BEFORE THE MARYLAND STATE BOARD OF CONTRACT APPEALS

IN THE APPEAL OF	*	
ALLAN MYERS MD, INC.		**DOCKET NO. MSBCA 3347**
	*	
UNDER MARYLAND		
TRANSPORTATION AUTHORITY	*	
IFB CONTRACT NO. KH-3046-0000		
	*	
Appearance for Appellant		**Dirk Haire, Esq.**
	*	**Jessica Haire, Esq.**
		Burr & Forman, LLP
	*	**Washington, DC 20003**
	*	
Appearance for Respondent	*	**Stephen J. Waters, Esq.**
		James B. Travis, Esq.
	*	**Assistant Attorneys General**
		Office of the Maryland Attorney General
	*	**Contract Litigation Unit**
		Baltimore, Maryland 21202

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OPINION AND ORDER BY CHAIRWOMAN CHO

After this Board issued the August 5, 2026 Opinion and Order sustaining its Appeal in part, Allan Myers MD, Inc. ("Appellant") filed the Motion for Award of Costs on August 20, 2026 ("Motion"). On September 11, 2026, the Maryland Transportation Authority ("Respondent") filed its Opposition. Though not requested by either party, the Board scheduled and held a hearing on October 19, 2026.

Attached as Exhibit A to the Motion were Legal Bill Summaries, with costs and attorney's fees incurred from February through July 2026, by Appellant's "lead counsel and removed from its calculation all fees for associate, law clerk, and support staff." The Motion also included an "Affirmation of Costs Requested" by Appellant's lead counsel.

Respondent argued in its Opposition that the Legal Bill Summaries in the form submitted were deficient due to, among other things, "extensive redactions" and "missing invoice totals,"

preventing a meaningful determination of reasonableness. The Board therefore ordered Appellant to submit unredacted invoices for all work billed to Appellant in connection with this Appeal. Appellant complied prior to the hearing date, and produced entire legal invoices related to this matter with only minor redactions to protect information relating to client financial accounts.

COMAR 21.10.07.09 states:

> A. The [Board] may award an interested party the reasonable costs of filing and pursuing a protest, including reasonable attorney's fees, if:
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> (1) The interested party appeals the final action of an agency on a protest;
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> (2) The [Board] sustains the appeal; and
>
> (3) The [Board] finds that there has been a violation of law or regulation.
>
> B. A request for award of costs incurred by the interested party in filing and pursuing a protest shall be made by written motion filed within 15 calendar days of the decision by the [Board] finding a violation of law or regulation. The motion shall specify all costs being requested, shall be sustained by documented evidence, and the interested party shall certify under oath or affirmation its costs in filing and pursuing a protest. Upon request of a party or on its own initiative, the [Board] may conduct a hearing to determine the reasonableness of the cost and fees claimed.

In support of its Motion, Appellant relies wholly on its written submissions and argument by counsel at the hearing. The Board accepts the combination of the written Affirmation of Costs Requested and professional bills of Burr & Forman to Appellant as business records and as evidence of the nature and value of the fees and costs incurred in connection with successfully pursuing its protest and this Appeal.

Other than counsel's argument that the original requested amount in the Motion was an attempt "to be reasonable" because it is roughly half of the total amounts billed, Appellant offered no evidence to establish that the charged hourly rates, time spent, and services rendered were reasonable and customary for handling this type of case. Although the Board may have the

discretion to rely on its "own knowledge and experience in determining the value of counsel's services" in determining whether to award fees, *Kline v. Chase Manhattan Bank*, 43 Md. App. 133, 145-46 (1979), we decline to exercise such discretion in the particular circumstances of this case.

Having determined in this matter not to award attorney's fees and costs due to the lack of any evidence of reasonableness, the Board need not and does not reach any other issues raised by Respondent in its Opposition.

ORDER

For the foregoing reasons, Appellant's Motion for Award of Costs is DENIED.

/s/
Sonia Cho, Esq., Chairwoman

I concur:

/s/
Lawrence F. Kreis, Jr., Esq., Member

/s/
Jill P. Carter, Esq., Member

Certification

COMAR 21.10.01.02 **Judicial Review.**

A decision of the Appeals Board is subject to judicial review in accordance with the provisions of the Administrative Procedure Act governing cases.

Annotated Code of MD Rule 7-203 **Time for Filing Action.**

(a) Generally. - Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

(1) the date of the order or action of which review is sought;

(2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or

(3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(b) Petition by Other Party. - If one party files a timely petition, any other person may file a petition within 10 days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

* * *

I certify that the foregoing is a true copy of the Maryland State Board of Contract Appeals Opinion and Order denying Motion for Award of Costs in Docket No. MSBCA 3347, Appeal of Allan Myers MD, Inc., under Maryland Transportation Authority IFB Contract No. KH-3046-0000.

Date: October 22, 2026

/s/
Ruth W. Foy
Clerk