

DEVELOPMENT AGREEMENT

14-421-0001

PARTIES: Teton Investment Holding LP ("Teton")
Schwab Properties Ltd. ("Les Schwab")

E 2187900 B 4085 P 354-363
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
7/28/2006 11:41:00 AM
FEE \$28.00 Pgs: 10
DEP eCASH REC'D FOR THE TALON GROUP

RECITALS:

- 7/28/06
- A. Teton owns the real property described on Exhibit A hereto ("Teton Property") and the real property described on Exhibit B hereto ("Les Schwab Property").
 - B. Les Schwab has assumed the obligation to purchase the Les Schwab Property.
 - C. The Teton Property and the Les Schwab Property comprise a common commercial development in which it is anticipated the Les Schwab Property will be the first parcel developed. Attached as Exhibit C is a site plan on which is shown the power poles, driveways, internal driveway, and catch basins discussed herein.
 - D. As a condition of obtaining approval of the subdivision plat to create the two parcels, Teton, along with Clinton City ("City"), entered into both a Subdivision Improvement Agreement ("Improvement Agreement") and a Subdivision Escrow Agreement ("Escrow Agreement") pertaining to completion of certain development standards identified therein (collectively, the "Work").
 - E. The parties desire to provide for the design, construction, and maintenance of certain improvements to the development.

TERMS:

NOW, THEREFORE, the parties agree as follows:

1. Les Schwab Work.

1.1 Les Schwab shall contract for the design and construction of and supervise to completion, the Work identified in the Improvement Agreement. Any portion of the Work related to extending utilities to the Teton Property shall be specified by Teton.

Unless the parties agree otherwise, Les Schwab shall obtain at least two (2) bids from qualified contractors to construct the Work and shall submit the bids, draft contracts, and Les Schwab's recommendation regarding the same to Teton for its review and approval, such approval to occur within its reasonable discretion. Teton shall have fifteen (15) days after receipt of the contracts and supporting material within which to complete its review and either approve or disapprove the suggested contract. If Teton fails to respond within this time period, Teton shall be deemed to have accepted Les Schwab's proposal. If Teton does not accept Les Schwab's proposal, Teton must provide its reason(s) in writing.

Les Schwab shall ensure that all construction Work will be completed in accordance with the applicable law and with the approval of all applicable governing authorities.

Les Schwab shall cause the Work to be completed no later than December 31, 2007. In the event Les Schwab fails to complete the Work by such date, Teton may cause the Work to be completed

and any cost or expense in excess of the cost or expense which Teton would otherwise have been obligated to pay herein shall be paid by Les Schwab within ten (10) days of receipt of an invoice detailing such amount. If Teton determines to assume responsibility for performing the Work, Teton shall provide written notice to Les Schwab. Upon assumption of such duties, Teton shall perform the Work hereunder as if it were "Les Schwab" and Les Schwab shall pay for its portion of the Work in the manner provided below for Teton, provided the proportionate costs shall not change.

1.2 Upon approval of a bid pursuant to Section 1.1, Les Schwab shall enter into a contract with the successful general contractor which contract shall provide, among other things, for the following:

- (i) compliance with all applicable laws, ordinances and regulations;
- (ii) insurance in commercially reasonable amounts; and
- (iii) recognition of Teton's right to assume control of the Work in the place of Les Schwab.

1.3 As soon as possible after completion of the Work, Les Schwab shall give notice to Teton that the Work is ready for final inspection. Within ten (10) days after receipt of such notice, the parties shall complete their inspection of the Work and any objections or corrections to the Work by Teton shall be provided to Les Schwab, in writing, within such time or Teton shall be deemed to have accepted the Work. If no written objections are made, or upon completion of the corrections called for within such objections, Les Schwab shall cause Contractor to issue to Teton and Les Schwab its final certificate of completion.

1.4 Les Schwab shall maintain the Work on the Teton Property in a good and safe condition until the Contractor issues its final certificate of completion.

2. Payment.

2.1 Costs Incurred. The costs incurred to complete the Work described in Section 1 shall include payments to third parties for equipment, supplies, and general construction costs; charges by engineers, including those retained by utility providers, to modify expand, or otherwise change the plans originally agreed to by Teton and Les Schwab (all material changes to be approved by Teton and Les Schwab in writing); surveying costs; permitting charges and fees; and connection charges (not to include connection charges for an individual parcel) (collectively "Projects Costs").

2.2 Les Schwab Cost Responsibility.

Les Schwab shall pay for the following:

- A. One half the cost to move Pole Nos. 1 and 4, and all of the cost to move pole nos. 2 and 3.
- B. All of the cost for all curb, gutter, sidewalk, and other improvements to 2000 West as the same occur adjacent to the Les Schwab Property.
- C. One-half the cost of the south driveway, including one-half the cost to extend the

driveway west onto the Teton Property and then south to the Les Schwab Property.

- D. One half the cost to install the catch basin at the south driveway and to connect the same to the existing storm water system in 2000 West.
- E. Twenty-Four percent (24%) of the cost to relocate the sewer line.

2.3 Teton Cost Responsibility.

Teton shall pay the following:

- A. One half the cost to move Pole Nos. 1 and 4, and all of the cost to move pole nos. 5 and 6.
- B. All of the cost for all curb, gutter, sidewalk, and other improvements to 2000 West as the same occur adjacent to the Teton Property.
- C. One-half the cost of the south driveway, including one-half the cost to extend the driveway west onto the Teton Property and then south to the Les Schwab Property.
- D. One half the cost to install the catch basin at the south driveway and to connect the same to the existing storm water system in 2000 West.
- E. The entire cost of the north driveway, including all of the costs to install the catch basin at the north driveway and to connect the same to the existing storm water system in 2000 West.
- F. All of the cost to design and install utility stubs onto the Teton Property.
- F. Seventy-Six percent (76%) of the cost to relocate the sewer line.

2.4 Payment.

A. At such time as Les Schwab pays an invoice from a contractor pursuant to an approved contract, Les Schwab may thereafter submit the same to Teton together with a statement indicating each party's proportionate share of the invoice. Teton shall pay to Les Schwab Teton's share of the invoice within thirty (30) days of receipt of the invoice and supporting documentation.

B. Following completion of the Work, Les Schwab shall provide to Teton evidence of the total Project Costs paid by Les Schwab and a breakdown of the portion of the costs to be paid by each party. Teton will pay for the balance of its portion by check or wire transfer within thirty (30) days after receipt of an application for payment from Les Schwab.

- 3. **Arbitration.** Teton and Les Schwab agree to resolve all disputes regarding this Agreement through binding arbitration. After receipt of a notice invoking this Section, each party shall select an arbitrator within twenty (20) days ("Arbitration Commencement Date"). Within fifteen (15)

days after the Arbitration Commencement Date, the arbitrators shall attempt to resolve the dispute, which resolution shall be binding upon the parties. In the event the selected arbitrators cannot resolve the dispute within said fifteen (15) day period, the arbitrators shall together select a third neutral arbitrator to make a final resolution of the dispute. Within fifteen (15) days of its selection, the third neutral arbitrator shall select one of the originally selected arbitrator's position as the most reasonable and objective position on such dispute, and the third arbitrator's decision shall be binding upon all parties. Each party shall have the right to present facts and supporting evidence to the arbitrators, and must provide a copy of such evidence or facts to the other party at least five (5) days prior to the arbitration meeting so that they may have an opportunity to respond. Each party must pay for the cost of its selected arbitrator and the parties will share equally the cost of the third arbitrator. To qualify as an arbitrator under this Section, a person must have served as an arbitrator for a minimum of five years prior to being selected.

4. **Legal Proceedings.** In the event any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this Agreement, the prevailing party in such a proceeding shall be entitled to recover a reasonable attorney's fee in such a proceeding or any appeal or review thereof, to be set by the court without the necessity of hearing testimony or receiving evidence in addition to the cost and disbursements allowed by law.
5. **Specific Performance.** In the event any party shall fail to perform its obligations under this Agreement, the other parties shall be entitled to require such performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Utah law.
6. **Successors and Assigns.** This Agreement will inure to the benefit of, and will be binding upon, the Parcel owners and their respective successors and assigns. Notwithstanding the foregoing, the parties recognize that each Parcel owner will likely have tenants and may place upon their tenants' responsibility for compliance with this Agreement. No such assignment of any obligations under this Agreement will be binding upon any Parcel owner and each Parcel owner remains unconditionally responsible for compliance with the terms of this Agreement.
7. **Indemnity and Insurance.** Les Schwab shall indemnify, defend and hold harmless Teton from and against any and all judgments, actions, liens, loss, damages, penalties, fines, liabilities, expenses (including reasonable attorneys' fees) and claims in connection with any construction activity performed under this Agreement by or at the instance of Les Schwab. Teton shall indemnify, defend and hold harmless Les Schwab from and against any and all judgments, actions, liens, loss, damages, penalties, fines, liabilities, expenses (including reasonable attorneys' fees) and claims in connection with any construction activity performed under this Agreement by Teton or otherwise performed by Teton on the Teton Property.

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DATED to be effective July 21st, 2006.

TETON INVESTMENT HOLDING, LP

By: *[Signature]*
Gary Wright, President

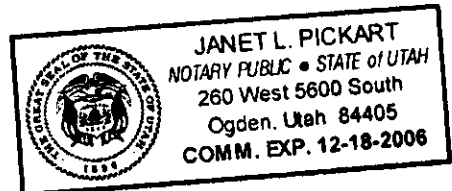
STATE OF UTAH)
County of Davies) ss.
)

This instrument was acknowledged before me on July 21st, 2006, by Gary Wright, known to me as the ~~President~~ gtr manager of Teton Investment Holding, LP.

[Signature]
Notary Public, State of Utah
My commission expires: 12-18-2006

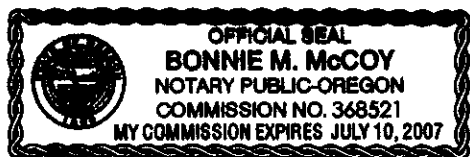
SCHWAB PROPERTIES LTD.

By: *[Signature]*
Richard B. Borgman, Manager of Investax One LLC,
Its General Partner



STATE OF OREGON)
County of Crook) ss.
)

This instrument was acknowledged before me on July 14, 2006, by Richard B. Borgman, Manager of Investax One LLC, the General Partner of Schwab Properties Ltd.



[Signature]
Notary Public for Oregon
My commission: 7/10/2007

Exhibit "A"

Lot 2 of Regency Park Commercial Subdivision Phase 1 recorded July 19, 2006 as Entry No. 2185639, Book 4079, Page 629 in the Records of Davis County, Utah

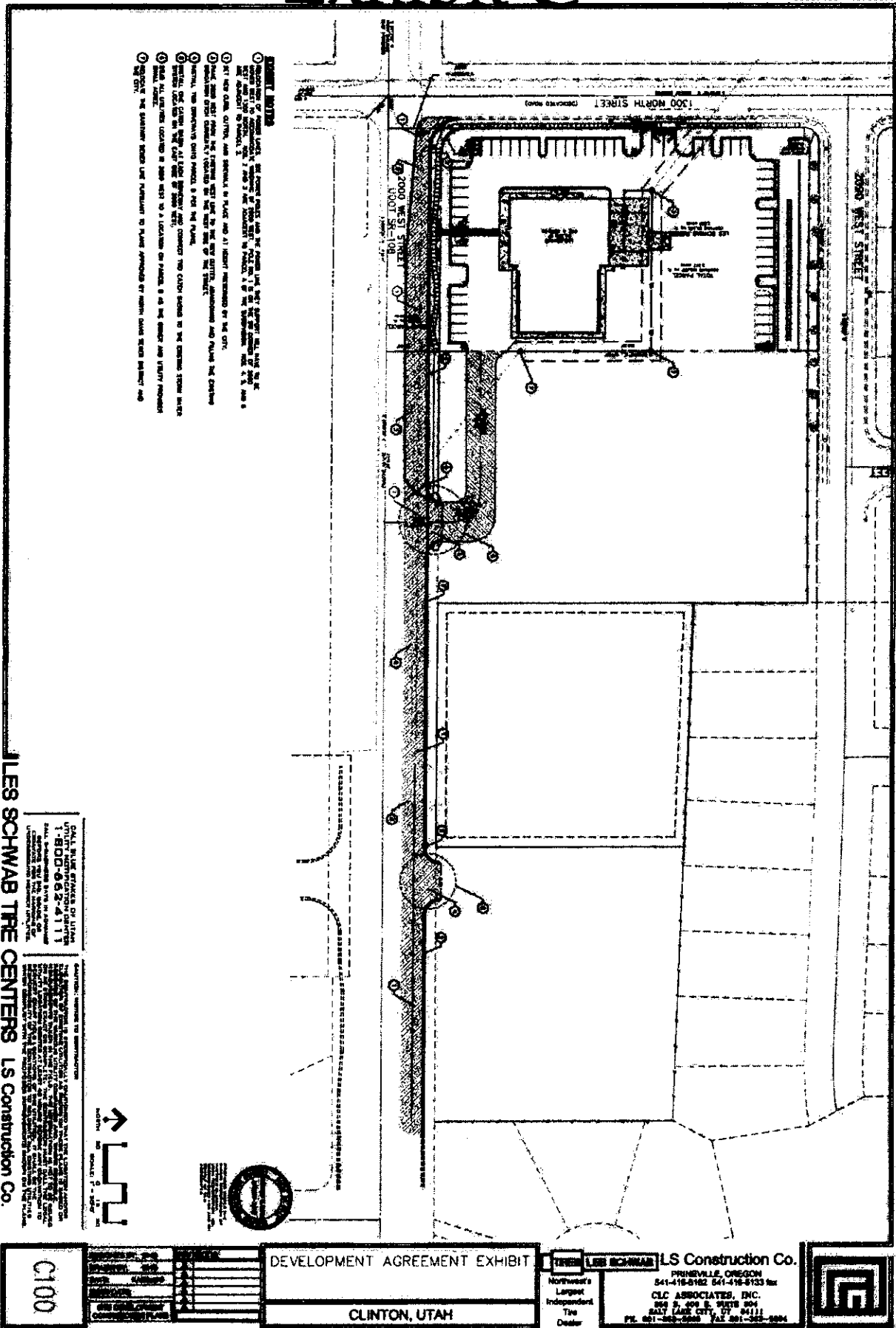
Exhibit "B"

Lot 1 of Regency Park Commercial Subdivision Phase 1 recorded July 19, 2006 as Entry No. 2185639, Book 4079, Page 629 in the Records of Davis County, Utah

Tax Id 14-372-0001

Exhibit C

BK 4085 PG 361



- EXISTING UTILITIES**
1. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED AT ALL TIMES.
 2. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED AT ALL TIMES.
 3. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED AT ALL TIMES.
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 9. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED AT ALL TIMES.
 10. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED AT ALL TIMES.

LES SCHWAB THE CENTERS LS Construction Co.

QUALITY SERVICE SERVICES OF UTAH
 UTILITY REGISTRATION DIVISION
 1-800-662-4111
 1500 WEST CENTER STREET, SUITE 200
 SALT LAKE CITY, UT 84119

NOTICE TO CONTRACTORS
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF CLINTON, UTAH, AND THE STATE OF UTAH. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES AND SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES AND STRUCTURES THAT ARE DAMAGED OR DESTROYED DURING THE CONSTRUCTION OF THE PROJECT. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AND SHALL BE RESPONSIBLE FOR THE REPAIR AND RECONSTRUCTION OF ALL ADJACENT PROPERTIES THAT ARE DAMAGED OR DESTROYED DURING THE CONSTRUCTION OF THE PROJECT. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES AND SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES AND STRUCTURES THAT ARE DAMAGED OR DESTROYED DURING THE CONSTRUCTION OF THE PROJECT.

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DEVELOPMENT AGREEMENT EXHIBIT
 CLINTON, UTAH

THE
 Northwest's
 Largest
 Independent
 Tie
 Dealer

LES SCHWAB LS Construction Co.
 PRINEVILLE, OREGON
 541-416-8182 541-416-8133 fax
CLC ASSOCIATES, INC.
 363 S. 400 E. SUITE 200
 SALT LAKE CITY, UT 84111
 PH. 801-262-2222 FAX 801-262-2224



CLC Associates, Inc.
350 S. 400 E., Suite 304, Salt Lake City, UT 84111
(801) 363-6605

Date 01/20/06
Project Clinton Lee Schwab
NWC 2000 West 1900 North
Clinton, UT
Project No. U05-0175
Revised

Exhibit D

Opinion of Probable Cost

Infrastructure Improvements for Development Agreement

	Quantity	Unit	Unit Cost	Total
Task #1				
Relocate Power Lines	1	Lump Sum	\$70,000.00	\$70,000.00
Sub-total				\$70,000.00
15% Contingency				\$10,500.00
Task #1 Total				\$80,500.00
Task #2				
Set new curb, gutter, sidewalk				
Sidewalks	1,050	L.F.	\$13.50	\$14,175.00
Monuments	3	Each	\$300.00	\$900.00
ADA Compliant Ramps	5	Each	\$350.00	\$1,800.00
Concrete Curb and Gutter	1,050	L.F.	\$10.00	\$10,500.00
Exterior Lighting (on 100-foot spacing along ROW)	10	Each	\$1,100.00	\$11,000.00
Sub-total				\$38,375.00
15% Contingency				\$5,756.25
Task #2 Total				\$44,131.25
Task #3				
Pave west side of 2000 West along property limits				
Abandon existing irrigation ditch	1,050	L.F.	\$2.00	\$2,100.00
Regular duty bituminous surface course (w/ road base)	2,700	S.Y.	\$10.00	\$27,000.00
Sub-total				\$29,100.00
15% Contingency				\$4,365.00
Task #3 Total				\$33,465.00
Task #4				
Install two (2) driveways				
Landscaping (area within parkstrip)	6,240	S.F.	\$2.25	\$14,040.00
Striping & Signage	1	Lump Sum	\$5,000.00	\$5,000.00
Entrances (Access to property off 2000 West Street)	2	Lump Sum	\$10,000.00	\$20,000.00
Sub-total				\$39,040.00
15% Contingency				\$5,856.00
Task #4 Total				\$44,896.00
Task #5				
Install storm drain improvements				
24" RCP Storm Drain Pipe *	450	L.F.	\$33.00	\$14,850.00
12" RCP Storm Drain Pipe	60	L.F.	\$28.00	\$1,680.00
Storm Drain Manholes	1	Each	\$2,000.00	\$2,000.00
Storm Drain Inlet Structures	2	Each	\$2,000.00	\$4,000.00
Oil/Water Separator	1	Each	\$3,500.00	\$3,500.00
Sub-total				\$26,030.00
* Indicates storm water sizing has been assumed in lieu of Clinton City Engineering design.				
15% Contingency				\$3,904.50
Task #5 Total				\$29,934.50

Quantity	Unit	Unit Cost	Total
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Task #6

Stub Utilities from 2000 West Street to remainder parcel

Water Service

8" C-900 PVC (2 stubs from main line into property)	130	L.F.	\$30.00	\$3,900.00
3" Domestic water line (2 stubs from main line into property)	130	L.F.	\$20.00	\$2,600.00
Valves and Fittings	1	Lump Sum	\$5,000.00	\$5,000.00
Connect to Existing	2	Each	\$2,500.00	\$5,000.00
Culinary Water Service Line	2	Each	\$3,000.00	\$6,000.00
Fire Hydrant (including relocation of existing to new ROW limits)	2	Each	\$2,500.00	\$5,000.00
Water Meter And Vaults	2	Each	\$6,000.00	\$12,000.00
Sub-total				\$39,500.00

Extensions

Electric Service	2	Lump Sum	\$7,500.00	\$15,000.00
Telephone Service	2	Lump Sum	\$5,000.00	\$10,000.00
Gas Service	2	Lump Sum	\$5,000.00	\$10,000.00
Electric Transformer	2	Lump Sum	\$3,500.00	\$7,000.00
Sub-total				\$42,000.00

Sub-total for Task #6				\$81,500.00
15% Contingency				\$6,300.00
Task #6 Total				\$129,800.00

Task #7

Relocate Sanitary Sewer Line

Relocated 24-inch main line	305	L.F.	\$65.00	\$19,825.00
8" PVC-SDR35 (1 stub into property)	65	L.F.	\$25.00	\$1,600.00
6" PVC -SDR 35 (1stub into property)	65	L.F.	\$22.00	\$1,400.00
Clean outs	6	Each	\$500.00	\$3,000.00
Manholes	6	Each	\$3,000.00	\$18,000.00
Sub-total				\$43,825.00
15% Contingency				\$2,700.00
Task #7 Total				\$64,525.00

Task #8

Loan Fee for City Escrow				\$4,600.00
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GRAND TOTAL				\$431,851.75
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TETON LES SCHWAB

Task 1 (est. 50/50 split)	40,250.00	40,250.00
Task 2 (est. 75/25 split)	33,098.44	11,032.81
Task 3 (est. 75/25 split)	25,098.75	8,366.25
Task 4 (est. 75/25 split)	33,672.00	11,224.00
Task 5 (50/50 split)	14,967.25	14,967.25
Task 6 (100/0 split)	129,800.00	0.00
Task 7 (76/24 split)	49,039.00	15,486.00
Task 8 (50/50 split)	2,300.00	2,300.00

GRAND TOTAL	\$328,225.44	\$103,626.31	\$431,851.75
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