.

Fortunately, Maryland remains one of the most vaccinated states in America. We have now administered nearly 11 million vaccines and two million booster shots. As of today, 94.3 percent of Maryland adults have gotten vaccinated. Sadly, the vast majority of new deaths continue to be people who are unvaccinated and we are doing everything we can to keep working to get that last 5.7 percent of the population vaccinated.

I want to thank the entire team that has helped make this one of the best vaccination efforts in the country and I want to continue to urge Marylanders to get vaccinated or to get boosted as soon as possible.

Finally this morning, we are pleased to have a very special member of the Maryland Transit Administration team joining us. Jacqueline Singleton is a bus operator out of MTA's Bus Division who has been with the agency for over ten years. And on the morning of December 11, 2021, this incredible public servant noticed a toddler walking alone in the middle of the street. Ms. Singleton secured the bus and advised the riders, the patrons, that she would be checking on the child and she carefully walked over to the child and asked him where he was going, being careful not to scare him. And then she carried him back to the bus where a female rider wrapped her coat around him. And the child laid his head on her shoulder until the police arrived. And despite the difficulty in getting information from the child, the police were able to get the direction he came from and started to knock on doors of nearby residences, eventually reaching the child's home. And police were able to contact the father, who was so grateful that his child was unharmed. Ms. Singleton is proud to have been able to get that child safely reunited with his family and we're very proud of her. She went above and beyond the call of duty,

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

which is why we are going to present her virtually, we're going to make sure we do it in person, but we're going to present her virtually with a Customer Service Hero Award. So let's give her a big round of applause. Thank you so much.

(Applause.)

GOVERNOR HOGAN: And with that, I'm going to turn the floor over, good morning, Mr. Treasurer, the floor is all yours.

TREASURER DAVIS: Good morning, everyone. And I certainly want to extend my congratulations to Ms. Singleton as well. She represents all that we strive to be here in Maryland as we care for our fellow citizens. So thank you, thank you for that extraordinary effort on your part.

I also want to thank the various State agencies that I have had the privilege to meet, MDOT, the Department of Public Safety, they have come and met with me to try to get me up to speed on some of these very important issues. And I'm learning a lot. I'm trying to catch up with you gentlemen, Governor and Mr. Comptroller. So I wanted to thank them as well and I'm looking forward to a positive and productive day. Thank you, gentlemen.

GOVERNOR HOGAN: Thank you. Good morning, Mr. Comptroller.

COMPTROLLER FRANCHOT: Good morning, Governor and good morning, Treasurer. And I join the Treasurer and you in recognizing Ms. Singleton. I really, really -- frankly, it reminds me of 35 years ago when I was visiting the Takoma Park Street Festival with my then two-year-old son, Nick. And I happened to be walking in one direction and I didn't realize he took off in the other direction. And there was a huge crowd of people. And I was beyond belief anxious and running around, looking for my two-year-old. And all of a sudden I saw a very large robust Takoma Park police officer walking towards me with Nick in his arms. And so thank you for giving that story of doing the right thing at the

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

right time. And I'm delighted and I'm just sorry about the 21st century's biggest tragedy of the year happening in Baltimore. And Governor, I thought your remarks about the firefighters were entirely appropriate.

I would also like to thank, along with my wife Annie, we were saddened to learn that the First Lady contracted COVID. And obviously we join all Marylanders across the State in wishing her a speedy recovery.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: Annie and I are big fans of Yumi, if I can call her that, the First Lady, and we continue --

GOVERNOR HOGAN: She is definitely your favorite Hogan, that's for sure.

(Laughter.)

COMPTROLLER FRANCHOT: That's not true. Both of you guys are terrific. And I just appreciate her friendship, and she obviously on her own has made immense contributions to our great State.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: So, Governor, if you could just give her my well wishes, I'm happy to send her a bottle of wine, too, once she is able to do that, or whatever --

GOVERNOR HOGAN: She's doing great. She's now, you know, back to full speed ahead and tested negative, and she's back to giving me heck. So --

(Laughter.)

COMPTROLLER FRANCHOT: Well, give her our best.

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: And I just wanted to also mention for everyone that last week the Maryland Comptroller's Office announced that we

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

are extending the filing and payment deadline for State income tax by three months, from April 18th, which is the date for federal taxes, to July 15th. And this has proven very successful in the last two years, providing Marylanders who may have liabilities this year to the State, this is people that owe the State money, what we are saying is we are going to give you an interest free, penalty free, 90-day cushion to somehow deal with the financial hardships that you all, particularly small businesses and low wage earners, are experiencing because of the pandemic. This is the third year in a row that we have taken this action. We estimate that roughly 600,000 Maryland taxpayers benefitted from this extension each year in the past two years. And it enabled them to hold onto a combined \$1.8 billion in what is essentially an interest free loan from the State. They don't have to file for anything. It just happens. Our economic experts cited this action from the Comptroller's Office as one of the major factors contributing to the more than \$6 billion in surplus and excess revenue that our State is currently experiencing and that's because we moved it from the end of winter to the beginning of summer. And particularly for small businesses it was enormously appreciated, I think.

The beauty of this type of economic relief is that it is proactive and self-selecting, and also immediate. This money is in their pockets now. They don't have to send it to us on April 18th. It means that we don't need any legislation. We don't need a lengthy application. We don't need all sorts of accountants and lawyers to get involved. We simply offer it out there and people take advantage of it. And it's only those who need the extra days who will take advantage of it. We're giving \$3 billion in refunds to 2.6 million Maryland families we estimate right now. We have started that process. They are not going to wait, they want their refunds. So and let me just say in speaking of pandemic relief, Governor, I've been on record how I believe our once in a generation surplus should be expended. I suggested \$2,000 survival checks for low wage earners and struggling families. These are

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

people that have not gotten federal relief and not gotten State relief or have just gotten a little bit. They are our lowest wage earners and a \$2,000 survival check for them is something special as far as their struggle. It's an aid package to small businesses, particularly MBEs, minority businesses and women owned businesses that were most hard hit. A significant assistance package I've advocated also for childcare providers, because they have been hammered. I think you are addressing some of that, Governor. But also investments in long term infrastructure projects like the Red Line and putting a substantial portion into the Rainy Day Fund.

On that note, I wanted to take this opportunity to applaud you, Governor, for your proposal to put more than \$2 billion into our Rainy Day Fund. I think that is a fiscally prudent decision, both in the short term and the long term, as well as your proposals to provide tax relief for our retirees and eliminate, this is actually a total game changer, eliminate annual filing fees for businesses. I haven't seen the details of those two proposals from you or the fiscal note, but I think that both are extremely sound proposals. It is my sincere hope that the executive and legislative branches can work together in a bipartisan and collaborative fashion to advance these policy proposals.

And also, I just want to close by pointing out the report that came out yesterday. You indicated that we are a highly vaccinated State. We still had 1,475 deaths from COVID in January and the month is not over. And it just serves as our latest reminder that we are not out of the woods yet. While Maryland is one of the most vaccinated states in the nation, as you said, we must remain vigilant and adopt measures that protect and save lives. That January death rate is higher than at any time during the pandemic, in two years. And it goes back to your vaccination constant refrain, Governor, and thank you for that, for providing that. But we also need something that I like to call a vaccine passport. And I think we need to start thinking about something. Because I understand your figure about people getting

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

one shot. The figure that is seen nationally as to fully vaccinated Marylanders is 72.8 percent who are fully vaccinated. So hats off to people who got a single shot but you need to get fully vaccinated. And we cannot let a small number of our folks, of our fellow Marylanders, continue to not be vaccinated. I can remember as a kid being -- I didn't have a shot for polio, I had a little sugar cube that they gave me in school. There I lined up and got my sugar cube with the vaccine dropped on it. It tasted good, as I recall.

So it's my hope that a proposal for a vaccine passport will be strongly considered by all levels of government. It has been adopted in many jurisdictions, even some countries. It is an effective tool in allowing our economy to get back to normal. And I'm just sick and tired of a small number of people basically imposing this kind of uncertainty on our economy and on our health. We need to address this because it has become so politically polarized, if you can -- don't get me going on that. But you know, it's all for one and one for all and Maryland has got a great future. But there could be another variant around the corner. Thank you.

GOVERNOR HOGAN: Thank you, Mr. Comptroller and Mr. Treasurer. We're going to go ahead and get started with the Secretary's Agenda.

SECRETARY GONTRUM: Good morning Governor, Mr. Comptroller, Mr. Treasurer. There are 19 items on the Secretary's Agenda and six reports of emergency procurements. Item A3 is being withdrawn and will be resubmitted for the February 16th Board of Public Works meeting Agenda, leaving five emergency procurements today. I'm happy to assist with answering any questions.

GOVERNOR HOGAN: Any questions on the Secretary's Agenda?
Mr. Treasurer --

COMPTROLLER FRANCHOT: Go ahead, Mr. Treasurer.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

TREASURER DAVIS: Thank you. I wanted to go to Item 12, the Stadium Authority, the amendment to the lease agreement with Baltimore Orioles Limited Partnership --

SECRETARY GONTRUM: Mr. Treasurer, we have --

TREASURER DAVIS: I'm sorry. Go ahead, sir.

SECRETARY GONTRUM: I'm sorry, sir. I was just going to say we have Executive Director Mike Frenz joining us to address the item.

TREASURER DAVIS: Okay. Sir, my question is simply why? Why are we being -- I mean, I know why they are doing it. But why are we, why should we vote for this? Why should we support this? We're not -- from my reading, there isn't any type of structural issue or any decay or decline. This is a cosmetic request. I'm a fan of the Orioles, have been since I was a kid, and so I follow them closely. But essentially what this is, is too many homeruns are being hit out there so we are going to just tear down the wall, move it back some, and raise the fence. For that -- and I understand why the organization would want to do that. But we're being asked to support up to \$3.5 million strictly for a cosmetic change. And you know, I've asked some questions about it and I wasn't satisfied with the answer, the things about increasing -- well, in a way where it's a deduction from the rent that's due. And just, I don't know, it seems like we can spend up to \$3.5 million more productively than simply raising the left field wall.

GOVERNOR HOGAN: Mr. Frenz?

MR. FRENZ: Good morning, Governor, Mr. Comptroller, and Mr. Treasurer. I understand your concerns. The left field modification, one way to think of it, it's the first project in a series of projects to help improve on field performance and fan experience. And it's also part of a much larger discussion the Stadium Authority is having with the team to renew our partnership with them.

The State portion of these projects will be funded with capital money

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

that will become available upon the execution of a new agreement with the team. In the meantime, this project should improve on field performance and so it should result in some higher level of attendance and higher rents. Now in and of itself, the increased attendance resulting from this project may not generate sufficient revenue to pay for this project. But additional projects and the ensuing partnership between the Orioles and the Stadium Authority is expected to result in higher revenues for the MSA and additional State and City economic impact from Orioles games and events at Oriole Park.

As you said, the team is being reimbursed via rent credits over a five-year period while the lease term at this point is for a two-year period. So the team has an incentive to extend or otherwise renew the lease. We view this concession as a relatively modest benefit for extending the lease to year end 2023 and as a small part of a bigger picture discussion with the team. And I hope that answers your question satisfactorily.

TREASURER DAVIS: I respect the answer that you have given, sir. But I guess, and not to get into a back and forth and also to end here, the on field performance, I guess I would have a different take on that. It has been widely stated that the product on the field is by design. It's by design. It's not the dimensions of Camden Yards but rather the blueprint for how to move the organization forward to get more talent into the pipeline. So I mean we're just, if we're speaking very candidly, we are, I won't say we are intentionally losing, but we are not putting the best product on the field to be competitive, to be successful. That's the reason why the on field performance has not improved. But beyond that, and I'll just end on that point, I'm not sure, again, that it's the best use of Stadium Authority dollars for a cosmetic change. And there is just really no other way to say it. This is purely cosmetic. There are no structural or decaying infrastructure needs that would require that, but rather, you know, that too many fly balls are going, instead of being

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

long outs they are being home runs so we move the fences back and we raise it. And for that, you know, for that change it's going to cost us up to \$3.5 million. And I'm not sure if that cost should be borne by the State. So I'll leave it there but that was the gist of my concerns.

COMPTROLLER FRANCHOT: I had a question. Thank you, Treasurer Davis. I wasn't planning on bringing this up. But is it, what is the timing of this request? Have they already started construction?

MR. FRENZ: They already have started demolition, yes.

COMPTROLLER FRANCHOT: So what, how exactly does that fit into us being anything other than, I mean, how often does that happen?

MR. FRENZ: It's a reasonable question and I think, you know, obviously before it came before this Board, the MSA board had to also approve this lease amendment. And the same question was asked. And part of the reason is the timing of the request, part of the reason is the necessity for completing this project by Opening Day. So they started it before they knew that the reimbursement would occur. And so obviously if parties don't approve the reimbursement, then the Orioles would not be reimbursed. And I think they understand the nature of that risk.

COMPTROLLER FRANCHOT: Well, I have great respect for Treasurer Davis. And I'm not sure what his, where he wants to push this but I'm always all ears. But I do think we should cut a little slack to the Orioles. I mean, really, they have had a very difficult time with COVID and the, as you mentioned, the performance of the team. I have great hope for the future. I always do. And you know, I understand that they have trouble recruiting pitchers sometimes because there are so many homeruns going out of right field. Okay. Well, maybe this is not that bad a project for their performance. And if it's going to be reimbursed, I don't mean to say, I'm listening to what you said, Treasurer Davis.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

I'm just, since this whole thing is sensitive as to whether they even stay in Maryland, in Baltimore, which would just --

TREASURER DAVIS: Mm-hmm.

COMPTROLLER FRANCHOT: -- tear my heart out if they somehow decided to move. And so I hope that never happens. Anything I think that we can work, in partnership with on, especially something like this that is relatively targeted. I understand your concerns. I just would importune you to cut them some slack here and we can keep an eye on it, I think. I don't know. I didn't get from your comments whether you were opposed to it or not. But I'm --

TREASURER DAVIS: Mr. Comptroller --

COMPTROLLER FRANCHOT: -- a big fan, like you are.

TREASURER DAVIS: -- at the appropriate time, I'm going to move to separate because I cannot support it.

COMPTROLLER FRANCHOT: Got it. That's --

GOVERNOR HOGAN: I'll just weigh in. I mean, and I can't disagree with the concern about why are they doing this themselves, moving forward, rather than the Stadium Authority. But I can tell you in order to renegotiate a lease with the Orioles, which I think we all want to do, it's going to take a much, much larger investment by the Stadium Authority, whose independent board, you know, that they float bonds for these kinds of things. And this is a tiny one compared to the rest of the improvements that are going to have to be made for them to extend a long term lease. I think it is unusual. I mean, I don't know enough about baseball, I kind of like homeruns. But you know, I understand they think that they have to limit the home runs for the pitchers. And the fact that they moved forward I think is a good sign that they may want to continue to work with us on the lease negotiation. But I would just warn, as the Comptroller said, any slights at them about not being cooperative just adds to the possibility that they want to go

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

somewhere else.

COMPTROLLER FRANCHOT: And I will say I just spoke a week or so ago to my friend, Brooks Robinson, who is doing well. He has had a couple of spills at home, I think. But I would hate to think that I didn't do something the Os wanted right after talking to Mr. Robinson. And so, I don't know. Dereck, I sympathize with you because often I have been on the receiving end of solo votes. But thank you for bringing it up. I think it's always worth the transparency.

GOVERNOR HOGAN: So Mr. Treasurer, did you want to make a motion to separate it out?

TREASURER DAVIS: Yes, sir.

GOVERNOR HOGAN: Okay. Is there a second? The motion dies for lack of a second. Any other questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Yes, I just want to note for the record that the Department of Public Safety and Correctional Offices is going to come and brief my office on Item 18 and 19, which is a \$130,000 settlement. And the facts, some of the facts that can't be discussed in public, they are going to come in and privately brief us on exactly what is going on with this situation. But I'm not opposing the item, I'm just saying that sometime in the next week or so they are going to brief my office on what exactly is going on. We're happy to share it with Treasurer Davis if he is interested, and obviously Governor Hogan.

GOVERNOR HOGAN: Yes --

COMPTROLLER FRANCHOT: Yes, the facts I know, facts in quotation marks, the information I have, is quite troubling. And I just want an explanation behind --

GOVERNOR HOGAN: I know Secretary Green is going to try to discuss that in private discussions. It's a personnel matter that we can't go over here. But I don't think we want to hold up the payments to these two women.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

COMPTROLLER FRANCHOT: Exactly. No, I completely agree with you. I'm just letting, putting that on the public record. Thank you, Mr. Secretary.

GOVERNOR HOGAN: Any other questions on the Secretary's Agenda? Or is there a motion?

COMPTROLLER FRANCHOT: I would move approval with -- yes, Dereck's is separated out because he wants to vote no on that. So I would move --

GOVERNOR HOGAN: He made a motion to separate it out which died for lack of a second.

COMPTROLLER FRANCHOT: Yes --

GOVERNOR HOGAN: Either way, it's a two to one vote.

COMPTROLLER FRANCHOT: I hate to leave him out there all by himself, that's all. So Dereck, if you, you know, I'm happy to vote with the Governor against your motion if you feel strongly you want to be on the public record.

TREASURER DAVIS: No, sir. Vote exactly how -- I'm fine. I'm fine.

COMPTROLLER FRANCHOT: Okay.

GOVERNOR HOGAN: Okay. Thank you. All right, is there a motion to approve the Agenda?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Is there a second? I'll second. All those in favor?

COMPTROLLER FRANCHOT: Aye.

GOVERNOR HOGAN: Aye. Opposed? You're on mute, Mr. Treasurer.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

TREASURER DAVIS: I vote no.

GOVERNOR HOGAN: On the entire Secretary's Agenda? Okay. It passes two to one. Thank you. Next we're going to move on to the DNR Real Property Agenda.

MS. HADDAWAY-RICCIO: Good morning, Governor, Mr. 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 for which we are seeking approval, and we're happy to answer any questions you may have.

GOVERNOR HOGAN: Good morning, Madam Secretary. Any questions on the DNR Agenda? Is there a motion?

COMPTROLLER FRANCHOT: I would move approval.

GOVERNOR HOGAN: Is there a second?

TREASURER DAVIS: Second.

GOVERNOR HOGAN: Very good. The motion carries, three-nothing. Thank you. We're going to move to --

MS. HADDAWAY-RICCIO: Thank you.

GOVERNOR HOGAN: -- the University System.

MR. HICKEY: Good morning, Governor, Mr. Comptroller, Mr. Treasurer. Tom Hickey, representing University System of Maryland. We have two items for your consideration this morning and we're happy to answer any questions you may have.

GOVERNOR HOGAN: Items on the University System? Any questions? Motion?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Is there a second? Mr. Treasurer?

TREASURER DAVIS: Second.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

GOVERNOR HOGAN: Three to nothing.

MR. HICKEY: Thank you.

GOVERNOR HOGAN: And now we're going to move on to the Transportation, Department of Transportation Agenda. And before we get started, I want to welcome Secretary Jim Ports. He's no stranger to this Board. But he has been before us for many, many years. But this is his first Board of Public Works meeting as Secretary of the Maryland Department of Transportation. So welcome. Jim, you know, served as Executive Director of the Maryland Transportation Authority just before this position. He has served as MDOT's Deputy Secretary twice, during two different administrations. In addition, he previously served as Deputy Administrator for the National Highway Traffic Safety Administration, as Chief Executive Officer for Harford County's transit system, and as a former member of the General Assembly. So we really look forward to continuing to make incredible progress on transportation infrastructure, Mr. Secretary, under your leadership. With that, I'll turn it over to you.

MR. PORTS: Okay. Great. Well, thank you, Governor, for that opening. I think --

GOVERNOR HOGAN: We have three former members of the House on the screen up here. I feel a little left out. I'm the only one that didn't serve in that body.

MR. PORTS: Uh-oh. You might be better off, I don't know. I served with the two gentlemen that are here today. But so good morning, Governor, Mr. Treasurer, nice to see you in that position, and Mr. Comptroller. For the record, my name is Jim Ports, Secretary of the Maryland Department of Transportation. And the Maryland Department of Transportation is presenting 25 items for your consideration. Item 5-M is being withdrawn, leaving 24 items actually for your consideration.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

I'd like to highlight seven of those items that are part of a package related to the Purple Line. These are Agenda items 6-AE, 7-AE, 8-AE, 10-AE-MOD, 12-C, 13-C, and 16-GM-MOD. These items reflect the changes necessary to move this critical project forward. With me this morning to discuss the project and the Agenda items are MDOT MTA Administrator Holly Arnold, MDOT MTA Purple Line Executive Director Matt Pollack, and MDOT Chief Financial Officer Jaclyn Hartman.

Agenda Item 16-GM-MOD is a request for approval of the modification number six to the public-private partnership agreement with Purple Line Transit Partners, that's PLTP, which we also include approval of the new design-build contract. This item is the result of a year-long process to replace the design-build contractor that started when the BPW approved a settlement agreement in December of 2020 and will culminate the successful delivery of this project.

Agenda items 6-AE, 7-AE, 8-AE, 12-C, and 13-C request approval to enter into five sole source contracts to continue to complete the work undertaken by MDOT MTA while a new design-build contractor was selected. And of course, Agenda item 10-AE-MOD requests approval for a time and cost extension for the Purple Line general engineering consultants contract. And with that, Board, I'd like to turn it over to Holly Arnold to provide you with a brief update on the Purple Line project. Holly?

MS. ARNOLD: Hi, good morning, Governor Hogan, Mr. Treasurer, and Mr. Comptroller. For the record, I'm Holly Arnold, the Administrator of the Maryland Transit Administration. I'm pleased to be with you here today to discuss some of the important progress that we have been making on the Purple Line.

As you know, this project has faced some significant challenges over the past few years. But the items we have before you today provide a long

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

term solution to the successful delivery of this project. During the past year, we have been working closely with the Purple Line Transit Partners, or PLTP, to get this project back on track. It hasn't always been easy, but we always kept focus on the shared vision of a successful completion of this project. I commend former Secretary Greg Slater and our entire MDOT MTA team for the many long hours and late nights put into this project throughout the last year to get us where we are today.

The project benefits that made this a great project years ago when you first approved the public-private partnership agreement continue to make this a great project today. The Purple Line will transform the Washington region by creating multimodal connections across several existing transit lines, including five WMATA Metro lines, three MARC commuter rail lines, Amtrak, and a host of bus services; creating convenient, dependable, east-west access to jobs, educational centers, shopping, recreation, and attractions; relieving automobile congestion in one of the most congested areas in the nation; providing significant environmental benefit through the operation of clean, electric energy light rail vehicles and taking cars off the road; and spurring economic growth, revitalizing communities, and providing transit oriented development opportunities along the Purple Line alignment.

Now I'd like to turn it over to Executive Director Matt Pollack to provide you updates on work completed to date and to summarize the Purple Line items being brought before the Board today.

GOVERNOR HOGAN: Thank you, Holly.

COMPTROLLER FRANCHOT: What happened to Matt?

GOVERNOR HOGAN: Technical difficulties.

COMPTROLLER FRANCHOT: Uh oh, been there, done that.

MR. PORTS: So, let me maybe chime in. So believe it or not, Matt

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

I believe is in Disney World with his family --

GOVERNOR HOGAN: Oh, there he is. It's the Disney World excuse, I like that. You know, being with the family at Disney World is okay. I'm glad you, you know, logged in from the hotel. You are on mute, though, I think. Nope.

MS. ARNOLD: Do you want me to go ahead and take it?

GOVERNOR HOGAN: Yeah, go ahead and, Holly, go ahead and take it over.

COMPTROLLER FRANCHOT: Yes.

MS. ARNOLD: Sure. So, as you know, you know, we haven't taken our foot off the gas pedal to deliver this project. The State has taken on oversight of 150-plus contracts about a year ago to keep the project moving while the concessionaire PLTP worked aggressively to bring on a new design-build contractor. We have accomplished a great deal during the past year, so we included, that includes the advancement of the remaining design components to about 95 percent complete; relocating miles of underground and overhead water, gas, sewer, storm drain, and telecommunications utilities in Montgomery and Prince George's Counties; advancing production of the Light Rail railcars at the car builder facility up in Elmira, New York. To date, 130 car shells have been completed and are being outfitted (indiscernible). We have progressed construction, including flipping the switch on permanent power at the Glenridge operations and maintenance facility site, which is needed to be able to accept delivery of the Light Rail cars. We are working to complete the College Park bus loop, which is set to occur next month, relocating the iconic M on the University of Maryland's College Park campus, (indiscernible). We also completed the Polk Street maintenance facility and are then turning it over to the National Capital Parks and Planning Commission, started construction on the Sleaford Road underpass, and obtained final approval for all

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

required MDE permits.

So while all of this construction was continuing, PLTP hand in hand with us conducted an accelerated resolicitation process to obtain a new design-build contract. This robust competitive process began a year ago with a request for qualifications. From that RFQ we had three responsive proposals that were shortlisted and a request for proposals was sent to those qualified bidders in March of 2021. Two compliant proposals were submitted in October and after a thorough and intensive evaluation process PLTP with concurrence from MDOT MTA selected the proposal from Maryland Transit Solutions, MTS as they are known. It's a joint venture between Dragados USA and OHL USA.

The MTS proposal was selected as having the strongest technical proposal and the lowest price. It does provide the best value for the project. We're really pleased to have MTS as our recommended design-build contractor. They bring years of strong leadership experience and a track record of completing major --

GOVERNOR HOGAN: Holly, we lost your sound --

MS. ARNOLD: -- transit projects.

GOVERNOR HOGAN: There you go.

MS. ARNOLD: Under the P3 structure, PLTP remains MDOT MTA's single point of contact -- am I, we're having all sorts of difficulties, can you hear me now?

GOVERNOR HOGAN: We hear you. Yes, it looks like your, now your video is out of sync, but we can hear you.

MS. ARNOLD: Can you hear me? It looks like I'm on muted.

GOVERNOR HOGAN: Yes.

MS. ARNOLD: Okay. There it is. Oh man, we need to invest in Wi-Fi along with the P3. So, yes, under this P3 structure, PLTP remains MTA's single point of contact for this project. PLTP has separate contracts with the design-

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

build contractor and the operations and maintenance contractor to provide the complete scope of work over the entire 40-year life of this agreement.

Per the settlement agreement, Board of Public Works approval of the design-build contract is required, although the State is not party to that agreement. So pending today's approval of the design-build contract and modification number six to the P3 agreement, MTA will work with PLTP to achieve commercial and financial close --

MR. POLLACK: Can you hear me now?

MS. ARNOLD: Yes, we can hear you, Matt.

COMPTROLLER FRANCHOT: Hi, Matt.

MR. POLLACK: Hi, I am so sorry about that.

MS. ARNOLD: Do you want to take over --

MR. POLLACK: Yes, I see exactly where we are and I apologize for the, I apologize for the delay there.

MS. ARNOLD: That's all right --

MR. POLLACK: -- yes, thank you. So Governor, thank you, Mr. Treasurer, Mr. Comptroller, thank you again. For the record, I'm Matthew Pollack, MTA Executive Director for the Purple Line project.

So as Holly mentioned, MDOT MTA will work with PLTP to achieve commercial and financial close. MTS will resume full scale construction in spring of 2022 and the entire 16.2 mile length of the Purple Line will open to passengers in fall of 2026.

Agenda item 16-GM-MOD seeks the Board's approval of changes to the P3 agreement to reflect the updated project cost, schedule, and terms in the new design-build contract. Although much of the P3 agreement remains unchanged, there are several important changes necessary to move this critical project forward if we select the project's updated construction cost and schedule,

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

based on the replacement design-build contract. It includes the updated financial plan and financing costs and updated pricing for operations, maintenance, insurance, and life cycle costs, and it reflects updated terms regarding risk allocations, the right to seek termination, insurance coverage and dispute resolution procedures. It also includes the purchase of two additional Light Rail vehicles and the removal of the remaining vehicle options.

One thing that won't change is that MDOT MTA will retain ownership and oversight of the Purple Line and remains ultimately accountable to the Board, to the Legislature, and to the public for the successful delivery of the project.

The updated design-build contract cost is \$3.4 billion, including the design and construction work completed by the prior design-build contractor and the fixed bid price for the new design-build contractor to take the Purple Line revenue service. The total P3 agreement cost is more than just the cost to build the project. It includes the entire amount of payment to be made over the 40-year life of the agreement. This includes all of PLTP's costs to design, construct, and commission this highly complex project, including related financing costs, work completed by contractors assigned to MDOT MTA over the last year; repayment of private activity bonds that had been issued to fund construction under the previous design-build contractor; settlement payments previously approved by the Board and already paid to the previous design-build contractor; capital renewal costs for the 30-year operations and maintenance period; and operations, maintenance, and insurance costs over the 30-year operations and maintenance period.

These costs are higher today than they were six years ago when the P3 agreement was first approved. Costs have increased due to specific project challenges, first and foremost being the lawsuits and federal court action that

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

delayed the project and had a snowballing effect. Our project also had the added complexity of bringing a new design builder to the project mid-construction. On the other hand, many of these increases are affecting projects across MDOT and the entire U.S. and are not unique to the Purple Line. These include things like material costs rising across the construction industry; material and labor shortages, and supply chain issues; mandatory wage increases to living wage laws in Maryland and Montgomery County; inflation levels experienced over the last five years; and changes in the insurance market, making insurance harder and more costly to obtain.

Taking a look now at funding, much of the work done to date on the project has already been paid for. The remaining work will be financed by PLTP through a combination of debt and equity. PLTP will utilize a TIFIA loan, private activity bonds, and private equity to fund remaining construction activities. This financing is expected in late February. This debt and equity will ultimately be repaid by MDOT MTA during the 30-year O&M portion of the contract through availability payments. The availability payments will include several components, including repayment of the debt and equity, life cycle costs, insurance costs, and payments to the operations and maintenance of the Purple Line. The availability payments remain an important tool to ensure that performance over the O&M period meets the standards set in the P3 agreement.

Throughout the past year, MDOT MTA has continued design, construction, and Light Rail vehicle production during the suspension of the P3 agreement and has worked to provide the replacement design-build contractor with data and project documents to enable it to mobilize and move into construction as quickly as possible. As a result, MDOT MTA anticipates the project moving forward as follows. The replacement design-build contractor is expected to resume full scale construction in spring 2022, officially ramping up to complete the project

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

in the shortest time possible while maintaining a safe working environment. MDOT MTA will continue its own interim construction activities during this period to help with the overall project schedule. Light Rail vehicles will start arriving at the new Glenridge operations and maintenance facility in the fall of 2023. The test track between New Carrollton and Deacon Heights will be completed in the summer of 2024, kicking off a period of intensive local testing, integrated testing, and initial operator training while construction continues elsewhere along the alignment. Construction across the entire alignment will have progressed enough at the end of 2025 to allow for systemwide testing, full operational training, and the commissioning activities necessary to prove out a safe and ready light rail line. Revenue service will begin in the fall of 2026. This new timeline allows for the entire line to open at once with no phased approach to allow seamless operations.

In addition to the modification of the P3 agreement, MDOT MTA is requesting BPW approval of five sole source contracts. As mentioned previously, MDOT MTA took assignment of more than 150 contracts from the prior design builder to advance construction during the past year. Many of these contracts will be reassigned to the new design builder. Five of these contracts have in progress partially completed work under MDOT MTA management. Retaining these five contractors while they are simultaneously under contract to the new design builder will provide critical continuity over the next year while MTS ramps up full construction efforts, allowing MDOT MTA to continue current unfinished Purple Line work including utility relocations, the College Park bus loop, and other construction activities. The sole source contracts will eliminate the cost, schedule, quality, and responsibility risk that would arise if active construction sites were to change contract owners mid-construction.

And finally, MDOT MTA is requesting a four-year and \$15 million cost extension to the general engineering consultants contract. A general

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

engineering consultant is needed to maintain project continuity, which is necessary to ensure the State's interest. The general engineering consultant has been a valuable partner during the resolicitation and was key to the State's ability to get competitive pricing from our proposers. The general engineering consultant will continue to be a valuable partner, acting as the critical bridge between the previous design builder and the new design builder. And with that, I will now turn it back over to Secretary Ports.

MR. PORTS: Okay. Well, thank you, Matt. Thank you for the dedication of being with us on vacation.

Governor, I would like to share a short video of the progress that Matt and the entire MTA team has made on the Purple Line during that interim period that he just spoke about.

(Video begins.)

MR. POLLACK: I'm Matt Pollack, Executive Director for the Purple Line Light Rail Project. We have already accomplished a lot over the last year and a half. We have relocated 18 miles of underground and overhead utilities; advanced production of light rail cars; flipped the switch on permanent power at the Glenridge operations and maintenance facility; worked to reconstruct the College Park bus loop; relocated the iconic M on the University of Maryland's College Park campus; completed the Plymouth Tunnel's east portal; completed the Polk Street maintenance facility and turned it over to the Maryland National Capital Park and Planning Commission; and started construction of the Sleaford Road underpass. And the best is yet to come. Once our new design builder is on board, we will ramp up to full construction. We promise to keep you posted on our progress in the months ahead. Thank you.

(End of video.)

GOVERNOR HOGAN: Thank you.

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

MR. PORTS: Well, Board members, in summary again, MDOT brings before you 24 contracts for consideration. Seven of those, as I mentioned, are related to the Purple Line. And I want to thank you for your time. And as I mentioned, MTA Administrator Holly Arnold, Purple Line Executive Director Matt Pollack, and MDOT Chief Financial Officer Jaclyn Hartman, and I are all here to answer any questions you may have.

GOVERNOR HOGAN: Thank you. Are there any questions on any of the Purple Line contracts, first of all, before we talk about any other questions on the Agenda, while we have the team together?

COMPTROLLER FRANCHOT: I have a few questions. But I'll defer to the Treasurer if he --

TREASURER DAVIS: No.

COMPTROLLER FRANCHOT: Good.

TREASURER DAVIS: Go ahead, sir.

COMPTROLLER FRANCHOT: Yeah, no, thank you. So I have tremendous confidence in Matt Pollack and in Holly Arnold and the finance person. I love Jim Ports, he's a terrific guy. But Jim, you, God bless you, at your first meeting you are bringing quite a large request. And I was delighted that the briefing touched on why it's not on budget and not on time. And when I looked at today's thing, the entire Agenda for the Board of Public Works, it's 115 items asking \$4.2 billion. And I said, gosh, what's that attributable to? And staff said, well \$3.4 billion is attributable to the Purple Line. I said, well, that's good. Because the Purple Line -- in a sense, despite the mind-boggling large amount -- it's a project that we all see as essential and very important.

I just want to remind everyone on this call that all of this started with this lawsuit. It was done by people that didn't want anything done. And it was highly unfortunate. And little, it wasn't known to us, but during that time the

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

original contractor from Texas fell under federal investigation, federal investigation, for low-balling federal contracts. So there was a little provision in the original document that no one thought would ever be taken advantage of, which is they could walk after a year, which is what the lawsuit did. And it put us in this horrible situation. And I just want to reiterate that, Jim, it's a heck of a project to bring to us on your first day before the Board of Public Works. But I also just want to say that I have great confidence in your team, and Greg Slater did a marvelous job, your predecessor. So I just want to say this project is significant. Obviously we need to get it done and we owe it to Marylanders to get it done as quickly as possible.

I guess I'd like to ask Matt and Holly, unless you want to jump in, Jim, but I just want to know what kind of lessons have we learned from this unfortunate experience we had with this huge company that has a -- I don't think they are involved in any public contracts anymore, the original contractor. And but what lessons have we learned about future public-private partnerships? And are you aware of any other cost increases that we are going to be facing down the road? Matt, I'll just ask you to respond, unless the Secretary wants to jump in.

GOVERNOR HOGAN: Before we turn it over to Matt, let me just jump in for a second.

COMPTROLLER FRANCHOT: Yeah --

GOVERNOR HOGAN: Thank you for pointing out that it was these anti-transit activist folks that brought a frivolous lawsuit that tied us up for years and years, which is primarily the reason for all the delays and all the cost overruns. I will kind of correct you a little bit on the contractor. It has been misrepresented that they sort of walked off the job because they wanted to get out of the contract. We pretty much terminated the relationship because we thought we were being gouged and we were trying to save the taxpayers money and to get the project done

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

faster. So I'm very proud of the team that in spite of incredible -- it's a huge project and it has incredible obstacles. But they have kept pushing, you know, moving the ball forward no matter how many times there was a setback from outside. It's not the fault of anyone in any of these positions. They kept moving. Even when we had to kick the contractor out, even when, you know, they tied us up in court for years and it drove up all the costs of construction, you know, the whole entire labor market changed, the supply chain issues changed, they were still moving. So I just want to make it clear. So thank you for pointing out that it was primarily the people opposed to this project that have us in the situation that we are in today. Not folks --

COMPTROLLER FRANCHOT: Governor --

GOVERNOR HOGAN: -- hard work.

COMPTROLLER FRANCHOT: -- yeah, and Governor, I am a lawyer. But that was a very unfortunate situation that they put us into and it cost us an arm and a leg. And I couldn't agree with you more on the comments you made. So --

GOVERNOR HOGAN: Thank you.

COMPTROLLER FRANCHOT: -- what lessons quickly, Matt? You don't have to go into great detail. But what are the quick lessons we may want to learn for future P3s?

MR. POLLACK: Yes, I think one of the most important things, Mr. Comptroller, is the level of communications that needs to take place throughout the project. It's not just at the senior level. It's not just a matter of Holly, the Secretary, and I having these communications with our counterparts. All the communication has to take place at all levels. We need the construction team talking to the construction oversight. We need the quality teams talking to the quality oversight. We need all the safety teams working together. We need to continue to drive

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

ourselves towards that common goal. You know, we may have different reasons we want to hit that common goal. But there is that common goal to build the Purple Line. And we all need to drive down and partner at the level where we are reaching towards that common goal. And I think with this new P3 agreement we have put in place some additional initiatives as far as communicating, partnering, and also streamlining the dispute resolution process to try and get to the bottom of any issues that may arise as we go forward.

COMPTROLLER FRANCHOT: Okay. And if I could just ask Ms. Arnold, in a, you know, friendly way, what are the fares going to be on this particular transit line? And when are they going to be announced?

MS. ARNOLD: So at this point it's a little too early to know what the fares are going to be. You know, we plan to open in four and a half years. The fares will be similar to how MTA fares are, likely just a flat fare. It will go through a similar process as well, with a public hearing and we will make sure that there is plenty of opportunity for public comment before that.

COMPTROLLER FRANCHOT: And do you anticipate --

MS. ARNOLD: Likely probably --

COMPTROLLER FRANCHOT: -- yeah, do you anticipate the cost increases to affect the fares in a major way?

MS. ARNOLD: No. We are going to take a look at what the fares are for, you know, WMATA, MARC, MTA services in the region and align with those. We don't want to be out of touch with the other fares in the region.

COMPTROLLER FRANCHOT: Yeah, thank you, Governor. And Mr. Transportation Secretary, yeah, this is a doozy of a proposal to bring. And I'm delighted that it has got support from the Governor, it certainly has for me, and I assume the Treasurer might be inclined also. But I want to congratulate you. I've known you for decades and we have been on both sides and opposite sides. And I

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

just want to applaud your promotion and to the extent we can put this one behind us and have future budgets, future projects on budget and on time, I would be grateful.

MR. PORTS: Yes, sir. Well, thank you very much.

GOVERNOR HOGAN: Any other questions?

COMPTROLLER FRANCHOT: If they are not on budget and on time, then just make sure they are projects that we really like.

MR. PORTS: Well, I will say this, Mr. Comptroller, as you know when I took over MDTA I inherited that two-year project for the Bay Bridge and turned it around in one year. So we got not only on time and on budget, we were on budget and ahead of time, and the same with the viaduct at 895. We ended that project under that leadership six months early. So we are moving things quickly. And of course, when the Governor said take down those booths at the Bay Bridge, we got that done in record time also. So I am really proud of this team for what they have been able to accomplish, even in that interim as you have seen in that video. And I think that we are going to have many, many successes working with you and the Treasurer and of course under Governor Hogan's leadership. I think we are going to see many, many more other successes as we move forward.

COMPTROLLER FRANCHOT: Excellent. Thank you.

GOVERNOR HOGAN: Yeah, you know, cutting that time frame in half on the Bay Bridge is the only reason why you are sitting here, Jim.

(Laughter.)

MR. PORTS: -- I'm glad I did that, then.

(Laughter.)

GOVERNOR HOGAN: Yes, good job.

TREASURER DAVIS: Governor, if I may, and congratulations, Secretary Ports. I remember you from the District 8 years from way back, and we

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

don't go quite as far back as Comptroller Franchot, but I enjoyed working with you, nonetheless.

I just wanted to ask a quick question on Item 17, and I don't expect you to answer it now, if someone could just get back to me on it. I noticed it was, it's the Light Rail and Metro Third Party Track Maintenance and Emergency Response Services issue. On that I noticed MDOT says, "although the MBE participation goal is not currently being met, the contractor has submitted an MBE corrective action plan and will be using an MBE firm to complete the tunnel repairs." What that sort of says to me is that the contractor wasn't meeting the goal and MDOT had to go and, you know, put a little pressure on and that's why you are getting, oh, they had to submit a corrective action plan. My guess is that the agency asked for that. And to me, if they could submit a corrective action plan, they could have just done it. Whatever it is that they are saying they are now going to do, they could have just done it. So my question, and like I said I'm not expecting you to respond now. Someone can get back to me. I just want to know are there any penalties or tools at the disposal of the agency when these goals aren't being met, or to try to, you know, get them into compliance? If that's just something, like I said, if you want to have someone call me. I don't think we need to do that now. But that sort of struck me. That, you know, if you can submit a -- and this may not have even come to light if they didn't need a modification in the contract to begin with. So if you get an opportunity, if we could talk or the appropriate person could get in touch with me, I would very much appreciate it.

MR. PORTS: Well first of all, Mr. Chairman, I mean, Mr. Treasurer, congratulations to you. We do go back a few years and now we're both in different positions, correct? And so that's great. But I think I can answer that question for you. Unfortunately, what happened under this contract is the MBE that they had assigned, the owner passed away. And so obviously they no longer qualified as an

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

MBE and therefore they had to I guess continue their work without an MBE for a little while while they were trying to get one back on board. So this contract is very different in that respect. Obviously, that was not anticipated, nor do we hope anything like that would ever happen. But when things like that do occur, MDOT in this case MTA quickly jumped in, worked with the developer and vendor, and said, you know, how can we rectify this with a new MBE? And they cooperated very well with us. So I don't want anybody to think that this was something that, you know, they didn't do correctly or anything like that. It's simply unfortunate, unfortunate circumstances in this case. So I just wanted to clarify that for you.

TREASURER DAVIS: Good enough. Thank you, sir.

MR. PORTS: But thanks for the question. Thank you.

GOVERNOR HOGAN: Any other --

COMPTROLLER FRANCHOT: Could I just quickly ask Administrator Arnold, or at least salute her and also the Transportation Secretary, for Item 14. And that is a \$9 million contract to a company in Minnesota to purchase battery operated electric buses. And it's part of the pilot program to transition 50 percent of the internal combustion engine buses to zero emissions by 2030. And that's really aggressive and very much to be commended. And I just wanted to thank the agency's efforts to cut carbon emissions by half. And please keep us in the loop as to how this works because I really hope to see the day when innovative items like this help make Maryland the chief renewable state capital in the country. And so good work. Any comment? It's only a \$9 million contract but --

GOVERNOR HOGAN: Well, Mr. Comptroller, thank you for raising that issue. And thanks for taking the place of the former Treasurer, who has been, you know, on these types of issues almost every meeting we ever had. And so we appreciate you, you know, coming in and thanking them for their efforts. But

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

it's great progress.

COMPTROLLER FRANCHOT: Well, I applaud you, Governor Hogan, for allowing good projects like this to happen. Because that's the direction everybody is moving in, public and private sectors, I think.

GOVERNOR HOGAN: Thank you. Any other questions while we have this group, or any other questions on the full Transportation Agenda?

COMPTROLLER FRANCHOT: I would move approval if the Treasurer was okay.

GOVERNOR HOGAN: Great. Is there a second?

TREASURER DAVIS: Second.

GOVERNOR HOGAN: Very good. Thank you all very much. The motion carries three-nothing. We move on to the Department of General Services.

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

GOVERNOR HOGAN: Good morning.

MR. CHURCHILL: -- Mr. Comptroller. For the record, I'm Ellington Churchill, Secretary for the Maryland Department of General Services. We are presenting 56 items on our Agenda today, including two supplementals. We are withdrawing Item 9 at this time. Our Agenda includes \$2.7 million in capital grants and a contract that is critical to the preservation of our historic State House. DGS is also awarding contracts to 14 small business enterprises and seven minority business enterprises. And Governor, there is a request for public comment for Item 42.

GOVERNOR HOGAN: Yes, I see we have a request on Item 42, which is a State Board of Elections item. The request to speak is from Eve Hill of Brown, Goldstein & Levy. Ms. Hill, are you with us? I think she requested to speak last week and we didn't -- I'm not sure what the, is this a technical issue or is she not --

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

MS. HILL: Hello?

GOVERNOR HOGAN: Oh, there we go.

MS. HILL: Hello, are you on? Can you hear me now?

GOVERNOR HOGAN: Yes.

MS. HILL: Okay. There was some confusion about muting. We were fighting each other on the muting. Good morning, Governor, Mr. Treasurer and Mr. Comptroller. I'm Eve Hill, an attorney with Brown, Goldstein & Levy. I represent Access Ready, Inc., the IMAGE Center for People with Disabilities of Maryland, the National Association of the Deaf, and the National Federation of the Blind. And these organizations represent Marylanders with disabilities who want to exercise their right to vote with the same independence and privacy afforded to people without disabilities. My clients ask you to reject the State Board of Elections' proposed contract with DemTech for an electronic pollbook system. My clients are extremely concerned that the vendor selected by the Board of Elections will not provide pollbooks that are accessible to people with disabilities.

Marylanders with disabilities have faced this situation over and over again. State agencies like the Board of Elections purchase expensive technology that does not prioritize accessibility and decline to adopt available technology that is already accessible. Again and again agencies accept vague vendor promises to add accessibility eventually, promises that never materialize.

DemTech in particular has no history of accessible technology. DemTech's website does not even suggest that its electronic pollbooks are accessible and my clients' request for a demonstration of DemTech's accessibility went unanswered. The Board of Elections may not have learned from past experience that purchasing technology based on vague promises of future accessibility is unwise, expensive, and illegal. But my clients have learned those lessons. We know that a technology vendor that cannot assert its accessibility, that

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

has no history of accessibility, and that will not engage with the disability community is unlikely to produce an accessible product, no matter how much they promise to do so. In the end, those promises turn into excuses. People with disabilities are left without options and the technology is out of date and replaced before it is ever made accessible.

We have raised these issues with the Board in March, but our concerns were not heeded, and here we are again, relying on hope and promises for a \$24 million contract. We can see how this will play out. DemTech will spend time learning accessibility and trying to bolt it onto its product after the fact. DemTech will run out of time and sacrifice accessibility in favor of other priorities, again. The Board will have to choose between rejecting the pollbooks entirely or going forward without accessibility, again. And either way, people with disabilities will be forced to give up their privacy and independence in voting, again. That will end up violating Title II of the Americans with Disabilities Act and my clients will have to enforce those civil rights again and the Board will have to purchase a new accessible pollbook system or pay an expert to make the DemTech system accessible.

You have an opportunity to avoid this endless vicious cycle and stand up for the rights of Marylanders with disabilities.

GOVERNOR HOGAN: Thank you. We're going to I think go to the Elections Administrator Linda Lamone and see if she is able to respond.

MS. LAMONE: Good morning, Governor. Linda Lamone, Administrator of Elections. I guess my basic response is that we followed the procurement rules. DemTech has committed to provide the accessible product. If they don't, we will use our contract remedies to make the State whole. The one issue here is that it's the electronic pollbook and it has nothing to do with the actual act of voting. So we are in compliance with the ADA and other federal and State

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

requirements for making voting available to everyone. That's my basic response.

GOVERNOR HOGAN: All right. Are there any questions --

COMPTROLLER FRANCHOT: I was going to defer to the Treasurer, but you know, this agency is just, I mean, if I could just ask the administrator, why do we have this situation where representatives of the disabled community in Maryland come and say the company that you want to give a \$24 million contract to won't talk to them and doesn't respond to their requests? Why would you pick a company like that and then come and say, well, under the procurement rules this, tough luck.

MS. LAMONE: No, I don't think we are saying that at all, Mr. Comptroller. I don't --

COMPTROLLER FRANCHOT: Basically, Linda, if they can't vote or they feel as if they are being not listened to, that's a huge issue. And I'm sorry. A simple defense of it's the procurement system, that doesn't really answer the question. The question is --

MS. CHARLSON: Mr. Comptroller --

COMPTROLLER FRANCHOT: -- what are we doing about this community? And I don't know the advocate who is speaking, and as a lawyer I generally mistrust lawyers myself. So but she made an excellent point, which is people are speaking but it doesn't seem like anybody is listening to them.

MS. CHARLSON: Well Mr. Comptroller, if I may, this is Nikki Charlson, Deputy Administrator with the State Board of Elections. If I could supplement Linda's answer, we did, as Ms. Hill mentioned, we have communicated with and heard the concerns of individuals representing voters with disabilities. Part of the procurement review process was compliance with new laws and regulations about non-visual access. We reached out to the State Department of Disabilities to ask for their help in assessing the solutions that were proposed and

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

we provided each of the vendors with those identified issues. And DemTech has committed to resolving them. I think that it is important to note that we will always be compliant with applicable federal and State laws and as Ms. Hill has noted, they are eager to sue us when we don't. But we are committed to making this solution comply with all applicable federal and State laws about disabilities and working with DemTech to meet with them.

We did receive the request for the demonstration and we did answer that request. The solution right now, it's a customizable -- well, the procurement was for a commercial off the shelf solution. And it needs customization to make it work in Maryland's unique election environment (indiscernible) registration requirements. The centralization of how we do elections here does require some customization. And so the version of the software that we have now and that was tested is not the version that we are going to be using. It's going to be the foundation of it, and then we are going to be building enhancements to make it work in Maryland, which will include the enhancements identified by our State Department of Disabilities who we rely on for their expertise in assessing IT solutions for accessibility to voters.

COMPTROLLER FRANCHOT: Okay. I hear you. But why don't we just -- I know we have postponed this two weeks already. Why don't we postpone it another two weeks? Ask DemTech to get together with this group. They are \$10 million on the low side of this bid. I would be happy to give them a couple of extra million if it would somehow address these possibly very legitimate concerns which would reduce the likelihood of litigation down the road. But the key thing is, you know, you just can't act as if you have already listened to them when nobody really has. And so why not just get DemTech in here and have them explain. If they need some extra money (indiscernible).

MS. CHARLSON: So, again, we have met with the individuals that

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

Ms. Hill represents. DemTech has committed to addressing the findings from the State Department of Disabilities at no cost. They have --

COMPTROLLER FRANCHOT: Yeah, they don't believe DemTech because they have never met with them. So if you could set that up, I would be a lot more supportive of this. But right now, it's just kind of, you know, it just doesn't sound like anybody is communicating, to pick a word from the Transportation Department that we just listened to about the Purple Line. But it's just me. Treasurer Davis, I'm not suggesting anything. I'm just saying I would be happy to put it off for a couple of weeks to tell DemTech to meet physically with them and figure out whether there is some resolution of this issue. And this is a special group of people. They are not disabled people. They are special people. And we need to make sure there is a, that this is something that they feel comfortable with as far as the implementation. That's all.

GOVERNOR HOGAN: Let me ask the Administrator or the Deputy Administrator, is the, I mean, we already put this off once before. And I don't know why we didn't get more information or try to get more resolution. But is this an emergency, you know, time sensitive issue that a couple of weeks would somehow, you know, endanger the elections? Or is this something that would not be a problem to take two more weeks?

MS. LAMONE: This is Linda Lamone, Governor. The problem with postponing it again is that we need the time and the resources from the local boards of elections to develop the product. And the longer we wait, the busier they are going to be. And the reason why we postponed it is because originally, from 2022 implementation to 2024, was to make sure everyone, including the National Federation of the Blind and other organizations, to have input to develop the best possible product for use in Maryland. And the longer we postpone it, the less time and resources we are going to have available to us from the local boards. Because

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

as you know, the primary election is marching ahead very quickly. So I would urge the Board to please approve this today. And I will tell you that we will continue to work with the NFB, we do, we work with them all the time, to make sure that the product is what they need.

GOVERNOR HOGAN: Mr. Treasurer, any thoughts?

TREASURER DAVIS: I would be happy to delay it two weeks for additional information or to our next meeting.

GOVERNOR HOGAN: All right. So Mr. Comptroller, you have a motion to --

COMPTROLLER FRANCHOT: -- that we defer this and ask the winning bidder to meet with these groups that are concerned and see whether there is some resolution. And I would make that motion and --

GOVERNOR HOGAN: Is there a second?

TREASURER DAVIS: Second.

GOVERNOR HOGAN: All right. Well great. I'll go ahead and, you know, vote with both of you. And so let's just try to get to some more resolution. You know, I don't want to see it delayed again so hopefully in two weeks we can make some progress. But I will vote, the vote is three to nothing on this one, voting no on the item, or voting to postpone for two weeks on this item. Are there any other questions on any of the rest of the items for DGS?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR HOGAN: Is there a second?

SECRETARY GONTRUM: Governor, the next meeting is on February 16th. So on the motion on Item 42, we will mark that as approved unanimously to defer for three weeks until the meeting on the 16th. But before the Board adjourns, if I could just ask your indulgence, Mr. Treasurer, going back to the Secretary's Agenda, our current plan is to mark Item 12 as approved two-

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

nothing, with you, sir, voting in opposition -- I'm sorry, two to one, with you voting in opposition. And to mark the rest of the Agenda as approved unanimously. Is that how you would like us to proceed?

TREASURER DAVIS: Yes, sir.

SECRETARY GONTRUM: Or would you like us to mark your opposition to the entire Agenda? Two to one on Item 12 --

TREASURER DAVIS: Yes, sir.

SECRETARY GONTRUM: -- the rest of the Agenda unanimous.

TREASURER DAVIS: Yes, sir. Thank you.

GOVERNOR HOGAN: Great.

SECRETARY GONTRUM: Thank you, sir.

GOVERNOR HOGAN: Yes. Well thank you. That concludes the meeting. I appreciate everybody's time today. Great work.

COMPTROLLER FRANCHOT: Thank you.

(Whereupon, at 11:24 a.m., the meeting was concluded.)