



Pima County Clerk of the Board

Melissa Manriquez

Katrina Martinez
Deputy Clerk

Administration Division
130 W. Congress Street, 1st Floor
Tucson, AZ 85701
Phone: (520)724-8449 • Fax: (520) 222-0448

Management of Information & Records Division
1640 East Benson Highway
Tucson, Arizona 85714
Phone: (520) 351-8454 • Fax: (520) 791-6666

Via Email: nicofalcone8@gmail.com

October 7, 2025

Falcone Brothers & Associates, Inc.
Attn: Nico Falcone, Vice President
15885 N. Equestrian Trail
Tucson, AZ 85739

RE: Appeal of the Pima County Procurement Director's decision regarding Solicitation No. IFB-2500015692, Esperero Wash at Sunrise Drive Culvert Replacement

Dear Mr. Falcone:

In accordance with Pima County Code 11.20.010(H), please be advised that we are in receipt of your request to appeal the decision of the Procurement Director in the aforementioned matter. A hearing has been scheduled before the Pima County Board of Supervisors on Tuesday, October 21, 2025, at 9:00 a.m. or thereafter, at the following location:

Pima County Administration Building
Board of Supervisors Hearing Room
130 West Congress, 1st Floor
Tucson, AZ 85701

If you have any questions concerning this hearing, please contact this office at 724-8449.

Sincerely,

A handwritten signature in dark ink, appearing to read "Melissa Manriquez", is written over a horizontal line. The signature is stylized with a large, looping flourish at the end.

Melissa Manriquez
Clerk of the Board

c: Pima County Board of Supervisors
Jan Leshar, County Administrator
Sam E. Brown, Chief Civil Deputy County Attorney
Bobby Yu, Deputy County Attorney
Bruce Collins, Director, Procurement
Rod Lane, Director, Project Design & Construction
Scott Loomis, Design & Construction Division Manager
Karrie Hixon, Procurement Officer



FBAI Falcone Brothers
& Associates, Inc.

*15885 N Equestrian Trail • Tucson, AZ 85739 • "A" Lic. 143810
Office: (520) 825-1072 • Mobile: (520) 780-2385 • Fax: (520) 825-3002*

9/30/2025

Attn: Melissa Manriquez
Clerk of the Board
Pima County Procurement Department
130 W. Congress
Tucson, AZ 85701
RE: Protest Appeal Esperero Wash at Sunrise Dr Culvert Replacement
(IFB-2500015692)

Falcone Bros & Associates Inc. is appealing the protest of the Esperero Wash at Sunrise Dr Culvert Replacement project. FBAI would like to bring this appeal to the board of supervisor's attention, as the director of procurement Bruce Collins dismissed FBAI's 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.

Thank You,
Nico Falcone
V.P.
520-780-1622

Handwritten signature and vertical stamp.

Chapter 11.20

PROTESTS

Sections:

11.20.010 Protests.

11.20.010 Protests.

A. Applicability. This section applies to procurement of materials, general and professional services and construction. An interested party may file a protest regarding any aspect of a solicitation, evaluation, or recommendation for award.

B. Prebidding Protests. Protests regarding solicitation that are apparent before the bid opening or before the time for receipt of proposals shall be filed before bid opening or before the time for receipt of proposals.

C. Notice of Recommendation for Award. The procurement director shall post notification of recommendation for awards for all formally advertised solicitations. Notification shall be pursuant to written procurement procedures.

D. Filing a Protest. A bidder or offeror may file a protest in writing with the procurement director. Protests filed more than five days after the protester knew or should have known of the recommendation for award, or after contract award shall be considered untimely. The protest shall include the following information:

1. The name, address and telephone number of the protester;
2. The signature of the protester;
3. Identification of the solicitation;
4. A statement of the factual grounds of the protest including copies of relevant documents; and
5. A description of the relief requested.

E. Procurement Director Action. Upon receiving a protest, the procurement director must stay the contract award if the award has not been made until the appeal process, as stated in subsection H, has concluded with or without an appeal. The procurement director will review the facts presented in the protest and render a decision.

F. Dismissal. Within five days of receipt of the protest, the procurement director will dismiss a protest, upon a written determination, if:

1. The protest does not state a valid basis for protest; or
2. The protest is untimely.

G. Remedies. If the protest is sustained in whole or part, an appropriate remedy will be implemented.

1. In determining an appropriate remedy, consideration will be given to all the circumstances surrounding the procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement

system, the good faith of the parties, costs to the county, the urgency of the procurement and the impact of the relief on the department's mission.

2. An appropriate remedy may include the following:

- a. Withdraw staff recommendation and reissue the solicitation;
- b. Withdraw staff recommendation and issue a new solicitation;
- c. Withdraw staff recommendation and recommend award of contract consistent with this title;

or

- d. Such other relief as is determined appropriate.

H. Appeal to the Board of Supervisors.

1. A protester or any other interested party involved in the solicitation whose interests may be affected by the ruling may file a written appeal of the procurement director's decision specifying the reason for the appeal. A dismissal based on an untimely protest is not appealable. The appeal must be filed with the clerk of the board within five days of the date of the procurement director's decision.

2. The board will consider the protest at a regularly scheduled meeting within thirty calendar days of the procurement director's decision. The board may, with or without a hearing, either accept the decision of the procurement director, or determine an appropriate remedy.

(Ord. 2017-27 § 5, 2017; Ord. 2011-14 § 6 (part), 2011; Ord. 2001-131 § 1 (part), 2001; Ord. 1997-45 § 1, 1997)



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.

09-30-2025 10:00 AM

Mr. Nicholas Falcone
Falcone Brothers & Associates, Inc.
September 29, 2025
Page 2

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