

Association of Bay Area Governments

Executive Board

May 15, 2025

Agenda Item 6.b.

ABAG Appointments

Subject:

Delegation of Authority to the ABAG President to Appoint a Hearing Panel to Hear and Determine Brannon Corporation's Appeal of the Metropolitan Transportation Commission Executive Director's Decision on the Protest of the Award to Corcus Construction, Inc. for the Palo Alto Horizontal Levee Pilot Project, and Delegation of Authority to the Hearing Panel to Make a Final Determination on the Appeal.

Background:

According to the ABAG Bylaws, the ABAG President makes appointments to committees and other bodies with the advice and consent of the Executive Board. Here, staff is requesting the Executive Board delegate to the ABAG President the authority to appoint an ad hoc group consisting of three members to comprise a hearing panel to hear and make a final determination on Brannon Corporation's (Brannon) appeal of the bid protest determination described below.

On March 20, 2025, the ABAG Executive Board authorized the Metropolitan Transportation Commission (MTC) Executive Director (Executive Director) to award the Palo Alto Horizontal Levee Pilot Construction Contract to Corcus Construction, Inc. (Corcus). After the Board's authorization, Brannon, a competing Bidder, submitted a protest challenging the award to Corcus, pursuant to the Invitation for Bid's (IFB) protest procedures. Per these procedures, authorization to award the contract by the Executive Board is deemed conditional until the issuance of a written response to the protest by the Executive Director, or if the decision of the Executive Director is appealed, then upon the issuance of the ABAG Executive Board's decision.

Upon receipt of Brannon's protest, a staff member was appointed to serve as the Protest Review Officer (Review Officer). After an evaluation of the protest, the Review Officer recommended denial of the protest to the Executive Director, who subsequently reviewed and agreed with the recommendation. On Wednesday, April 30, 2025, Brannon was provided written notification of the determination. On Tuesday, May 6, 2025, pursuant to the IFB's protest procedures, Brannon submitted an appeal of the ED's determination to the ABAG Executive Board.

Staff requests the Executive Board delegate to the President the authority to appoint an ad hoc committee from the Executive Board consisting of three members to comprise the hearing panel to hear Brannon's appeal of the protest determination. Staff also requests the Executive Board delegate authority to the hearing panel to decide the appeal on behalf of the Executive Board. The hearing panel's decision will then constitute the final agency decision on Brannon's appeal. Staff further requests that members of this committee be authorized to receive per diem for each meeting attended.

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Ad Hoc Committee for Hearing Contract Bid Protests Appeals

- To Be Announced

Issues:

None

Recommended Action:

Staff recommends that ABAG Executive Board delegate to the ABAG Executive Board President the authority to appoint an ad hoc group consisting of three members to comprise the hearing panel to hear Brannon's appeal of the protest determination, and to further delegate authority to the hearing panel to decide the appeal on behalf of the ABAG Executive Board.

Attachments:

- A. Bid Protest Materials

Reviewed:



Andrew B. Fremier