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# **BOARD OF PUBLIC WORKS**

*GOVERNOR'S RECEPTION ROOM, SECOND FLOOR, STATE HOUSE  
ANNAPOLIS, MARYLAND*

**July 3, 2024  
10:06 a.m.**

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# PRESENT

## **HONORABLE WES MOORE**

Governor

## **HONORABLE BROOKE E. LIERMAN**

Comptroller

## **HONORABLE JONATHAN D. MARTIN**

Chief Deputy Treasurer

## **JOHN GONTRUM**

Secretary, Board of Public Works

## **ATIF CHAUDHRY**

Secretary, Department of General Services

## **RAFAEL LÓPEZ**

Secretary, Department of Human Services

## **THOMAS HICKEY**

Director of Procurement and Real Property Initiatives,  
University System of Maryland

## **VALERIE RADOMSKY**

Chief Procurement Officer, Department of Transportation

## **EMILY WILSON**

Director of Legislative and Constituent Services,  
Department of Natural Resources

## **LISA GRIGSBY**

Recording Secretary, Board of Public Works

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# PROCEEDINGS

GOVERNOR MOORE: Good morning. Please take a seat.

Please take a seat. I hope everyone is having a wonderful start to the July 4th week. And I want to wish you and your families a wonderful July 4th week. I'd like to welcome our Chief Deputy Treasurer Jon Martin to the table who's sitting on behalf of Treasurer Davis. And Madam Comptroller, it is wonderful to see you virtually.

COMPTROLLER LIERMAN: Hello, great to be here.

GOVERNOR MOORE: Great to see you. With that, we'll go ahead and get started with the business of the day.

Mr. Secretary, good morning.

MR. GONTRUM: Good morning, Governor. And good morning, Madam Comptroller and Mr. Chief Deputy Treasurer. There are 22 items on the Secretary's agenda this morning, and five reports are emergency procurements. We do have speaker requests on Item 19 and Emergency Report A5. Happy to assist with answering any questions.

GOVERNOR MOORE: Thank you so much. So speaking of A5, I'd like to actually start about calling up Item A5, which is a report for emergency procurement from the Maryland Transportation Authority to award \$50.3 million in the contract to Skanska for debris removal. And that's related to the collapse of the Francis Scott Key Bridge. The services that were utilized for this contract, they were critical in allowing the State in partnership with both our federal partners and also our local partners to efficiently and safely be able to clear the debris in the Patapsco River and to gradually restore traffic into the Port of Baltimore.

And I've said it before, and I'll say it again, and I'll keep on saying it, the level of coordination that we were able to see after that tragedy, the level of coordination that involved federal assets, State assets, local assets, the private sector, partners all across that really moved instantaneously in response to a deadly and tragic event. One of the deadliest and most tragic events in our State's history. But the level of coordination that we saw truly will serve as a case study across the nation on how to manage crisis effectively and how people moved in coordination in order to do that.

It was an unprecedented level of coordination that allowed us to clear the channel and reopen the Port. Something that was accomplished in several weeks instead of several months, as was first anticipated the morning of that tragedy. And while we are very, very proud that the work of the Port of Baltimore has now commenced and there is traffic and our workers are back, which we're very excited about, we're also very, very clear this work is not done. There's a lot more work that needs to be done, and we are not going to stop and we're not going to rest until everything is complete. And that includes -- we've got a bridge to rebuild.

We're not going to stop until that bridge is standing tall over the Patapsco again. The bridge that more than 30,000 people relied on every single day to get to work. A bridge that was absolutely essential for the full, complete operations for the Port of Baltimore to exist because so many materials actually needed the bridge in order to get to the Port of Baltimore. And it's a bridge that is not just crucial to our State. It's a bridge that is crucial to our nation's economy. We need to get it rebuilt. And the Port of Baltimore is an essential artery for economic flow and economic activity across the country. And to put it simply, our focus on getting this done is not about nostalgia. It's about necessity. It's critical.

And so that's why I'm grateful that last Friday, the Biden-Harris Administration included a one hundred percent federal cost share for the rebuild of the Francis Scott Key Bridge in the President's supplemental budget to Congress. And I cannot overstate the level of partnership and support that we have received from the Biden-Harris Administration. I say the first phone call that I got from the White House was at 3:30 that morning. And they have been remarkable partners throughout this entire tragedy to our state, to the people of our state, and to the people who understand the importance of being able to get this done effectively.

Since March 26th, they have been full partners in this work. And over the past week, I have personally met with over one hundred leaders in the White House and on Capitol Hill to talk about the way forward. We are building a broad coalition in order to accomplish this. And this coalition is Democrats and Republicans. This coalition represents every single caucus. This coalition represents every single segment of our society. This coalition is everybody. It's a coalition that we're leading on and it's a coalition that we know is going to be necessary in order for us to get this bridge rebuilt and to truly restore the economic engine that we know that that port provides. And so it is time for Congress to come together and to pass the critical measures that are necessary to rebuild this bridge for the good of our nation's economy.

And with that, I would like to recognize Mr. Marshall Brown from LIUNA, who has signed up in opposition of this emergency contract. Mr. Brown, good to see you. Good morning. Thank you.

MR. BROWN: Good morning. Good morning, Governor Moore, Chief Deputy Treasurer Martin, Treasurer Davis, and Comptroller Lierman. My name is Marshall Brown from LECET, Laborers-Employers Cooperation and Education Trust. This is a joint labor management organization that fosters

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cooperation between the Laborers International Union of North America, LIUNA for short, and their signatory contractors. At LECET, we support LIUNA by promoting fair and transparent practices in construction. Today, I'm here to voice my objection to the use of the emergency procurement issue to issue a \$50 million no-bid contract to Skanska USA Civil Southeast.

Obviously, the destruction of the Francis Scott Key Bridge was a tragic disaster, but the Army Corps of Engineers had the primary responsibility to clear the federal channeled debris. Maryland had sufficient time to properly procure the remaining debris removal, disposal, and cleanup operations that fell outside the Corps' jurisdiction. There are numerous capable contractors with the necessary experience who could have mobilized in the required time frame. The claim that Skanska USA Civil Southeast was with -- is currently engaged in the MDTA's Harry Nice/Mac Middleton Bridge is misleading. While that project might not be officially closed, the bridge opened for traffic on October 12th, 2022, and substantial construction activities have not occurred there for months.

We disagree that Skanska was the only feasible contractor with the capability and resources for this job. Our contractors were never contacted by the State or even a survey of their capabilities. We also have DBE firms to help meet the 3 percent goal. We believe that the cost-plus methodology could increase the cost from the negotiated \$50 million. The evaluation process could have been done quickly, making it more competitive -- making it much more of a competitive process for Maryland. Maryland's procurement process is designed to be fair, competitive, transparent, and unbiased. This no-bid contract does not meet the standards. For those reasons, we stand firmly against the approval of this contract. Thank you.

GOVERNOR MOORE: Thank you so much, Mr. Brown. I'd also like to call up the MDTA Executive Director Bruce Gartner for some comments.

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Bruce, good morning. Good to see you, Executive Director.

MR. GARTNER: Thank you. For the record, Bruce Gartner, Executive Director of the Maryland Transportation Authority. Good morning, Chief Deputy, Governor, and Comptroller. I'm here to basically state my appreciation for the emergency procurement process that we were able to use. I've been with the Department and MDTA for over 30 years, and this is one of the most significant emergencies we ever had -- for the Port of Baltimore, for the MDTA. We were able to use -- our engineers were able to use their professional judgment to call upon the resources that we thought could act most quickly given the situation where we still had victims in the water.

And we knew that we had responsibility for the side channels that, as you know Governor, were opened up early and allowed for movement around the site, allowed for commercial traffic. So waiting on the on the Corps of Engineers, we didn't know what we didn't know at that time. So we moved quickly with Skanska. They were indeed on contract for the Nice/Middleton Bridge. There is work in the Potomac River that is going on. They pulled off that work. They're actually going back down to the Nice/Middleton Bridge right now to finish about two months more work on that contract.

So they were somebody that was available in the proximity and we had knowledge that they could do the State -- follow State procurement law and be responsive to the situation at hand. And I think the activities that happened throughout the recovery effort in the Unified Command, where they assisted the federal response and our response at the same time, and it was a very cooperative relationship, proved out that the judgment of our engineers and getting them under emergency contract was the right one. So I appreciate that that is still in State law. I know there's a lot of discussion about it. But I'm available for any questions as is my Chief Engineer James Harkness.

GOVERNOR MOORE: Thank you so much. Thank you, Executive Director. Thank you.

Is there any discussion on this item?

CHIEF DEPUTY TREASURER MARTIN: No.

GOVERNOR MOORE: Madam Comptroller?

COMPTRROLLER LIERMAN: Nope. I appreciate the comments of LIUNA and the work of MDTA, but no other comments. Thank you.

GOVERNOR MOORE: Thank you. Thank you very much, Executive Director.

MR. GARTNER: Thank you.

GOVERNOR MOORE: Thank you. I'd like to call up -- next, I'd like to call up Item 19, if that's okay, which is a recommendation from the Maryland Department of Health and the Office of the Attorney General awarding a settlement totaling \$221,884. Pat Moran, who's the president of AFSCME Counsel 3, is joining us to speak in support of this settlement.

Pat, good morning. It's good to see you.

MR. MORAN: Thank you, Governor. Governor Moore, thank you for the opportunity to address the Board about this settlement. This settlement concerns AFSCME members who work for the Maryland Department of Health in a variety of different roles such as direct care, maintenance, security, clerical positions, and those folks that keep the State hospitals and facilities running. Under the Larry Hogan Administration, our union discovered a number of AFSCME members who were holding two different State jobs within MDH but being underpaid for them, which is wage theft.

Two years ago, during contract negotiations in the fall of 2022, we confronted representatives from MDH's Human Resources team about this. AFSCME bargaining team members reported that there were a number of

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employees whose wages were being undercut -- again, wage theft. They were being asked to sign contracts at various MDH facilities to do additional work beyond their permanent State positions and then being paid at lower rates. Larry Hogan's MDH leadership tried to repeatedly deny that this wage theft was happening. But AFSCME pressed ahead and worked with staff at the Department of Budget and Management to get to the bottom of this.

After a thorough investigation, DBM acknowledged that there were over 40 State employees in MDH who were illegally contracted to do additional work within the Agency. Effectively, the Agency had knowingly engaged in wage theft paying them at a lower rate than they would otherwise be owed as State employees. Today's settlement, along with previous settlements from multiple related grievances, means that AFSCME members will now be receiving a combined total of nearly \$600,000 to correct what happened.

Governor Moore, I want to thank you, and your Administration, and DBM, particularly Catherine Hackman and her team, for working with us these last two years to ensure our members are being paid properly for the essential work that they do. Make no mistake, this was another wage theft scheme orchestrated on Larry Hogan's watch that took advantage of hardworking State employees and deprived them of what they had earned and were owed.

And again, he had accomplices who have yet to be held accountable and are still working for MDH. First, under Larry Hogan, there was a stealing of nearly \$23 million from correctional officers. And now, nearly \$600,000 from MDH employees on the backs of working people. Thank you, Governor Moore and members of the BPW for correcting this wrong. Thank you.

GOVERNOR MOORE: Thank you so much, Mr. Moran. Thank you for your stalwart leadership and advocacy for all of our State employees and the work you continue to do. And our Administration, we're proud to work in

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partnership to make these employees whole.

MR. MORAN: Thank you.

GOVERNOR MOORE: Thank you so much.

MR. MORAN: Thank you.

GOVERNOR MOORE: With that, is there any further discussion on that item or any other item on the Secretary's agenda?

COMPTRROLLER LIERMAN: Mr. Governor, I just have a question about A2 --

GOVERNOR MOORE: Sure.

COMPTRROLLER LIERMAN: -- for Secretary Chaudhry.

MR. GONTRUM: A2 is an emergency report from the Department of General Services of an emergency procurement contract award for design work on the William Donald Schaefer Tower in Baltimore.

COMPTRROLLER LIERMAN: Yes, our new neighbors across the street from us at 7 Saint Paul. Thank --

Is Secretary Chaudhry up? Sorry, I can't see.

CHIEF DEPUTY TREASURER MARTIN: He is.

MR. CHAUDHRY: I'm here.

COMPTRROLLER LIERMAN: Okay.

MR. CHAUDHRY: Right here.

COMPTRROLLER LIERMAN: Okay. Thanks. So I just -- this is obviously an emergency procurement, so this work has already been done but I just -- you're very thoughtful about how you proceed with office space. And so I wondered if you could chat, talk a little bit through your plans a little bit today. I'm happy to follow up afterwards. I'm sorry we didn't get to talk before this meeting about this building, which I think we purchased in the early '90s -- '92 or so. I know it has around 800 State employees.

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But it looks like in the FY '25 Capital Improvement Plan, the cost for the proposed renovations is over \$110 million. And I just -- there was an article I think was in the BBJ today about T. Rowe moving to Harbor East, so there's more vacant office space downtown. And I just -- I have to question sort of whether it's worth it for us to put \$110 million into this building rather than moving employees to other buildings. And if you could talk a little bit about any analysis that you've done given especially the hybrid work schedules that State employees have now.

And again, I'm happy to follow up after this. This emergency procurement is fine. I'm happy to vote yes on it. Just \$110 million is about three elementary schools. So I'm just very cognizant of -- it's a lot of money and just want to understand whether -- what kind of comparison or economic analysis we've done to make sure that that's the right course for the future of State office buildings in downtown Baltimore.

MR. CHAUDHRY: Well, thank you, Madam Comptroller.

Mr. Governor, Madam Comptroller, Mr. Deputy Chief Treasurer, for the record, I'm Atif Chaudhry, Secretary of the Maryland Department of General Services. Thank you, Madam Comptroller. It's a very -- it's a great question. So as part of the capital improvement process, as you're intimately familiar, agencies including DGS are required to develop what's called a Part I and Part II program of requirements.

COMPTROLLER LIERMAN: Yeah.

MR. CHAUDHRY: And what that does for each capital project is outlines the need and justification for each project. Typically associated with this is a cost-benefit analysis to determine what is in the best interest of the State moving forward. Obviously, being good stewards of tax dollars, especially with the capital budget here. So that's typically done during inception as part of the

Capital Budget and capital improvement program. Typically, design funds are put into year five. So as we get closer to year five, typically, the process then becomes updating and reviewing the program requirements, but also updating and reviewing the cost-benefit analysis that was done to ensure that this project is still worthwhile, should still continue, and is in the best interest of the State.

So what do we look at when we're doing a cost-benefit analysis? We look at various options. It will depend on the particular project in question. And is it do we renovate the building? Do we construct a new building? And this may require demolition of an existing building, moving employees out -- demolition, constructing a new building, and moving employees back. It may also involve moving employees to a commercial lease space. And it also may require -- may involve acquisition of an existing building and a renovation of that to make it suitable for State use.

In this particular project, we took a look at multiple factors when it comes to this particular project -- the building size, the number of agencies that are located in it. We've had over 11 agencies that are in the building. Madam Comptroller, you mentioned about 800 employees there. Also took a look at the age of the building. This particular building was built in 1986. This is actually one of the newer buildings in the DGS portfolio, especially in the Baltimore region. So it's actually ripe for renovation. And the location, it is centrally located in the Central Business District --

COMPTROLLER LIERMAN: Yeah, it's a great location.

MR. CHAUDHRY: -- of Baltimore.

(Laughter.)

MR. CHAUDHRY: And the building is actually already built out to meet all the needs of the agencies. If we were to move to another building, it would have to be renovated to meet each of the Agency's specific needs. And

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that's office space, cubicle space, conference space, break rooms, et cetera, et cetera. And why spend so much in a building like this? Well, typically in commercial office buildings such as this, major renovations are required every 25 to 35 years give or take. This particular building is 38 years old, so it's actually right on course to be doing a major comprehensive renovation. And all private landlords do this as well.

And this is major infrastructure things, things we'll be doing for this particular building. Elevators -- updating the elevators, plumbing, electrical, building envelope improvements such as a new roof. And ensuring we're in compliance with all applicable codes and requirements which may have changed since the building was constructed. New HVAC systems and also ensuring safety and security with updated fire alarm and sprinkler systems. And this particular renovation will ensure this building is completely usable for the next 20 to 30 years, as we continue to maintain it and do additional renovations as necessary in the future. And we do anticipate renovations will have significant operating savings, which I'll talk about in next through energy efficiency as well.

So one of the one of the benefits of being able to renovate one of our own existing buildings is ensuring that we are in compliance and conformity with the State's goal of the Climate Solutions Now Act. So this will allow us to align the building with the State's goals of net zero carbon emissions. And the renovations will allow us to meet and actually probably exceed LEED silver for this building.

COMPTROLLER LIERMAN: Great.

MR. CHAUDHRY: And it also -- I'm sorry. Yeah, no. And I just want to say it also allows us not only have energy efficiency and reduce costs, but also ensure we continue to support the Central Business District area in their -- in that region.

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COMPTROLLER LIERMAN: Great, that was helpful. And you guessed it, my second question, which was going to be about compliance with Climate Solutions Now regs. So I appreciate that. It's like you know me and know the questions I'm going to ask now. So I appreciate that. It's great to hear that you've done the economic analysis because, as you say, it's a lot of money. So I appreciate it and thanks for the thorough answer and look forward to following up. Thank you.

MR. CHAUDHRY: Thank you.

GOVERNOR MOORE: Thanks, Mr. Secretary.

MR. CHAUDHRY: Thank you.

GOVERNOR MOORE: And thank you, Madam Comptroller.

And if there's any -- is there any further discussion or questions?

COMPTROLLER LIERMAN: No.

GOVERNOR MOORE: Any further questions or discussion?

CHIEF DEPUTY TREASURER MARTIN: No.

GOVERNOR MOORE: Okay. Do I have a motion to approve the Secretary's agenda?

COMPTROLLER LIERMAN: Motion to approve the Secretary's agenda.

GOVERNOR MOORE: Is there a second?

CHIEF DEPUTY TREASURER MARTIN: Second.

GOVERNOR MOORE: Outstanding. Thank you so much, Mr. Secretary.

We'll proceed with the with the Department of Natural Resources Agenda. Ms. Wilson, good morning. Good to see you.

MS. WILSON: Good morning, Governor, Madam Comptroller, Chief Deputy Treasurer. Emily Wilson with the Maryland Department of Natural

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Resources. We have 14 items on our DNR Real Property for your consideration today. I'd be happy to try to answer any questions.

GOVERNOR MOORE: Is there any discussion around the DNR agenda?

COMPTROLLER LIERMAN: Not for me.

GOVERNOR MOORE: Okay. May I have a motion to approve the DNR agenda?

COMPTROLLER LIERMAN: Motion to approve the DNR agenda.

GOVERNOR MOORE: Is there a second?

CHIEF DEPUTY TREASURER MARTIN: Second.

GOVERNOR MOORE: Outstanding. Thank you so much.

MS. WILSON: Thank you.

GOVERNOR MOORE: Thank you.

Next up, University of Maryland. Mr. Hickey, good morning.

MR. HICKEY: Good to see you.

GOVERNOR MOORE: Good to see you.

MR. HICKEY: Good morning, Governor, Madam Comptroller, Mr. Chief Deputy Treasurer. Tom Hickey representing University System of Maryland. There are nine items on the agenda. We are withdrawing Item 2-GM. And I'm happy to answer any questions.

GOVERNOR MOORE: Wonderful. Thank you so much. Is there any discussion on the agenda?

CHIEF DEPUTY TREASURER MARTIN: Nope, I'm good.

GOVERNOR MOORE: May I have a motion to approve the USM agenda?

COMPTROLLER LIERMAN: Motion to approve the agenda --

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just one second.

Wait, before I do that motion -- Mr. Hickey, thank you so much the draft. And at some point, we'd love to follow up to just talk through it with you so I understand it.

MR. HICKEY: Of course.

COMPTROLLER LIERMAN: Yeah, thank you. And motion to approve the USM agenda.

GOVERNOR MOORE: Great. Do I have a second?

CHIEF DEPUTY TREASURER MARTIN: Second.

GOVERNOR MOORE: Outstanding. Thank you so much. We'll proceed with the MDOT agenda.

Ms. Radomsky, good morning.

MS. RADOMSKY: Good morning, Governor, Madam Comptroller, Mr. Chief Deputy Treasurer. For the record, my name is Valerie Radomsky, Chief Procurement Officer for the Maryland Department of Transportation. Today, we are presenting 23 agenda items for your consideration and withdrawing MDOT 4-M.

We are seeking approval of four contracts to certified small businesses valued at approximately \$6.24 million, one contract to a duly certified small minority business for \$170,000. Contract to a certified minority business for \$88,000. We have representatives available to answer any questions you may have.

GOVERNOR MOORE: Great. Thank you so much. Is there any comments about the -- or questions about this agenda?

Madam Comptroller?

COMPTROLLER LIERMAN: I have a couple, thanks

Ms. Radomsky, thank you so much. I did note on Item 15-M,

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which is another maintenance contract for State Highway. So I know there's continuing challenges around MBE goals for some of these, I just wanted to note that that's continuing. And then my team and I talk about this a lot. And I understand that under competitive sealed bidding, there's no best value calculation. But it does make me think about the --

MR. GONTRUM: Madam Comptroller, if you can still hear us, you froze.

(Pause.)

GOVERNOR MOORE: Let's give her one second.

COMPTRROLLER LIERMAN: -- when these contracts go to out-of-state businesses. So that is (indiscernible) of the procurement (indiscernible). Just sort of a (indiscernible) how is -- oh, I can't hear all -- is Administrator Arnold available --

MS. RADOMSKY: She is.

COMPTRROLLER LIERMAN: Can you hear me?

GOVERNOR MOORE: Yeah. And Madam Comptroller, we lost you for probably about the --

COMPTRROLLER LIERMAN: Oh, okay.

GOVERNOR MOORE: -- the last minute. So if it's -- you might have to start from the --

COMPTRROLLER LIERMAN: Oh, sorry.

GOVERNOR MOORE: -- start from the top.

COMPTRROLLER LIERMAN: Oh, sorry. Okay. That's okay. If Administrator Arnold isn't there, I'll just -- just wanted to thank her about 8-AE.

Okay -- oh, I lost you guys.

GOVERNOR MOORE: That's all right. We know --

COMPTRROLLER LIERMAN: Can you hear me?

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GOVERNOR MOORE: We still we still hear you. And if you need to go off of video.

COMPTRROLLER LIERMAN: Okay.

GOVERNOR MOORE: Just to save bandwidth.

COMPTRROLLER LIERMAN: Okay. I'm not sure what happened.

GOVERNOR MOORE: That's fine.

COMPTRROLLER LIERMAN: It was going so well. I don't know what happened, but --

(Laughter.)

COMPTRROLLER LIERMAN: So thanks, Administrator Arnold, for providing the backup for 8-AE. I've just gotten several questions from constituents about the large AE contracts. First, I'll say really excited about the Red Line and the announcement. So congratulations Mr. Governor, Administrator Arnold.

Of course, implementing a safe and equitable transportation system has long been a priority of mine in Baltimore. So really focused on that and the fiscal impact of our transit spending. So I just wanted to thank you for providing the backup for the \$60 million investment. There are hundreds of people listed, which is expected for such a major project. And I know the State has to work really closely with the Federal Transit Administration. I was wondering if FTA requires MTA to contract out the project management duties outlined in this agenda, or what the split is.

MS. ARNOLD: Yeah. So good morning, Governor, Chief Deputy Treasurer, and Madam Comptroller. For the record, my name is Holly Arnold, Administrator of the Maryland Transit Administration. And so to jump in and answer your question.

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So FTA does require, when we're applying for capital investment grant funds, that we show that we have sufficient management capacity to manage the funds that are going to be coming. There's multiple ways to do that. One of the ways that has been successful previously with MTA, that we're doing now on the Purple Line and with other projects, has been a program management consultant. That's been done across the country as well. So that's one way to pretty easily satisfy the FTA requirement and the approach that we're taking here.

COMPTRROLLER LIERMAN: Got it. Okay. So the even though the \$60 million expense, it's going to be shared with the federal government at an 80/20 split. I just want to note for the record, that I remain concerned with sort of our continued reliance on contractors and the hourly consultant rates that we pay. And so I continue to look forward to seeing some of the heat coming in-house so that we can continue to do this work and build our expertise at MTA. So thank you. I appreciate it.

And thank you, Mr. Governor.

GOVERNOR MOORE: Thanks so much, Madam Comptroller. You too, thanks Holly.

Are there any other -- are there any questions on the MDOT agenda? If there are no further questions, may I have a motion to approve the MDOT agenda?

COMPTRROLLER LIERMAN: Motion to approve the MDOT agenda.

GOVERNOR MOORE: Is there a second?

CHIEF DEPUTY TREASURER MARTIN: Second.

GOVERNOR MOORE: Outstanding. Thank you so much. Thanks, Ms. Radomsky. Thank you.

We will conclude with the DGS agenda. Welcome back, Secretary

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Chaudhry.

MR. CHAUDHRY: Good morning again, Mr. Governor, Madam Comptroller, Mr. Chief Deputy Treasurer. For the record, I'm Atif Chaudhry, Secretary of the Maryland Department of General Services. Today, the Department is presenting 65 items on our agenda. We are withdrawing one item, that is 52-M. Our agenda does feature over \$16.1 million in capital grants and loans. I just wanted to highlight just a couple of them.

One is Item 12-CGL, which provides \$500,000 in State support to the Board of Directors of ReBUILD Metro, Inc. for Johnson Square Affordable Housing for Teachers Project. This project will rehabilitate 15 abandoned row homes on East Biddle Street in Baltimore into new affordable three-bedroom apartments designed to provide housing for 45 aspiring local teachers and educators. Great program.

We also wanted to highlight Items 17 through 20, which provides a total of \$3.6 million in State support to the Sheppard Pratt Health System that provides critically needed behavioral health services to the community. This involves site renovations to the Berkeley and Eleanor Mann Treatment Center that's required to improve therapeutic environment and mitigate safety risks, and renovations to the Crisis Stabilization Center on Sheppard Pratt's Baltimore/Washington Hospital campus. That includes 16 residential crisis beds, which will divert individuals from both the emergency department as well as inpatient care. And also elevator and HVAC upgrades to another location, and site improvements to the Towson hospital facility.

As we continue to keep an eye on minority business participation, our agenda does include 15 contracts and awards to certified minority businesses totaling more than \$10 million. And we have agency representatives here to answer any questions you may have.

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GOVERNOR MOORE: Great. Thank you so much. I'd actually like to call up Item 38-S, which is a recommendation to award a contract for Conduent State and Local Solutions for the implementation, operation, and also the maintenance of web-based EBT -- electronic benefits transfer system.

It's my understanding that we have two speaker requests for this item. And we'd like to ask all speakers to limit their comments to five minutes, and I'd like to ask Secretary Gontrum to serve as timekeeper for those speakers. And first, I'd like to -- I'll call up our secretary, our DHS Secretary Rafael Lòpez, to formally introduce the item.

Good morning, Mr. Secretary. Good to see you.

MR. LÓPEZ: Good morning. Good morning, Governor Moore, Comptroller Lierman -- it's odd not to be able to look at you. I feel it's odd having my back to you, so my apologies -- and Chief Deputy Treasurer Martin. For the record, my name is Rafael Lòpez and I serve as the Secretary of the Department of Human Services. Thank you for your question on DGS Agenda 38-S, which is the new contract for Maryland's electronic benefit transfer system and support for EBT.

To get some context on this item, I think it's important to understand that the impact that this work has across Maryland. We serve 943,000 Marylanders through EBT. It allows 382,000 households to access supplemental nutrition assistance benefits, or SNAP, and over 32,000 households to access cash benefits. They're a lifeline to make ends meet. Those benefits are administered by a contracted vendor who produces and mails out the card, loads benefits to the cards, and helps us make sure that we distribute these benefits in accordance with federal law and regulations.

EBT is a federal/State partnership where the U.S. Department of Agriculture's Food and Nutrition Service provides 75 percent of the funding; and

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the State, 25 percent in general fund dollars to help Marylanders. Our partnership with the USDA matters. Through this partnership, as the Governor announced this week, we launched on Monday a new program, Maryland SUN Bucks, to serve over 540,000 children across Maryland. Each eligible child will receive \$40 in the months of June, July, and August for a total of \$120 to buy groceries when they're out of school. We successfully issued \$21.6 million as of June 30th, 2024, to over 540,002 children. And we got this work done on behalf of Marylanders in partnership with the contracted vendor.

The current contract where the Board exercised a six-month option on the June 5th agenda, which was Item 56-IT-OPT, began on January 1st, 2015, and is now set to expire this December 31st, 2024. We are asking the Board to award today the new competitively solicited contract to the proposed awardee effective July 3rd, 2024, so they can start work transitioning to the new computer system as quickly as possible to allow for enhanced services and EBT card security.

As you are aware, COMAR 21.10.02.11.A, Section 1 specifies that this Board had the authority to approve and awarded the contract in spite of the bid protest, upon concluding that an award is necessary to protect substantial State interest. In this case, the substantial State interest is clear and fully aligned with our values to move with urgency and integrity to serve Marylanders. If we fail to act now, Maryland will pay more for extension of the current system contract, which does not provide enhanced security features to protect Marylanders from benefit theft. This will likely result in a 9 to 24-month delay, conservatively.

We will also continue to pay more in State funds to replace stolen benefits without the enhanced system features. It is Marylanders who will pay the ultimate price in stolen benefits through no fault of their own and they deserve better. These factors combine to give a clear and substantial State interest for

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approving the award of this contract today. Until we have new protections, such as chip and tap technology, for families who make ends meet using this Independence Card, the very same protections we all have in this room on our bank cards and our credit cards, which have chip and tap technology, which is not new technology to this country or to the world, we will not stop or slow benefit theft in Maryland. We should expect nothing less for the Marylanders we serve.

Broader credit card industry figures suggest significant reductions in fraud once chip technology is implemented. Visa, a major credit card company, has indicated a reduction in fraud by over 76 percent in 2019 since beginning its transition in 2011. While it wasn't the assignment, Maryland was the first state in the nation to begin replacing stolen benefits when the previous Administration chose to do nothing. As of 6:52 a.m. this morning, we have replaced \$27.1 million in stolen benefits to over 41,000 Maryland households. We have paid out over \$7 million more to replace stolen benefits since we started this program a little over a year ago, than the total cost of the proposed five-year contract.

Beginning on October 1st, 2024, that cost will be funded entirely by the Maryland taxpayer as the federal source of funds will sunset. Modeling one of our Administration's values to move with urgency and recognizing the same substantial interest that brings us here today, we have already taken a number of steps to help protect Marylanders from benefits theft. We've acted with urgency since the passage of Senate Bill 2 during the 2023 legislative session. When the Governor signed Senate Bill 2 on April 24th, 2023, in this very room, we took immediate action and incorporated the bill's new requirements into our new contract solicitation.

In the past year, we have moved with even greater urgency to do things that have rarely been seen in Maryland, let alone the country. We've

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introduced new lock and unlock features to our EBT cards, implemented more sophisticated pin systems, and launched activity alerts that can be sent through mobile notifications or email depending on the choice of our customer. None of these ideas or solutions are perfect, but they were a step in the right direction. Maryland is working with our federal partners to implement chip and tap cards as quickly as possible. And we worked in close partnership with the federal government, the Departments of General Services and Information Technology, to approve and bring forward a request for proposals on eMaryland Marketplace advantage on September 19th, 2023.

We followed the U.S. Department of Agriculture's procurement guidance and advertised this RFP for 90 days. When the advertisement closed, we acted promptly and deliberately to fully review and evaluate the two proposals that were received and to make a recommendation for award based on following all steps required in the procurement process. And it's worth noting that there really are only two companies in the entire United States of America who do this work, and they're both here in the room and they both competed for the contract.

On April 10th, 2024, we issued award and non-award notices. Since making the recommendation for award, we have been fully prepared to begin the steps necessary to implement the new enhanced system required under the contract meeting the needs of Marylanders and serving the substantial interests of the State. However, after the Department held a debriefing with the non-awardee on April 15th, 2024, a bid protest was received on April 17th. The protest was denied on April 29th. An appeal to the Board of Contract Appeals was filed on April 30th, and the non-awardee filed a second bid protest May 31st, 2024, alleging additional details. The Board of Contract Appeals has set a merit hearing date of July 31st, 2024.

As advised by the Department's procurement team and our office

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of the Attorney General, we followed and will always follow Maryland's procurement law and procedures. Should the non-awarded vendor proceed with its appeal, we are confident that the Board of Contract Appeals will uphold our decision. And as such, the bid protest only delays our ability to serve the interests of Marylanders. Fundamentally, your decision today comes to one simple question. Does the protection of Marylanders from the theft of their benefits through no fault of their own meet a substantial state interest? We believe that it does.

In answering that question, we ask you to keep in mind that for State fiscal year 2024, the average monthly household SNAP benefit is \$327.45. We want to keep those funds in the hands of Marylanders who need them, not international thieves. We believe that the best way to serve that interest is to continue to move with great urgency to implement the enhanced security features included in the new contract that will substantially reduce the ability of thieves to steal from Marylanders. Awaiting the outcome of the bid protest will likely result in a delay of 9 to 24 months to implement this desperately needed technology. We received federal approval on this proposed award on June 3rd, 2024. Thank you, and I'm happy to take any questions.

GOVERNOR MOORE: Mr. Secretary, thank you so much for this and for your continued work.

Are there any questions for the Secretary?

CHIEF DEPUTY TREASURER MARTIN: No.

GOVERNOR MOORE: Okay. Thank you so much, Mr. Secretary.

We'll now move to the speaker request from Mr. Wade Fairey, who serves as Vice President of Conduent and is here to speak in support of this item. Mr. Fairey, good morning.

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MR. FAIREY: Good morning, Governor. And thank you very much for the opportunity to speak today, Governor Moore, Chief Deputy Treasurer Martin, and Comptroller Lierman. As Secretary Lòpez said, I am for the record, Wade Fairey, Vice President and General Manager for Government Payments with Conduent State and Local Solutions. Joining me is Paul Webber, our Senior Legal Counsel, and Denise Adaway, our Director of Account Management. We've submitted a more detailed statement for the record, but in the interest of time, I'd like to highlight just a few key points related to Conduent, the current contract, and what we are proposing in the new contract.

Under Governor Moore and Secretary Lòpez's leadership, Maryland is leading the country in new technologies to solve problems for SNAP and cash benefit recipients. And quite honestly, we are honored to be your partner and we applaud what the State is doing and for their dedication to deliver SNAP and cash assistance benefits to Marylanders who struggle with food insecurity every day. For nearly 30 years, Conduent has been dedicated to providing human services support of critical government benefit and payment programs such as EBT and prepaid debit card programs.

Conduent provides services to 23 states for 35 SNAP and WIC programs. And we were the first government prepaid provider to implement EMV chip technology on many of the cash programs that we support today. Most notably, we have provided EBT services for Maryland since 2007. Last year, we were awarded the contract for disbursement of child support payments on a prepaid debit card and successfully launched that. During the current contract, we expeditiously rolled out online shopping during the pandemic. We have done a number of things to support the summer EBT program, as Secretary Lòpez referenced. And we have done numerous national leading fraud controls to put into our current contract and into the proposal for the move forward of the new

contract.

In the new contract, there are three specific ways that Conduent is going to partner with Maryland to implement what I believe is a state-of-the-art solution and system upgrade. First, we are offering 27 percent cost savings over the current contract levels for the cost per case monthly. Very important to save money for the State and to move to a modern technology.

Second is around the call to action. As this Administration has led the way in stepping up to protect your recipients of benefits, Conduent has also been leading the way to bring the next generation of solutions to our clients, specifically from an EMV chip perspective with the X9 Committee, which is an industry forum which is leading across both the federal level, the State agencies, and retailers to roll out the new EBT EMV SNAP solution. We actually have a Conduent payments product manager serving as the chairperson of that committee, and we are helping lead that on a national level. So you have our commitment that we will ensure that Maryland, with the partnership of the Agency, will be one of the first to launch that solution.

And the third point is our continued commitment to diversity. Conduent will exceed the solicitation goals with our spend commitment, with our minority and women partner owner, Red Seven, and our veteran partner, Disabled Veteran Solutions. Very important to us.

On behalf of Conduent, I want to reinforce our commitment to continue to provide exceptional service and value for the people of Maryland. And I thank you for your partnership and quite honestly your leadership as it comes to leading this solution across the country. Our team looks forward to extending our tenure and service to this great State. And I'll remain here, if there are any questions or anything else.

GOVERNOR MOORE: Thank you so much, Mr. Fairey. Thank

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you.

MR. FAIREY: Thank you, Governor.

GOVERNOR MOORE: Any questions for Mr. Fairey? Okay, great.

Next, we'll hear from Mr. Michael Miller who's representing Fidelity Information Services, who has signed up in opposition to this item. Mr. Miller, good morning.

MR. MILLER: Morning, Governor.

Good morning, Chief Deputy Treasurer. And good morning, Madam Comptroller. My name is Mike Miller. I'm here on behalf of Fidelity Information Services. With me, I have Mr. Chris Winter from FIS. I may refer to them as FIS for short. I'm just going to start out by saying there's no purpose for us being here today. There's no reason for it. And the reason why is because the Secretary correctly said we have a protest pending before the MSBCA. And have had it pending since April. And we have tried diligently to get a decision out of the MSBCA since day one.

Unfortunately, the Agency has delayed that process repeatedly. They didn't file their agency report on time. We got documents late. We didn't even get, until last week, the procurement officer's final decision to award to Conduent. That revealed even more flaws in this procurement. The MSBCA and FIS were ready to move forward with a hearing last week. And yet, DHS again delayed and said they weren't willing to participate in an MSBCA hearing to look at all the flaws in the procurement until late July. So that's why we have a July 31st hearing.

Now, I think this Board should defer and should wait until the MSBCA has had a chance to look at this procurement and give you their opinion as to the legality of award to Conduent. And we've raised these -- this issue of

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legality in our filings with this Board. I don't want to litigate it. I only have five minutes here. I don't want to litigate it before the Board and take your time. I know many of you have to get over the Bay Bridge today -- so I'm aware of that. But I do want to let you know that DHS's request today is based on a couple of falsehoods.

The first falsehood is I heard the Secretary talk about and Conduent talk about, "chip card technology, chip card technology, chip card technology." They're right. It's extremely important to get that chip card technology in order to cut down on the millions and millions of dollars of EBT fraud that the State is going to be on the hook for. Here's the problem. The chip card technology they're talking about has nothing to do with the request today. It's not in the approval that you're being asked to sign off on. The chip card technology is actually going to be part of a very large modification, multi-million-dollar modification, sometime in 2025 that sets forth an entire new process and timeline for integrating that technology. It wasn't part of the \$19.9 million or \$31 million they're putting in front of you today.

So whether you approve today, or you prove a month from now, or you approve three months from now, it does not affect that supposed 9 to 24-month timeframe that the Secretary talked about. These EMV chip card technologies will be implemented, whether it's by Conduent or FIS, at some point next year, not this year. What's going to happen is DHS will come back with that large modification. So we'll be back here in a number of months to discuss that. They don't even know how expensive that chip card technology is going to be because it's not in that number and it wasn't evaluated by the procurement office. So you have no idea how much it's going to be under FIS, under Conduent. We have no idea when exactly they propose to do it. It's not before you.

Second, the big issue before the MSBCA is the fact that

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Conduent's proposal is conditional. It's not lawful. And if you approve this contract today, we're going to be before the MSBCA soon and they're going to issue an opinion that says it's unlawful to award to a conditional proposal. That's a basic tenet of procurement law in Maryland. When we come back, DHS will say, "Hey, our bad. Yeah, but you're stuck now, Board of Public Works." You'll have to extend with Conduent. You're going to have to ratify this illegal contract and just go forward with them no matter the cost.

When you see the supposed price difference, that's before you -- I believe we have handouts here, but I don't know if they're before you. If you look at letter "E", first chart on letter E, what was put before you in the agenda item today. And there's this supposed large \$11 point -some million price difference between Conduent and Fidelity. And when we saw that, we knew something wasn't right because we compete against these guys nationwide and we know we're always within a few percentage points maximum. Our prices are always close. But when we finally got the documents the Friday before Memorial Day from DHS, what we learned was Conduent has the language that's shown on Letter A -- on the other sheet, Governor.

They have this conditional language in their proposal. And the big difference between the two proposals is the work that is conditioned by this language. It's \$11 point- some million dollars. And so you're not comparing -- the Agency didn't compare apples to apples. What they compared was apples to apples and oranges. We gave you a firm fixed price for the pandemic EBT work. If there's a pandemic, we're going to do it for the price that's set forth in our proposal, and we're not going to try to get a new price or a new scope out of you.

That's not what Conduent said. They said, "Hold on, that P-EBT -- well, that's not authorized. Our price is specifically based on the Families First Coronavirus Response Act of 2020, which," they note, "authorization has been

terminated and we'll price any new requirements through the change request process. There's no purpose behind putting this language in your financial proposal other than to condition your proposal and say that price, that \$0 price for pandemic EBT, "Well, we're never going to honor that."

MR. GONTRUM: That's five minutes, Mr. Miller.

MR. MILLER: Okay. Let me just say, I think the prudent action for the Board today would be to defer this until after the MSBCA had a chance to look at this and give you their opinion so that you can move forward legally. Thank you.

GOVERNOR MOORE: Thank you so much, Mr. Miller. Thank you.

Are there any questions for Mr. Miller?

COMPTROLLER LIERMAN: Does the Secretary want to respond to the discussion about the chip card technology and the modification?

GOVERNOR MOORE: Yes. Yeah, I'm going to ask Secretary López to have the final word on both a response to what you've heard, but any other additional comments that you might want to make (indiscernible).

MR. LÓPEZ: Thank you, Madam Comptroller for the opportunity -- and Governor. You know, there are moments in one's life -- call it age, call it experience -- where you get to a point where you're not afraid of anything or anyone. And I thank God that I'm well past that time in my career because this is not a court of law and it's not Law & Order. And using the words "flawed," or "legality," or "unlawful" in the countless documents that have been circulated in the last couple of months doesn't make it so.

I'm going to out into the public forum what we all talk about behind closed doors. And if we added up the amount of money spent on lobbyists to lobby this Board and us, I could take that \$327.45 that SNAP recipients receive

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and stretch it even further. Our team, many of them in this room today and many watching virtually, have spent countless hours scrubbing through every which way these proposals were submitted, and we come up with the same conclusion. We would not bring to you, the constitutional officers of Maryland, an unlawful contract to sign. We just wouldn't do it. Saying so doesn't make it true. What they've done, sadly, is sow doubt. And at the end of the day, we lead with integrity.

So coming after my or our team's integrity will not work. And we are happy to go through every single detail with anybody who wants to. And at the end of the day, we present to you for your consideration approval of this contract on the matter of chip technology. Sowing doubt on that is not helpful. So that everyone understands in this room and watching, chip technology is multiple decades old. This country has not required it on the cards to feed people who need our help. Think about that for a second. And so we're debating that issue in 2024. To Madam Comptroller's question, yes, we will have that chip technology. We would have had it in either contract in quarter one of 2025 period, full stop.

I'm happy to take any further questions.

GOVERNOR MOORE: Thank you, Mr. Secretary. Thank you.

Are there any questions for the Secretary?

CHIEF DEPUTY TREASURER MARTIN: No.

GOVERNOR MOORE: Are there any further discussions on this item?

COMPTRROLLER LIERMAN: No. Mr. Governor, I think I'll just add -- I'll just reiterate this is a serious and important contract. I appreciate -- and frankly, I appreciate the advocacy and the interest from the companies and from the Secretary and his team on responding to our multiple questions. I appreciate

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the month deferral from the last agenda to give everybody time to understand where this contract is.

I continue to be hopeful and will push harder and harder for things to be resolved quickly at MSBCA. And so we want to work with MSBCA as well as the agencies to make sure that things can get there and get done quickly so that we don't have huge delays. And of course, as the Secretary has talked with us about and mentioned here today, there's a huge risk to the State in not proceeding. And so I appreciate the Secretary's diligence and his team's diligence in moving forward. So thank you.

GOVERNOR MOORE: I echo that, thank you.

Is there any further discussion on the DGS agenda?

CHIEF DEPUTY TREASURER MARTIN: No.

GOVERNOR MOORE: May I have a motion to approve the DGS agenda?

COMPTROLLER LIERMAN: Motion to approve the DGS agenda.

GOVERNOR MOORE: Is there a second?

CHIEF DEPUTY TREASURER MARTIN: Second.

GOVERNOR MOORE: Outstanding, thank you. Thank you all very much. Thank you. This concludes this meeting of the Board of Public Works. I'll see you all on July 17. Have a wonderful 4th with your families. Thank you.

(Whereupon, at 10:58 a.m., the meeting was concluded.)