



# MEMORANDUM

Date: April 11, 2025

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

From: Jan Lesker *Jan*  
County Administrator

Re: **Additional Information for the April 15, 2025 Board of Supervisors Meeting – Addendum Item 14 – Protest Appeal by Falcone Brothers & Associates, Inc. of Award for Solicitation No. IFB-2400006782 El Vado Road Storm Drain (5ELVSS)**

On March 26, 2025, a Notice of Recommendation for Award was issued to respondents concerning the referenced Solicitation for the El Vado Road Storm Drain project awarding as follows:

<u>AWARDEE NAME</u>	<u>BASE BID</u>	<u>ADDITIVE ALTERNATE</u>	<u>TOTAL BID</u>	<u>AWARD AMOUNT</u>
Jud Co, LLC	\$1,606,035.00	\$32,190.00	\$1,638,225.00	\$1,638,225.00

On March 28, 2025, Falcone Brothers & Associates, Inc. (FBAI) submitted a protest of the recommendation for award pursuant to Pima County Procurement Code 11.20.010(F). On April 4, 2025, the Procurement Director dismissed FBAI’s protest due to a lack of stated basis for protest.

On April 10, 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 April 15<sup>th</sup> Board of Supervisors Meeting.

The attached memorandum provides the County’s responses to FBAI’s concerns identified in their Protest Appeal.

JKL/anc

Attachment

- c: Carmine DeBonis Jr, Deputy County Administrator
- Steve Holmes, Deputy County Administrator
- Bruce Collins, Director, Procurement Department
- Eric Shepp, Director, Regional Flood Control District

APR 11 2025 10:20 AM  
*Jan*

Date: April 11, 2025

To: Jan Leshner  
County Administrator

From: Bruce D. Collins *bdc*  
Procurement Director

Re: Additional Information for the April 15, 2025 Board of Supervisors Meeting – Addenda  
Item 14 – Protest Appeal by Falcone Brothers & Associates, Inc. of Award for  
Solicitation No. IFB-2400006782 El Vado Road Storm Drain (5ELVSS)

This information is provided in response to the protest appeal submitted on April 10, 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. **Unbalanced Bid:**

**FBAI:** “Falcone Bros & Associates Inc, is protesting the award of the El Vado Rd Storm Drain project. The grounds for this protest are that FBAI feels that this bid is unbalanced, based on the Engineers Estimate and compared to the other bidders bid tabulations.”

**County:** Section 14 *Unbalanced Bids* in the Instructions to Bidders, defines a materially unbalanced bid as one that “despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated and there is a reasonable doubt that the bid will result in the lowest overall cost to County, even though it may be the low evaluated bid.” The responsive bids were thoroughly evaluated by the Design Engineer, Flood Control District Project Manager, as well as Procurement staff, in accordance with Pima County's procurement rules and regulations and it has been determined that Jud Co LLC's (Jud Co) bid is not unbalanced, and that Jud Co's bid will result in the lowest overall cost to the County.

**FBAI:** “In particular on the base bid the difference between the engineer's estimate of \$1,902,810.00 and Jud Co LLC bid of \$1,260,120.00 is immensely lower at over 33% (\$642,861.00). Another line item that FBAI feels is unbalanced and wanted to bring to the County's attention was the traffic control item #7010005, the engineers estimate for this particular item was \$90,000.00 and Jud Co LLC bid was only \$35,000.00 which is over 250% lower than the engineers estimate, this item is a critical item to the project and the safety to the public.”

**County:** The County understands the importance of ensuring that bids are fair and competitive and reflect the true cost of completing the project in a manner that meets all requirements delineated within the specifications. Said requirements include and are not limited to required safety standards and specifications. Our analysis of all of the bids revealed that approximately 67% were priced lower than the engineer's estimate. This indicates that Jud Co's bid is consistent with the competitive nature of this bid process.

**Bruce D. Collins, Director**

150 W Congress St., 5<sup>th</sup> Floor – Tucson, AZ 85701-1207 – Main: 520-724-8161 – Fax: 520-724-3646

[www.pima.gov](http://www.pima.gov)

Jan Leshner

Re: Additional Information for the April 15, 2025 Board of Supervisors Meeting – Addenda  
Item 14 – Protest Appeal by Falcone Brothers & Associates, Inc. of Award for Solicitation  
No. IFB-2400006782 El Vado Road Storm Drain (5ELVSS)

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Our analysis of the traffic control line item #7010005 presented a variance of 33% over the estimate to as low as 61% below the engineer's estimate. Jud Co's bid for this item was \$55,000.00 lower than the engineer's estimate.

## **2. Prevailing Wages**

**FBAI**: "Even as a local contractor FBAI would not be able to complete this project at the price bid by Jud Co LLC which is also due to the fact that the wages for this project have more than doubled from previous bid jobs with prevailing wages."

**County**: The Davis Bacon Act Prevailing Wage, General Decision Number AZ20250059 01/30/2025, is the current wage determination applicable to this project and was included in the solicitation bid package, which all bidders are required to incorporate into their bid. This indicates that Jud Co's bid is consistent with the competitive nature of this bid process.

**Summary**: After thorough examination of the bids, it has been confirmed that all responses were evaluated in accordance with Pima County's procurement rules and regulations and Jud Co's bid is responsive and not unbalanced. In addition to the above, Jud Co will be required to provide Payment and Performance Bonds, ensuring an additional guarantee of the project completion in accordance with the bid. The payment bond will ensure all subcontractors are paid in accordance with the prevailing wage.

County recognizes the interest of FBAI and invites FBAI to continue to bid future projects.

c: Carmine DeBonis Jr, Deputy County Administrator  
Steve Holmes, Deputy County Administrator  
Eric Shepp, Director, Regional Flood Control District  
Bruce D. Collins, Director, Procurement Department



Via Email: [REDACTED]

April 4, 2025

Mr. Tom Falcone  
Falcone Brothers & Associates, Inc.

RE: Protest – Award for Solicitation No. IFB-2400006782 El Vado Road Storm Drain (5ELVSS)

Dear Mr. Falcone,

On March 28, 2025, the Pima County Procurement Department (“Procurement”) received a protest from Falcone Brothers & Associates, Inc. (“FBAI”) regarding the Notice of Recommendation for Award of Solicitation No. IFB-2400006782 for the El Vado Road Storm Drain (5ELVSS) project issued March 26, 2025, which recommended Jud Co, LLC (“Jud Co”) as the Awardee.

You assert that the basis for your Protest is that “FBAI feels that this bid is unbalanced based on the Engineer’s Estimate and compared to the other bidders bid tabulations.” In particular, you cite the difference between the engineer’s estimate of \$1,902,810.00 and Jud Co’s bid of \$1,260,120.00 for the base bid.

Additionally, you state that the traffic control item #7010005 is unbalanced, based on Jud Co’s bid of \$35,000.00 versus the engineer’s estimate of \$90,000.00 and that this is a critical item to the project and the safety of the public.

You request that Procurement deem Jud Co unresponsive due to an unbalanced bid and award to the next responsive bidder.

After carefully reviewing your protest and evaluation of the bids, I offer the following response:

The County understands the importance of ensuring that bids are fair and competitive and reflect the true cost of completing the project in a manner that meets all required safety standards and specifications. The bid package, excluding allowances, contained 49 line items and 33, or approximately 67% were priced lower than the engineer’s estimate. This indicates that Jud Co’s bid is consistent with the competitive nature of this bid process.

The County recognizes that Jud Co’s bid for traffic control item #7010005 was 61% lower than the engineer’s estimate, and that the bids received varied from as high as 33% over the estimate to as low as 61% below, with the next low for that item at 45% below the estimate.

Mr. Tom Falcone  
Falcone Brothers & Associates, Inc.  
April 4, 2025  
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The County does not have a reasonable doubt that Jud Co's bid would result in the lowest overall cost to County. Jud Co has confirmed that they understand all requirements of the bid package and are willing and able to complete the project for the price bid.

After thorough examination of the bids, I can confirm that all responses were evaluated in accordance with Pima County's procurement rules and regulations and Jud Co's bid is not unbalanced based on Section 14 *Unbalanced Bids* in the Instructions to Bidders. Therefore, in accordance with Pima County Procurement Code 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,



Scott Loomis  
Acting Procurement Director

C: Bruce Collins, Procurement Director  
Eric Shepp, Regional Flood Control District Director  
Dawn Dargan, Procurement Officer  
Janis Gallego, Deputy County Attorney  
Interested Parties