



MEMORANDUM

Date: October 15, 2025

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Lesher 
County Administrator

Re: **Additional Information for the October 21, 2025, Board of Supervisors Meeting – Protest Appeal by Falcone Brothers & Associates, Inc. of Solicitation No. IFB-2500015692 Esperero Wash at Sunrise Drive Culvert Replacement**

On August 28, 2025, a Limited Competition Solicitation, pursuant to the provisions of A.R.S § 34-606 was published inviting 11 pre-qualified contractors to participate in bidding on the referenced Solicitation for the Esperero Wash at Sunrise Drive Culvert Replacement project.

On September 24, 2025, Falcone Brothers & Associates, Inc. (FBAI) submitted a protest of the solicitation pursuant to Pima County Procurement Code 11.20.010(F). On September 29, 2025, the Procurement Director dismissed FBAI's protest due to a lack of stated basis for protest.

On September 30, 2025, FBAI submitted a protest appeal to the Board of Supervisors with the Clerk of the Board pursuant to Pima County Procurement Code 11.20.010(H) (Protest Appeal). This appeal of our Procurement Director's decision will be heard at the October 21st Board of Supervisors Meeting.

The attached memorandum provides the County's responses to FBAI's concerns identified in their Protest Appeal (Attachment 1).

JKL/je

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator
Steve Holmes, Deputy County Administrator
Bruce Collins, Director, Procurement Department



Date: October 15, 2025

To: Jan Leshner
County Administrator

From: Bruce D. Collins *bdc*
Procurement Director

Re: Additional Information for the October 21, 2025 Board of Supervisors Meeting – Agenda Item 32 – Protest Appeal by Falcone Brothers & Associates, Inc. of Award for Solicitation No. IFB-2500015692 Esperero Wash at Sunrise Drive Culvert Replacement

This information is provided in response to the protest appeal submitted on September 30, 2025, by Falcone Brothers & Associates, Inc. (FBAI) for the referenced solicitation (Protest Appeal). The following are County responses to each assertion contained in FBAI's Protest Appeal:

1. Limited Competition Procurement:

FBAI: "FBAI would like to bring this appeal to the board of supervisor's attention, as the director of procurement Bruce Collins dismissed FBAs protest under A.R.S. § 34-606 and Pima County Procurement Code Section 11.12.060. Under these codes FBAI feels this project is not fall under these codes due to history at this job location. On August 25th, 2022 KGUN 9 News reported that the road will reopen Friday August 26th by 5 pm and that permanent repairs to the roadway would be performed later this fall after monsoon concludes by Tina Giuliano. Due to this dismissal and the history of the project, we feel this project is not an emergency. FBAI feels this project should have been an open bid process that Pima County Procurement has done for many past projects."

County: The County originally bid this project out to the Flood Control Job Order Contractors, however, the bids received exceeded the Board-approved individual project threshold. This project requires a high-level of construction management to ensure impacts along Sunrise Drive are minimized, the quality of work is high, and can be accomplished in a manner that avoids the monsoon season.

The County evaluated options for re-bidding the project and ultimately elected to utilize a Limited Competition Procurement method pursuant to the provisions of A.R.S § 34-606 Emergency Procurements. The statute states, in part, "...or if a situation exists that makes compliance with this title impracticable, unnecessary or contrary to the public interest, except that these emergency procurements shall be made with such competition as is practicable under the circumstances."

It would have been contrary to the public interest to conduct an open solicitation process where a low bidder may not possess the expertise required to meet the complexities of the project thus resulting in the potential for additional costs and/or delays during construction. The County decided to limit participation to contractors that had previously been evaluated based on their submitted Statements of Qualifications (SOQs) on qualifications-based selection horizontal projects. The 11 pre-qualified contractors that were invited to bid have all demonstrated their ability to work within the tight constraints of the project, deliver the quality expected, and proven an ability to manage similar projects.

Bruce D. Collins, Director

Jan Leshner

**Re: Additional Information for the October 21, 2025 Board of Supervisors Meeting –
Agenda Item 32 – Protest Appeal by Falcone Brothers & Associates, Inc. of Award for
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Summary: The County received competitive bids from 6 qualified Contractors which resulted in the awardee's bid coming in \$154,899.64 under the engineer's estimate. Awarding the contract for this project to Southern Arizona Paving & Construction Co. in the amount of \$2,883,544.00 will allow for this important project to be completed while minimizing the impact on traffic along Sunrise Drive.

BC/

c: Carmine DeBonis Jr, Deputy County Administrator
Steve Holmes, Deputy County Administrator
Rod Lane, Director, Project Design and Construction
Scott Loomis, Division Manager, Procurement Department

ATTACHMENT 1



Via Email: nicofalcone8@gmail.com

September 29, 2025

Mr. Nicholas Falcone
Falcone Brothers & Associates, Inc.
15885 N. Equestrian Trail
Tucson, AZ 85739

RE: Protest - Sunrise Drive at Esperero Wash Cuvert Replacement

Dear Mr. Falcone,

On September 24, 2025, the Pima County Procurement Department received a protest from Falcone Brothers & Associates, Inc. ("FBAI").

Within your protest you assert that the procurement process being utilized should be "open bid to ensure equal opportunity for smaller and local contractors as well as DBE contractors." Secondly, you assert that FBAI is being discriminated against by not being invited to bid on the subject project.

Pima County continues to conduct our sourcing and bidding processes in an open, respectful, ethical, and lawful manner. I am optimistic that our response will reflect that Pima County did demonstrate our beliefs as stated above.

After careful consideration of your protest, project requirements, and rationality for the selection of the procurement method, Pima County's response is as follows:

Project Background

This project is for the replacement of a drainage culvert on Sunrise Drive, at Esperero Wash. This project will have a significant impact on traffic along Sunrise Drive. Closing the road for an extended period does not appear to be feasible. Therefore, a single lane bypass is required for the duration of the six-month construction period. Said bypass will be disruptive to the traveling public.

Procurement Method and Approach

Because of the anticipated disruption and need to mitigate additional delays during construction period, Pima County chose to utilize a Limited Competition Procurement method which is authorized and lawful under A.R.S. § 34-606 and Pima County Procurement Code Section 11.12.060.

Procurement Method and Approach (CONTINUED)

Consequently, Pima County established a list of qualified firms for this project which have (i) demonstrated the ability to perform under time constraints; and (ii) have submitted statements of qualification on other qualification-based procurements which have met the qualifications and requirements. As you are aware, FBAI has not submitted responses to Design Build and/or CMAR projects within the past five years.

Historical Use

Over the previous 6 years, 5 contracts have been awarded utilizing the limited competition method.

Determination

Therefore, in accordance with Pima County Procurement Code Section 11.20.010(F), I have determined that your protest is without merit. As such, your Protest is hereby dismissed.

This decision may be appealed to the Board of Supervisors by filing an appeal with the Clerk of the Board within 5 business days of the date of this written decision pursuant to Pima County Procurement Code Section 11.20.010(H). If you file an appeal with the Board of Supervisors, the Board will consider the protest at a regularly scheduled meeting within 30 days of this decision. The Board may, with or without a hearing, either accept the decision or determine an appropriate remedy.

Sincerely,

Bruce D. Collins

Bruce D. Collins,
Procurement Director

C: Anthony Falcone (FBAI)
Gaetano Falcone (FBAI)
Rod Lane, Director, Project Design & Construction
Scott Loomis, Division Manager – Design & Construction
Karrie Hixon, Procurement Officer
Bobby Yu, Deputy County Attorney