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April 13, 2020

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
State House
100 State Circle
Annapolis, Maryland 21401

RE: House Bill 620

Dear Governor Hogan:

House Bill 620 directs the Executive Director of the Maryland Aviation Administration (“MAA”) to work with the House of Ruth Maryland (“HRM”) to install donation boxes at the entrance of each security screening checkpoint at the Baltimore-Washington International Thurgood Marshall Airport (“BWI Marshall Airport”). Money collected in the donation boxes must be used only to support HRM. While we approve House Bill 620 for constitutionality and legal sufficiency, we write to recommend implementation in a manner to avoid a conflict with federal law.

In order to receive federal grants, airport sponsors such as MAA must make assurances to the Federal Aviation Administration (“FAA”) that revenues generated at the BWI Marshall Airport will be expended for capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. *See* 49 U.S.C. §§47107(b) and 47133, as well as the FAA’s Policy and Procedures Concerning the Use of Airport Revenue, dated February 16, 1999. The FAA may consider the use of resources of the MAA to cover the various expenses of installing and maintaining the donation boxes and the potential forgone revenue for the use of the space for the donation boxes at BWI Marshall Airport to be a misuse of airport revenues/resources. Nevertheless, the amended bill provides for the Executive Director of MAA to “work” with the HRM to install and secure donation boxes at the entrance to each security screening

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check point at BWI Marshall. In our view, this language allows MAA to come to an agreement with HRM, and that agreement should provide details regarding how much HRM will be charged for the use of space at BWI Marshall Airport as well as HRM's responsibilities with respect to installing and maintaining the donation boxes and collecting the money donated. Coming to such an agreement between MAA and HRM should avoid any allegations from the FAA or others that the bill violates the FAA's airport revenue use policy. In coming to an agreement with HRM, MAA should include language in the agreement that MAA believes will enable the arrangement to meet the FAA's "Community Use" exception in the FAA's Use of Airport Revenue policy.

Sincerely,

A handwritten signature in blue ink that reads "Brian E. Frosh". The signature is fluid and cursive, with the first name being the most prominent.

Brian E. Frosh
Attorney General

BEF/SBB/kd

cc: The Honorable John C. Wobensmith
Keiffer J. Mitchell, Jr.
Victoria L. Gruber