SERIAL 16058 RFP TRUCK SCALES

DATE OF LAST REVISION: December 17, 2015 CONTRACT END DATE: November 30, 2018

CONTRACT PERIOD THROUGH NOVEMBER 30, 2018

TO: All Departments

FROM: Office of Procurement Services

SUBJECT: Contract for **TRUCK SCALES**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **December 17, 2015.**

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

_____
Wes Baysinger, Chief Procurement Officer
Office of Procurement Services

BG/jl
Attach

Copy to: Office of Procurement Services
Bradley White, WRR

CONTRACT PURSUANT TO RFP

SERIAL 16058-RFP

This Contract is entered into this 17th day of December, 2015 by and between Maricopa County ("County"), a political subdivision of the State of Arizona, and Southwestern Scale Company, Inc., an Arizona corporation ("Contractor") for the purchase of Truck Scales services.

1.0 CONTRACT TERM:

1.1 This Contract is for a term of three (3) years, beginning on the 17th day of December, 2015 and ending the 30th day of November, 2018.

1.2 The County may, at its option and with the agreement of the Contractor, renew the term of this Contract for additional terms up to a maximum of two (2) additional years, (or at the County's sole discretion, extend the contract on a month-to-month bases for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least sixty (60) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

2.0 FEE ADJUSTMENTS:

2.1 Any request for a fee adjustment must be submitted sixty (60) days prior to the current Contract annual anniversary date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted fee, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.0 PAYMENTS:

3.1 As consideration for performance of the duties described herein, County shall pay Contractor the sum(s) stated in Exhibit "A."

3.2 Payment shall be made upon the County's receipt of a properly completed invoice.

3.3 INVOICES:

3.3.1 The Contractor shall submit one (1) legible copy of their detailed invoice before payment(s) can be made. Incomplete invoices will not be processed. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery

- Quantity (number of days or weeks)
- Contract Item number(s)
- Description of Purchase (product or services)
- Freight (if applicable)
- Extended price
- Arrival and completion time (if applicable)
- Total Amount Due

3.3.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

3.3.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site (http://www.maricopa.gov/Finance/Vendors.aspx).

3.3.4 Discounts offered in the contract shall be calculated based on the date a properly completed invoice is received by the County (ROI).

3.3.5 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

3.4 APPLICABLE TAXES:

3.4.1 **Payment of Taxes:** The Contractor shall pay all applicable taxes. With respect to any installation labor on items that are not attached to real property performed by Contractor under the terms of this Contract, the installation labor cost and the gross receipts for materials provided shall be listed separately on the Contractor's invoices.

3.4.2 **State and Local Transaction Privilege Taxes:** Maricopa County is subject to all applicable state and local transaction privilege taxes. To the extent any state and local transaction privilege taxes apply to sales made under the terms of this contract_it is the responsibility of the seller to collect and remit all applicable taxes to the proper taxing jurisdiction of authority.

3.4.3 **Tax Indemnification:** Contractor and all subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold Maricopa County harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

3.5 STRATEGIC ALLIANCE for VOLUME EXPENDITURES ($AVE):

3.5.1 The County is a member of the $AVE cooperative purchasing group. $AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the $AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of $AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of $AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

3.6 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

3.6.1 County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract

4.0 AVAILABILITY OF FUNDS:

4.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The County shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.

4.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

5.0 DUTIES:

5.1 The Contractor shall perform all duties stated in Exhibit "B", or as otherwise directed in writing by the Procurement Officer.

5.2 During the Contract term, County may provide Contractor's personnel with adequate workspace for consultants and such other related facilities as may be required by Contractor to carry out its contractual obligations.

6.0 TERMS and CONDITIONS:

6.1 INDEMNIFICATION:

To the fullest extent permitted by law, and to the extent that claims, damages, losses or expenses are not covered and paid by insurance purchased by the Contractor, the Contractor shall defend indemnify and hold harmless the County (as Owner), its agents, representatives, agents, officers, directors, officials, and employees from and against all claims, damages, losses, and expenses (including, but not limited to attorneys' fees, court costs, expert witness fees, and the costs and attorneys' fees for appellate proceedings) arising out of, or alleged to have resulted from the negligent acts, errors, omissions, or mistakes relating to the performance of this Contract.

Contractor's duty to defend, indemnify, and hold harmless the County, its agents, representatives, agents, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss, or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment of, or destruction of tangible property, including loss of use resulting there from, caused by negligent acts, errors, omissions, or mistakes in the performance of this Contract, but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, any one directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of County.

Each Party (as "indemnitor") agrees to indemnify, defend, and hold harmless the other Party (as "indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of the negligent performance of this Agreement, but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

6.2 INSURANCE**.**

6.2.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

6.2.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

6.2.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

6.2.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

6.2.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

6.2.6 The insurance policies required by this Contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

6.2.7 The policies required hereunder, except Workers' Compensation and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

6.2.8 **Commercial General Liability.**

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than $2,000,000 for each occurrence, $4,000,000 Products/Completed Operations Aggregate, and $4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit

third party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

6.2.9 **Automobile Liability.**

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than $1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services or use or maintenance of the Premises under this Contract.

6.2.10 **Workers' Compensation.**

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than $1,000,000 for each accident, $1,000,000 disease for each employee, and $1,000,000 disease policy limit.
Contractor, its contractors and its subcontractors waive all rights against Contract and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor, its contractors and its subcontractors pursuant to this Contract.

6.2.11 **Errors and Omissions (Professional Liability) Insurance.**

Errors and Omissions (Professional Liability) insurance and, if necessary, Commercial Umbrella insurance, which will insure and provide coverage for errors or omissions or professional liability of the **CONTRACTOR**, with limits of no less than $2,000,000 for each claim.

6.2.12 **Professional Liability.**

Contractor shall maintain Professional Liability insurance which will provide coverage for any and all acts arising out of the work or services performed by the Contractor under the terms of this Contract, with a limit of not less than $1,000,000 for each claim, and $3,000,000 aggregate claims.

6.2.13 Certificates of Insurance.

6.2.19.1 Prior to Contract **AWARD,** Contractor shall furnish the County with valid and complete certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

6.2.19.2 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

6.2.19.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

6.3 FORCE MAJEURE

6.3.1 Neither party shall be liable for failure of performance, nor incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Contract if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, interruption or failure of electricity or telecommunication service.

6.3.2 Each party, as applicable, shall give the other party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.

6.3.3 The party asserting *Force Majeure* as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, that all non-excused obligations were substantially fulfilled, and that the other party was timely notified of the likelihood or actual occurrence which would justify such an assertion, so that other prudent precautions could be contemplated.

6.3.4 The County shall reserve the right to terminate this Contract and/or any applicable order or contract release purchase order upon non-performance by Contractor. The County shall reserve the right to extend the Contract and time for performance at its discretion.

6.4 WARRANTY OF SERVICES:

6.4.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

6.4.2 In addition to its other remedies, County may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

6.5 INSPECTION OF SERVICES:

6.5.1 The Contractor shall provide and maintain an inspection system acceptable to County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to County during contract performance and for as long afterwards as the Contract requires.

6.5.2 County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. County shall perform inspections and tests in a manner that will not unduly delay the work.

6.5.3 If any of the services do not conform to Contract requirements, County may require the Contractor to perform the services again in conformity with Contract requirements, at no cost to the County. When the defects in services cannot be corrected by re-performance, County may:

6.4.3.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and

6.4.3.2 Reduce the Contract price to reflect the reduced value of the services performed.

6.5.4 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:

6.4.4.1 By Contract or otherwise, perform the services and charge to the Contractor, through direct billing or through payment reduction, any cost incurred by County that is directly related to the performance of such service; or

6.4.4.2 Terminate the Contract for default.

6.6 REQUIREMENTS CONTRACT:

6.6.1 Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid is a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials or services contained in the Contract, they will be purchased from the Contractor awarded that item if the Contractor can meet all the delivery requirements of the County. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.

6.6.2 County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor for actual and documentable costs incurred by the Contractor in response to the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

6.6.3 Contractors agree to accept verbal notification of cancellation of Purchase Orders from the County Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

6.7 Suspension of Work

The Procurement Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Procurement Officer determines appropriate for the convenience of the County. No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor. No request for adjustment under this clause shall be granted unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

6.8 Stop Work Order

The Procurement Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Procurement Officer shall either—

6.8.1 Cancel the stop-work order; or

6.8.2 Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the County, clause of this contract.

6.8.3 The Procurement Officer may make an equitable adjustment in the delivery schedule and/or contract price, or otherwise, and the contract shall be modified, in writing, accordingly, if the Contractor demonstrates that the stop work order resulted in an increase in costs to the Contractor.

6.9 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

6.10 TERMINATION FOR DEFAULT:

The County may, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

6.10.1 Deliver the supplies or to perform the services within the time specified in this contract or any extension;

6.10.2 Make progress, so as to endanger performance of this contract; or

6.10.3 Perform any of the other provisions of this contract.

6.10.4 The County's right to terminate this contract under these subparagraph may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the County) after receipt of the notice from the Procurement Officer specifying the failure.

6.11 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

6.12 CONTRACTOR LICENSE REQUIREMENT:

6.12.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Office of Procurement Services and the using agency of any and all changes concerning permits, insurance or licenses.

6.12.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to posses the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact

the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

6.13 SUBCONTRACTING:

6.13.1 The Contractor may not assign to another Contractor or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

6.13.2 The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates or the County has approved the increase. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

6.14 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Office of Procurement Services shall be responsible for approving all amendments for Maricopa County.

6.15 ADDITIONS/DELETIONS OF SERVICE:

6.15.1 The County reserves the right to add and/or delete materials and services to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials or services are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

6.15.2 The County reserves the right of final approval on proposed staff for all Task Orders. Also, upon request by the County, the Contractor will be required to remove any employees working on County projects and substitute personnel based on the discretion of the County within two business days, unless previously approved by the County.

6.16 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of the Contract.

6.17 SEVERABILITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

6.18 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

6.19 NON-DISCRIMINATION:

CONTRACTOR agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and

may be viewed and downloaded at the Governor of the State of Arizona's website http://azmemory.azlibrary.gov/cdm/singleitem/collection/execorders/id/680/rec/1 which is hereby incorporated into this contract as if set forth in full herein. During the performance of this contract, CONTRACTOR shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.

6.20 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

6.20.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor

6.21.1.1 is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

6.21.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

6.21.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

6.21.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

6.20.2 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

6.21 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

6.21.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.

6.21.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 6.22.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the

Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

6.22 INFLUENCE

As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct may be grounds for Disbarment or Suspension under MC1-902.
An attempt to influence includes, but is not limited to:

6.22.1 A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,

6.22.2 That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.

If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.

6.23 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:

6.23.1 In accordance with section MCI 371 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

6.23.2 If the Contractor's books, records , accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

6.23.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future invoices, request for credit, request for a check or deduction from current billings Submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

6.24 AUDIT DISALLOWANCES:

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

6.25 OFFSET FOR DAMAGES;

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

6.26 PUBLIC RECORDS:

Under Arizona law, all Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection and copying after Contract award and execution, except for such Offers or sections thereof determined to contain proprietary or confidential information. by the Office of Procurement Services. If an Offeror believes that information in its Offer or any resulting Contract should not be released in response to a public record request under Arizona law, the Offeror shall indicate the specific information deemed confidential or proprietary and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise from disclosure. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

6.27 PRICES:

Contractor warrants that prices extended to County under this Contract are no higher than those paid by any other customer for these or similar services.

6.28 INTEGRATION:

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

6.29 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, co-employee, partnership, principal and agent, or joint venture between the County and the Contractor.

6.30 GOVERNING LAW:

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States District Court for the District of Arizona, sitting in Phoenix, Arizona

6.31 ORDER OF PRECEDENCE:

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, if applicable, the terms of this Contract shall prevail.

6.32 INCORPORATION OF DOCUMENTS:

The following are to be attached to and made part of this Contract:

6.32.1 Exhibit A, Pricing;

6.32.2 Exhibit B, Scope of Work;

6.32.3 Exhibit B-1, Contractor Scope of Work

NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County
Office of Procurement Services
ATTN: Contract Administration
320 West Lincoln Street
Phoenix, Arizona 85003-2494

For Contractor:

Southwestern Scale Company, Inc.
ATTN: Dean Dumont
2535 W. Broadway Rd.
Phoenix, AZ 85066

IN WITNESS WHEREOF, this Contract is executed on the date set forth above.

CONTRACTOR

_____
AUTHORIZED SIGNATURE

_____
PRINTED NAME AND TITLE

_____
ADDRESS

_____
DATE

MARICOPA COUNTY

_____	_____
CHIEF PROCUREMENT OFFICER, OFFICE OF PROCUREMENT SERVICES	DATE

APPROVED AS TO FORM:

_____	_____
LEGAL COUNSEL	DATE

EXHIBIT A – PRICING

COMPANY NAME:	**Southwestern Scale Company, Inc.**
DOING BUSINESS AS (DBA) NAME:	
MAILING ADDRESS:	**2535 W. Broadway Rd., Phoenix, AZ 85041**
REMIT TO ADDRESS:	
TELEPHONE NUMBER:	**602-243-3951**
FACSIMILE NUMBER:	**602-243-0435**
WEB SITE:	**www.swscale.com**
REPRESENTATIVE NAME:	**Dean Dumont**
REPRESENTATIVE E-MAIL:	**ddumont@swscale.com**

	YES
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	X

NIGP CODE 780-84

1.0 PRICING:

1.1 NTE Price Truck Scales (all inclusive) per section 2.0 of the solicitation	$99,970.24

Project Costs and Breakdown:

One (1) 70' x 11' SIDEWINDER Truck Scale Steel Deck (In-bound)	$32,920.00
One (1) 70' x 11' SIDEWINDER Truck Scale Steel Deck (Out-bound)	$32,920.00
One (1) Allotment for Installation and certification for both scales	$5,950.00
Two (2) Replacement Digital Indicator model 880 ($1195 ea)	$2,390.00
One (1) Scale software option “Interact Pro” Dual Scale	$8,270.00
One (1) Additional Software Seat for County “Home Office (Added at Bid Walk)	$2,600.00
One (1) Replacement 4” LED outside remote displays ($1450ea)	$2,900.00
One (1) Traffic light kit (Dual Scale) w/ Wall Mount LED Red/Green Traffic Lights	$2,480.00
One (1) Allotment for Electrical for Traffic Lights/Remote Displays (Added at Bid Walk)	$1,602.00
One (1) PM Calibration agreement per 6 months (Total price is for 1 year)	$740.00
Subtotal:	$ 92,772.00
Tax:	$ 7,198.24
Total:	$ 99,970.24

1.2 Trade In of old equipment	$12,200.00

1.3 Delivery – 6 weeks after receiving Purchase Order

1.4 Preventative Maintenance Inspections

1.4.1 Labor for services outside scope of contract	$69.00/Per Hour
1.4.2 Parts - Cost Plus	20%

Terms:	NET 30
Vendor Number:	W000005238 X
Certificates of Insurance	Required
Contract Period:	To cover the period ending November 31, **2018.**

EXHIBIT B, SCOPE OF WORK

2.0 Scope of Work

2.1 Fabricating new (2) Two 140,000 x 20 lbs. minimum capacity scale bridges to fit the existing foundations and approaches without the need to remove or add concrete. The APPROXIMATE size of each scale is 11'X 70'. Note a standard 70"will not fit into the inbound foundation.

2.2 Deck Height shall be 12" High End wall height with 3" cleanout under scale deck.

2.3 Guiderails are to be built into the design of the scale running the length of the each platform. Inside Wheel Curbs must be smooth plate steel welded to the deck and allow for easy entry/exit on and off scale platform. Height of guiderails is 12"min. above the scale deck. Note: Pipe guiderails are not acceptable for this project.

2.4 Upon completion of manufacturing one scale will be replaced at a time to allow the county to operate with the other scale starting with the inbound scale.

2.5 Load cells shall have a 65,000 lb. capacity each

2.6 The scale will be calibrated using a Test Truck carrying 25,000 lbs. of certified weight. At completion of the installation standard calibration reports will be submitted; scale will be placed into service and fully operational before work starts on the other scale

2.7 Install Traffic light kit (Dual Scale) w/ Wall Mount LED Red/Green Traffic Lights.

2.8 Replacement Digital Indicators (2) inside the scale house.

2.9 Replacement 4" LED (2) outside remote displays. One on each side of the building.

2.10 Install data collection system (Interact Pro" Dual Scale) or equivalent.

2.10.1 Training on the software is required. Training recommendation and schedule shall be included in your proposal.

2.11 Cables- Stainless Steel Braided (Rodent Cable) throughout installation.

2.12 Junction Boxes will be Nema 4x rated. All external cabling will be run inside ridged Conduits.

EXHIBIT B-1, SCOPE OF WORK

3.0 Contractor Scope of Work

3.1 Existing scale foundations will be thoroughly measured and new scale prints will be generated.

3.2 Upon approval SWSCO to fabricate the new scale weighbridge. Scales will be designed and built to fit into existing foundations without the need to pour additional concrete.

3.3 Upon completion of manufacturing SWSCO to schedule the removal of the old scales. One scale will be removed at a time to allow the county to operate with the other scale.

3.4 Old scales will be removed from site and traded into Southwestern Scale (see trade in value)

3.5 Installation

3.5.1 New scale delivery will be coordinated upon removal of old scale. At the time of delivery ALL Wiring, Testing and Final Calibration will be performed. The scale will be calibrated using our Test Truck carrying 25,000 lbs. of certified weight. At completion of the installation standard calibration reports will be submitted; scale will be placed into service with Department of Weights and Measures and will be ready for use.

3.6 Specifications

3.6.1 Platform Size- 70' LONG x 11' WIDE

3.6.2 Platform Type- Diamond Tread Plate (3/8”)

3.6.3 Deck Height- 12” High End wall height with 3” cleanout under scale deck

3.6.4 Scale Design- I-Beam Side rail type with built in sloped wheel curbs. Top Access “FLATTOP Scales with pipe guiderails are not acceptable for this project (due to installation criteria).

3.6.5 Guiderail Type- Guiderails are to be built into the design of the scale using 24” x76# x70’ structural I-Beams running the length of the platform. Inside Wheel Curbs must be smooth plate steel welded to the deck and I-Beam to allow for easy entry/exit on and off scale platform. Height of I-Beam guiderails are 15” Above the scale deck. Note: Pipe guiderails are not acceptable for this project.(due to installation criteria).

3.6.6 Load cells- Quantity of 8 (Per Scale) each having a 65,000 lb capacity DESB. Load cells are readily available from a multitude of suppliers

3.6.7 Load cell Access- All load cells and components are accessed from the side of the scale. Top access cover plates are not acceptable for this project (due to installation criteria).

3.6.8 Cables- Stainless Steel Braided (Rodent Cable) throughout installation

3.6.9 Junction Boxes- Side mounted and Nema 4x rated. All external cabling is run inside ridged conduits. Scale is shipped with all conduits and junction boxes already mounted and bolted to the scale platform

3.6.10 Modules per scale- Three (3) Modules for the entire 70’ length to allow for a 4 pier foundation

3.6.11 Capacity- 140,000 x 20 lbs.

3.6.12 Version- Heavy Duty Sidewinder Truck Scales

3.6.13 Model Number- 7070 LPS

3.6.14 NTEP- CoC # 88-265

3.6.15 Warranty

3.6.15.1 10 year on the weighbridge
3.6.15.2 2 year on Load Cell
3.6.15.3 2 year on Digital Indicator, Remote Display

3.6.16 Warranty Terms and Conditions

The following provisions form part of the order acknowledged and accepted, as express agreements between Southwestern Scale Company, Inc. and the Buyer governing the terms and conditions of the sale. Any modifications must be in writing and signed by both Seller and Buyer.

3.6.16.1 Southwestern Scale Company warrants their scale against defective parts and workmanship for a period of Ten (10) years. Defective parts will be made available from our factory, Phoenix AZ and do not cover shipping costs or installation. This warranty is void if failure due to overload or the result of construction-foundation shift due to unstable soils, concrete failure, etc.

3.6.16.2 If failure is the result of SITE CONDITIONS - foundation shift, Etc. - It is the owner’s responsibility to provide soil reports and to insure that soil will properly support the foundation, not allowing it to shift.

3.6.16.3 If failure is due to Southwestern Scale furnished concrete construction - concrete work will be warranted only if owner obtains test samples at time of the pour and documents the ready-mix company supplied improper concrete.

3.6.16.4 Electronic and mechanical equipment not manufactured by Southwestern Scale used for sensing, indication and printing is warranted in accordance with each manufacturer's warranty policies.

3.6.16.5 Electronic Load Cells used with the scale are warranted for Two YEARS - warranty does not cover submersion or arc welding. Warranty does not cover labor or trip charges.

3.6.16.6 The seller accepts no liability for special damages, loss of profits, loss of production, or incorrect weighing claims.

3.6.16.7 Construction pricing is based on normal site conditions. If buried items are encountered during excavation, extra costs will be on cost plus 10%.

3.6.16.8 Building Permits, if required, are the responsibility of the owner.

3.6.16.9 The scale remains the property of Southwestern Scale until paid in full.