



## Professional Services Agreement for Special Inspection Services

**THIS AGREEMENT**, effective as of March 29, 2016 is between City of Newport and ALLWEST Testing & Engineering, LLC. The Scope of Services is described in ALLWEST'S attached Proposal dated, March 29, 2016, which is hereby incorporated into and made a part of this Agreement. Consultant shall perform the scope of services detailed in our proposal attached to this agreement. This agreement may be amended in writing with the consent of both parties. It is possible for us to provide a more or less comprehensive evaluation of the project which would increase or decrease our fees. You have reviewed our scope of services and agree that it is reasonable for your project.

**1. SCOPE OF SERVICES:** Consultant will perform the Scope of Services described in our attached Proposal in a consistent manner with the level of care and skill ordinarily exercised by other consultants practicing in the same discipline and locale under similar circumstances at the time the scope of services are performed. No warranty or guarantee, either expressed or implied, is intended or included with our services.

**2. COMPENSATION AND TERMS OF PAYMENT:** Client agrees to provide payment for services rendered. Consultant will invoice for services in accordance with the terms of the attached proposal or on a monthly basis. All invoices are due within thirty (30) days. Invoices not paid within thirty (30) days will be assessed a late penalty of 1.5% per month. Delinquent accounts will also be responsible for all costs and legal fees incurred during collection. Consultant reserves the right to stop work if invoices are not paid within thirty (30) days. Limitations stated in the Proposal on the amount to be billed are estimates only, and are not an agreement by Consultant that it will complete the services for the estimated amount. Client will reimburse Consultant for any costs, including legal fees, associated with the collection of past due unpaid amounts.

**3. SITE ACCESS AND RELEVANT INFORMATION:** Client agrees to provide access and/or obtain permission for Consultant to enter upon all property as necessary to perform the Scope of Services. Consultant will exercise reasonable care to reduce damage, but Client recognizes that Consultant's operations and investigative equipment may unavoidably alter or affect the Project Site. The cost of repairing such damage will be borne by Client and is not included in the fee unless otherwise stated in the Proposal.

Client will provide Consultant with all information Client has, or can reasonably obtain, concerning the Project Site, including subsurface conditions and the location of subsurface or hidden pipes, utilities or structures. Consultant shall be entitled to reasonably rely on all such information provided by Client. Consultant will endeavor to avoid damage to such pipes, utilities and structures, but is not responsible for any damage to such items not properly identified in the information provided to it by Client. Consultant may reasonably rely on the accuracy and completeness of any information supplied by Client, without independently verifying its accuracy. Prior to the commencement of Services, Client will notify Consultant of any known potential health or safety hazard existing on or near the Project Site, with particular reference to hazardous materials or conditions.

**4. HAZARDOUS MATERIALS:** The term "hazardous materials" means any toxic substances, chemicals, radioactivity, pollutants or other materials, in whatever form or state, known or suspected to impair the environment in any way whatsoever, including but not limited to, those substances defined, designated or listed in any federal, state or local law, regulation or ordinance concerning hazardous wastes, toxic substances or pollution. Client is solely responsible for notifying all appropriate federal, state, municipal or other governmental agencies and potentially affected public of the existence of any hazardous materials located at the Project Site during performance of this Agreement. Any samples containing hazardous materials from the Project Site that are left over at the end of services will remain the property of and be returned to Client.

**5. LIMITATIONS OF LIABILITY:** The total cumulative liability of Consultant and its subcontractors, employees and agents to Client arising from Scope of Services under this Agreement, including any indemnity obligation and attorney's fees, will not exceed the gross compensation received by Consultant under this Agreement or \$25,000, whichever is greater. This limitation applies to all lawsuits, claims or actions that allege errors or omissions by Consultant, whether alleged in tort, contract, or under any other legal theory. Upon Client's written request, Consultant and Client may agree to increase the limitation to a greater amount in exchange for an increase in Consultant's fee. Neither Consultant nor Client will be liable to the other for any special, consequential, incidental or penal losses or damages. Further, both Client and Consultant waive any right to sue, or otherwise make any claim against any of the other party's officers, directors, shareholders or employees, past or present, as individuals.

**6. INSURANCE:** Consultant will maintain policies of general liability, automobile liability, workers compensation and professional liability insurance throughout the duration of this Agreement. Client will maintain property insurance sufficient to protect any property in which it has an insurable interest. Consultant and Client each waive any claims against each other for damage to property covered, or that should have been covered by property insurance required by this paragraph, including subrogated claims. Upon request, Consultant and Client will each provide the other with a certificate(s) of insurance evidencing the insurance required by this section.

**7. INDEMNIFICATION OF CLIENT:** Subject to the terms and limitations of this Agreement, Consultant agrees to indemnify and hold harmless Client (including its shareholders, officers, directors and employees) from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reimbursement of reasonable attorney's fees and defense costs) or other losses, to the extent caused by Consultant's negligent performance of its Scope of Services under this Agreement. Consultant's defense obligation under this indemnity paragraph includes only the reimbursement of reasonable defense costs to the extent of Consultant's actual indemnity obligation hereunder.

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**8. INDEMNIFICATION OF CONSULTANT:** Client will indemnify and hold harmless Consultant (including its shareholders, officers, directors and employees) from and against any and all claims, suits, liabilities, damages, expenses (including without limitation reasonable attorney's fees and costs of defense) or other losses, to the extent caused by the negligence of Client, its employees, agents and contractors. In addition, except to the extent caused by Consultant's sole negligence, Client expressly agrees to defend, indemnify and hold harmless Consultant from and against any and all losses arising from or related to the existence, disposal, release, discharge, treatment or transportation of hazardous materials, or the exposure of any person to hazardous materials, or the degradation of the environment due to the presence, discharge, disposal, release of or exposure to hazardous material. The indemnity obligations and the limitations of liability established under this Agreement will survive its expiration or termination. If Consultant provides the Scope of Services to Client that the parties do not confirm in an executed amendment to this Agreement, the obligations of the parties to indemnify each other and the limitations on liability established under this Agreement will apply to such Services as if the parties had executed an amendment.

**9. MEDIATION:** Consultant and Client agree to mediate any dispute regarding this Agreement or its performance as a precondition to instituting any legal action against the other, each party sharing equally the mediation fees and costs. The laws of the State of Idaho will govern the terms of this Agreement.

**10. TERMINATION:** Either party may terminate this Agreement for convenience by giving 14 days written notice to the other party, and for cause by giving 7 days written notice. If Client terminates this Agreement, in addition to any other compensation due under this Agreement, it will pay amounts incurred by Consultant in preparing to perform the Scope of Services, performing them, and in their orderly termination.

**11. THIRD PARTY RELIANCE:** This Agreement and the Services provided are for Consultant and Client's sole benefit and exclusive use with no third party beneficiaries intended. Reliance upon the Services and any work product is limited to Client, and is not intended for third parties. For a limited time period not to exceed three months from the date of the report, Consultant will issue additional reports to others agreed upon with Client, however Client understands that such reliance will not be granted until those parties sign and return Consultant's reliance agreement and Consultant receives the agreed-upon reliance fee.

**12. FULL AND FINAL AGREEMENT:** This Agreement is the full and final agreement between Consultant and Client and supersedes any prior agreements. This Agreement may not be modified except in writing and executed by both parties.

**13. ASSIGNMENT:**

During the term of this Agreement and following its expiration or termination for any reason, neither Owner nor Consultant shall transfer, assign, convey or sublet any right, claims, duty or obligation under it, nor any other interest therein without the prior written consent of the other party.

**14. REUSE OF DOCUMENTS:**

Any reuse or modification of the Work by Owner or anyone obtaining it through Owner will be at Owner's sole risk and without liability to Consultant. Owner will defend, indemnify and hold Consultant harmless from all third party claims, demands, actions, and expenses (including reasonable attorney's fees, expert fees, and other costs of defense) arising from or in any way related to the reuse or modification of the Work by Owner or anyone obtaining it through Owner.

**ALLWEST TESTING &  
ENGINEERING, LLC**

**CLIENT**

<b>Signature:</b>	<u><i>Andy Eliason</i></u>	<u><i>Timothy Gross</i></u>
<b>Print Name:</b>	<u>Andy Eliason</u>	<u>Timothy Gross</u>
<b>Title:</b>	<u>Materials Testing Manager</u>	<u>Director of PW / City Engineer</u>
<b>Company:</b>	<u>ALLWEST Testing &amp; Engineering, LLC</u>	<u>City of Newport</u>
<b>Date:</b>	<u>March 29, 2016</u>	
<b>Project:</b>	<u>Proposal No. 216-107P, Special Inspection Services, Newport Aquatic Center Shop Fabrication, American Alloy, Spokane Valley, Washington</u>	





Construction Materials Testing & Special Inspection  
Geotechnical Engineering  
Environmental Consulting  
Non-Destructive Testing  
Welder Certification

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March 29, 2016  
Proposal No.: 216-107P

Mr. Olaf Sweetman, P.E.  
City of Newport  
169 SW Coast Highway  
Newport, Oregon 97365

RE: Cost Estimate for Special Inspection Services  
Newport Aquatic Center Shop Fabrication  
American Alloy  
3808 North Sullivan Road, Building 11  
Spokane Valley, Washington

Dear Mr. Sweetman:

ALLWEST Testing & Engineering is pleased to provide you with the following cost estimate for shop welding special inspection services for the Newport Aquatic Center shop fabrication located at American Alloy in Spokane Valley Washington. Based on a review of the available information, we are confident that our firm will provide the necessary testing services in a cost effective, timely, and professional manner. This cost estimate summarizes our unit prices and our estimated fees to provide our services.

### **PROJECT DESCRIPTION**

We understand that the proposed project will consist of visual weld inspections performed at the fabrication shop American Alloy.

## QUALIFICATIONS AND PERSONNEL

ALLWEST employs a staff of qualified engineers, inspectors, and technicians in our four offices located in Hayden, Meridian and Lewiston, Idaho, and Spokane, Washington. These include five registered professional engineers and over thirty inspectors and technicians. Our Spokane office maintains national laboratory accreditation through the AASHTO Materials Reference Laboratories (AMRL). Each of our offices employ ICC accredited technicians and inspectors. Additionally, our inspectors and technicians maintain WAQTC and ACI certifications.

## SCOPE OF SERVICES

ALLWEST's services will be performed on a time and expense basis. Our scope of services will include the following items:

### 1. Structural Steel Welding:

We will provide an accredited inspector to observe and inspect welding. Our services will include review of the following:

- Welder's certification.
- Location and size of specified welds.
- Required specified electrodes.

ALLWEST will assign a project manager who will schedule field personnel and maintain communication with your project manager. Our project manager will be the primary point of contact for the project. Field personnel will leave a copy of their daily field report at the site with your assigned and authorized personnel. The typed daily field reports will be forwarded to you after review on a weekly basis. Our estimated cost is based upon the quantities and unit rates shown in the following Table of Estimated Costs.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT COST	ESTIMATED COST
Certified Welding Inspector	Welding Inspector (CWI)	32 hours	\$75.00 / hour	\$2,400.00
	Mileage	0 miles	\$0.75 / mile	
	<b>Certified Welding Inspector Total</b>			<b>\$2,400.00</b>
Project Management and Reports	Project Manager	3 hours	\$85.00 / hour	\$255.00
	Clerical	3 hours	\$65.00 / hour	\$195.00
	<b>Project Management and Reports Total</b>			<b>\$450.00</b>
<b>Total</b>				<b>\$2,850.00</b>



Our estimate is based upon quantities and unit rates shown. If quantities change, a corresponding change in price would occur. Project meetings and testing services required beyond the scope of this estimate will be billed on a time and expense basis at our current rates. Rates are based upon a 7:00 a.m. – 5:00 p.m. workday, Monday through Friday. A \$25.00 per hour surcharge for work performed on evenings and weekends will be added. Work performed on Sundays or holidays will be billed at two times the unit rates. ALLWEST will invoice on a time and materials basis, portal to portal with a two-hour minimum. Services not shown in the table will be invoiced at unit rates on our current schedule of charges.

### REMARKS

We appreciate the opportunity to submit this cost estimate, and we look forward to serving your materials testing and inspection needs. Having an appropriate representative sign and return one copy of the attached Agreement for Professional Services can authorize our services. Please understand that the authorizing organization assumes ultimate responsibility for payment of our services. If you have any questions or need additional information, please do not hesitate to call me at (509) 534-4411.

Sincerely,

ALLWEST Testing & Engineering, LLC



Tyson Schroeder  
Materials Testing Manager

Attachment: Professional Services Agreement



Construction Materials Testing & Special Inspection  
Geotechnical Engineering  
Environmental Consulting  
Non-Destructive Testing  
Welder Certification