

3. A SENSIBLE LIST

## 3. A SENSIBLE LIST

**“A PROBLEM WELL STATED IS A PROBLEM  
HALF-SOLVED.”**

**CHARLES KETTERING**

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# Work Breakdown Structure

## WBS AS OUTLINE FOR SCOPE, BUDGET AND SCHEDULE

| Scope     | Budget   | Actual   | Schedule    |
|-----------|----------|----------|-------------|
| 1. Item 1 | \$ XXX   | \$ XXX   | Plan/Actual |
| 2. Item 2 | \$ XXX   | \$ XXX   | Plan/Actual |
| 3. Item 3 | \$ XXX   | \$ XXX   | Plan/Actual |
| 4. Item 4 | \$ XXX   | \$ XXX   | Plan/Actual |
| 5. Item 5 | \$ XXX   | \$ XXX   | Plan/Actual |
| 6. TOTAL  | \$ X,XXX | \$ X,XXX |             |

And compare performance to plan.



# A Sensible List

- Why This Matters
- Organization Schemes
- Work Breakdown Structure
- Players List (Parties)
- Issues List (Defect Allegations)
- Assigning Values
- Case Study: Otto's Outhouse Simple Joint & Several Allocation of Plaintiff Cost to Repair



# Why This Matters

## CREATING A SENSIBLE ISSUES LIST

- We must create a Logic Structure, organization scheme or method so all individual pieces of information can be organized in a logically.
- Construction Defect Litigation can be very complex. Often, there is WAY more information than any one can keep in his/her head.
- This is either the easiest or hardest thing you will do.
- Human beings need to have a Logic Structure to grasp the big picture of a complicated subject.
- The magical number 7, plus or minus 2: A scientific paper that explores the human mind's ability to understand and remember.
- What if there is NO defect list?



# Why This Matters

IF THE LIST IS WELL COMPOSED IT CAN BE USED TO OUTLINE:

- Defect List
- Reports of All Experts
- Expert Responsibility Matrix: Who is testifying about what
- Scope of Repair
- Cost Estimates, Bids & Cost Comparisons
- Schedule for Construction / Repairs
- Payment Schedule for Construction / Repairs
- Allocation of Responsibility
- Trade Contractor “Claim Packages”



# Organizational Schemes

1. By Importance
2. Room-by-Room
3. SB800
4. Who Did the Work: CSI
5. Unifomat (PFCS Standard)



# Organizational Schemes

## UNIFORMAT (PFCS STANDARD)

### B 2010 Siding

Leaks

Incorrect Nailing

### B 2060 Exterior Paint

Deteriorated Trim

Delaminating

### B 3001 Roof

Damage

Leaks

Missing Underlayment

### C 3011 Interior Paint

Inadequate Coverage

Wrong Color



# Organizational Schemes

## UNIFORMAT (PFCS STANDARD)

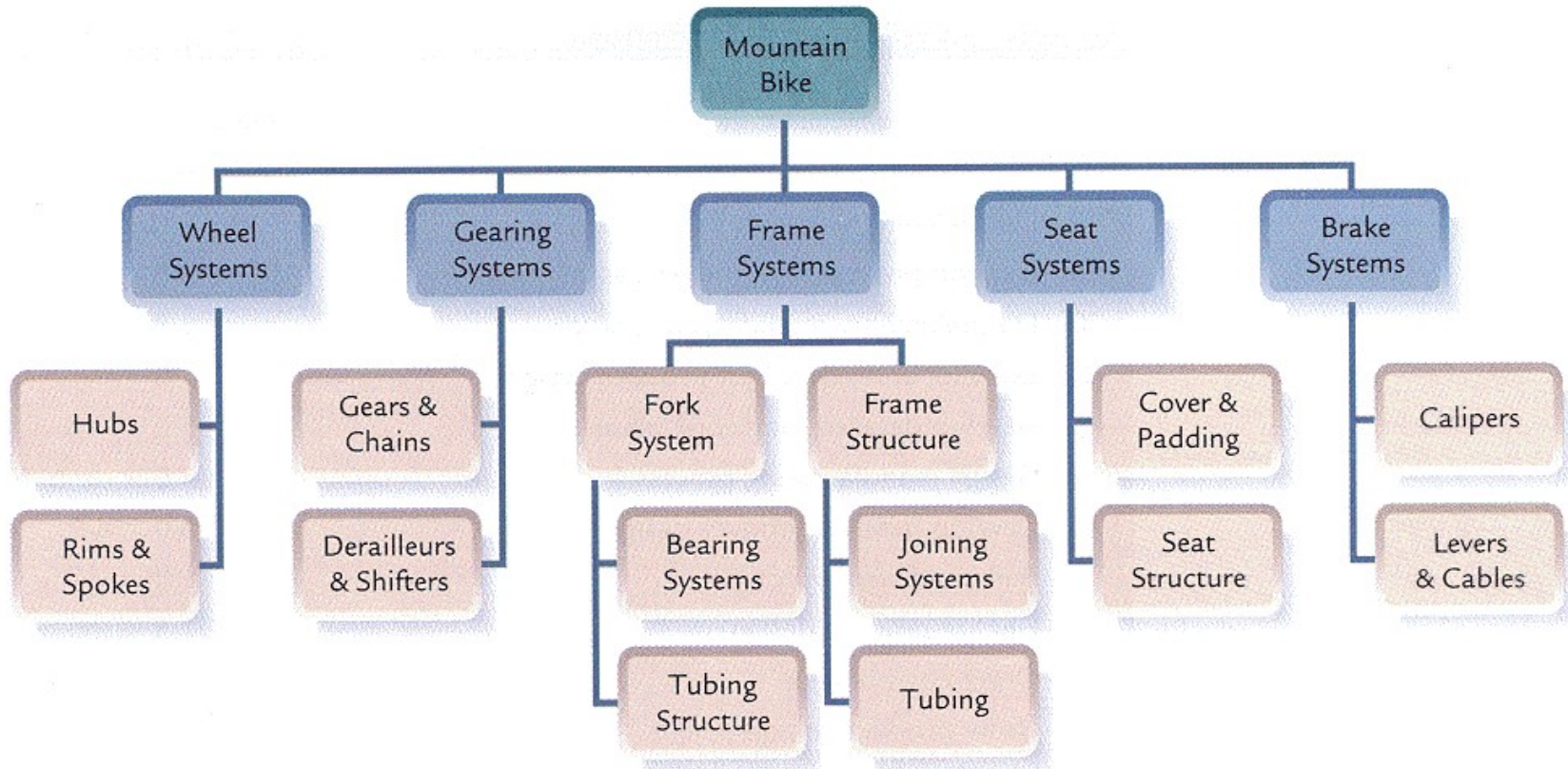
### Level 1 Structure

- A. Substructure
- B. Superstructure
- C. Interiors
- D. Services
- E. Equipment & Furnishings
- F. Special Construction & Demolition
- G. Building Site work
- H. Other

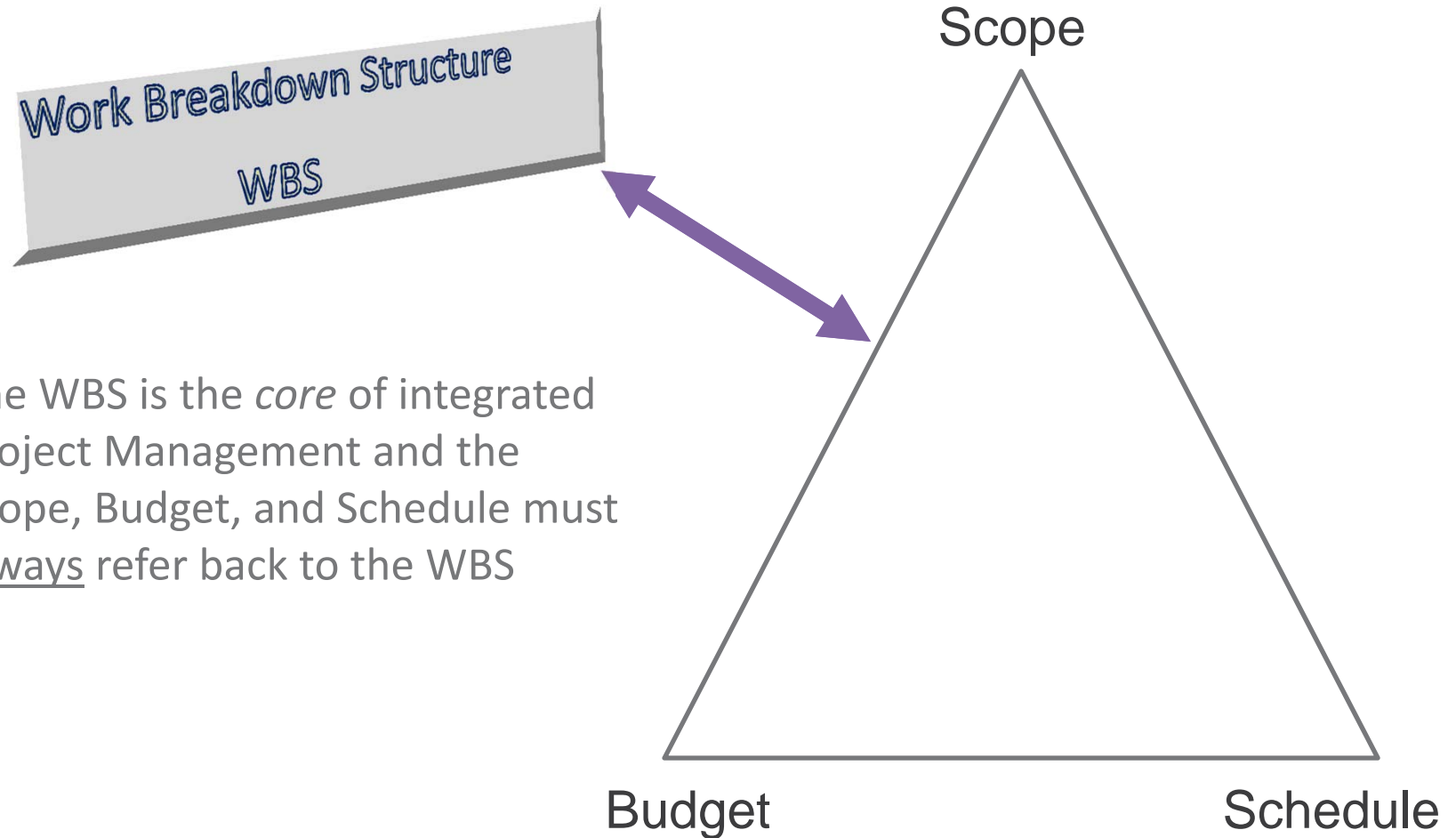




# Work Breakdown Structure



# Work Breakdown Structure



The WBS is the *core* of integrated Project Management and the Scope, Budget, and Schedule must always refer back to the WBS



3. A SENSIBLE LIST

# Players List

## ROLE, COMPANY, NAME, COMMENTS

www.petefowler.com 8/30/2010

**Thom Investments v Phillips**  
*Players List*

| #  | Name                         | Company / Entity               | Role   | Comments  |
|----|------------------------------|--------------------------------|--|---|
| 1  | <b>Plaintiffs</b>            |                                |  |   |
| 2  |                              | Thom Investments               | Developer/Owner/Plaintiffs/Cross-Defendants/Cross-Complainants | Sold property to the Phillips.  |
| 3  | Churter, Keith               | Thom Investments               | Principal  |   |
| 4  | Thomas, David                | Thom Investments               | Principal  |   |
| 5  |                              | East-West Builders Corporation | General Contractor   | Builder   |
| 6  | Conover, Curt                | East-West Builders Corporation | Plaintiffs/Cross-Defendants                                    |   |
| 7  |                              |                                | President  |   |
| 8  | <b>Defendants</b>            |                                |  |   |
| 9  | Phillips                     |                                | Buyer/Owner /Defendants/Cross-Complainants                     | Purchased property for \$7,065,000.00 on or about October 10, 2006 from Thom Investments. |
| 10 | McMann, Robert               | Goliath & Associates           | Attorneys for Phillips   |   |
| 11 | <b>Architect</b>             |                                |  |   |
| 12 | Falej, Andrew                | Andrew Falej Architect         | Architect  |   |
| 13 | <b>Subcontractors</b>        |                                |  |   |
| 14 | Stellar Stonework            |                                | Marble flooring and countertops                                | Sued by East-West Builders on a Cross-Complaint   |
| 15 | Can't Crack Concrete         |                                | Concrete/Foundation  | Sued by East-West Builders on a Cross-Complaint   |
| 16 | Rightway Interiors           |                                | Drywall  |   |
| 17 | Calico                       |                                | Electrical   | Sued by East-West Builders on a Cross-Complaint   |
| 18 | STS Security                 |                                | Fire Protection System   |   |
| 19 | Clover Doors & Windows       |                                | Finish Carpentry - Doors & Frames                              | Sued by East-West Builders on a Cross-Complaint   |
| 20 | Prime Construction           |                                | Framing and Rough Carpentry                                    | Sued by East-West Builders on a Cross-Complaint   |
| 21 | Nuver Engineering            |                                | General Engineer   |   |
| 22 | Shining Glass                |                                | Glass & Glazing/Mirrors & Mirror Doors                         | Sued by East-West Builders on a Cross-Complaint   |
| 23 | ACME Equipment               |                                | Grading, Excavation, etc.                                      |   |
| 24 | Robbie's Air Conditioning    |                                | Heating/Ventilation/AC   |   |
| 25 | Insulation Geniuses          |                                | Insulation   |   |
| 26 | Eco Landscape                |                                | Landscaping  | Sued by East-West Builders on a Cross-Complaint   |
| 27 | Marinez Construction         |                                | Lathing/Plastering - Exterior                                  |   |
| 28 | Stella's Custom Garage Doors |                                | Overhead Garage Doors  |   |
| 29 | Badgate Masonry              |                                | Handicap/Concrete/Masonry Walls                                | Sued by East-West Builders on a Cross-Complaint   |
| 30 | Parthen Painters             |                                | Painting - Exterior/Interior                                   |   |
| 31 | Scialli Plumbing             |                                | Plumbing   | Sued by East-West Builders on a Cross-Complaint   |
| 32 | Mountain Peak Sheet Metal    |                                | Sheet Metal  |   |
| 33 | Shirly Surveying             |                                | Surveyors  | Prepared grading plans  |
| 34 | Preferred Pools              |                                | Swimming Pool & Spa  |   |
| 35 | Golden Roofers               |                                | Roofing  |   |
| 36 | Solid Stone Corporation      |                                | Special Exterior Finishes                                      |   |
| 37 | Fireplaces Extra             |                                | Fireplace Installation   |   |
| 38 | Silver Steel                 |                                | Structural Steel   |   |
| 39 | Lacina's Custom Designs      |                                | Cabinetry  | Sued by East-West Builders on a Cross-Complaint   |
| 40 | CS Security & Sound          |                                | Security & Audio System  |   |
| 41 | PB&J Appliances              |                                | Appliances   |   |
| 42 | LM&N Masonry, Inc.           |                                | Masonry  | Sued by East-West Builders on a Cross-Complaint   |
| 43 | NAS Masonry, Inc.            |                                | Masonry  | Sued by East-West Builders on a Cross-Complaint   |

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2D Players List.xls For mediation purposes only.  
Protected under all applicable evidence codes.



3. A SENSIBLE LIST

# Issues List (Defect Allegations)

|    |       | www.petefowler.com |   | Southern California Ventures v O'Reilly |            | 8/30/2010 |   |
|----|-------|--------------------|---|---|------------|-----------|---|
|    |       |                    |   | Issues List                             |            |           |   |
| #  | Sect. | Item               | Allegation  | Plaintiff Costs                         | Commercial | Townhomes | Plaintiff Item Number <sub>1</sub>              |
| 1  | 01    | 41                 | Regulatory Requirements, Codes and Accessibility  |   |            |           |   |
| 2  | A     |                    | Accessibility Issues at Commercial  | \$ 18,024                               | X          |           | 6.1,6.2,6.3                                     |
| 3  | B     |                    | Exterior Stairs at Townhomes Do Not Comply  | \$ 6,894                                | X          |           | 11.3.1,11.3.2,11.3.3,11.3.4,11.3.5              |
| 4  | C     |                    | Handrails and Ramps Do Not Comply   | \$ 1,245                                | X          |           | 11.1.2  |
| 5  | 07    | 10                 | Waterproofing and Decks   |   |            |           |   |
| 6  | A     |                    | Plaza Deck(s): Commercial   | \$ 262,460                              | X          |           | 2.2.1,2.2.2,2.2.3,2.2.4,2.2.5,2.3.2             |
| 7  | B     |                    | Plaza Deck(s): Townhomes  | \$ 2,863,811                            | X          |           | 2.3.1.1,1.2,2.1,2.2,3.1,4.1,5.1,6.1,6.2,7       |
| 8  | C     |                    | Below Grade Waterproofing   | \$ 3,190,427                            | X          |           | 1.1.1,2,3,4,5,2.5.1,2.6.1,2.6.2,2.7.1,3.1.1,2   |
| 9  | D     |                    | Elevated Walkways: Townhomes  | \$ 2,001,522                            | X          |           | 5.2.1,2,3,4,3.2,4.3,3.5.1.1,6.2.1.1,2.1,3.1     |
| 10 | E     |                    | Planters  | \$ 242,772                              | X          |           | 6.4.5.1,3.3.1,3.3.2,11.1.1,                     |
| 11 | 07    | 30                 | Roofing   |   |            |           |   |
| 12 | A     |                    | Built-Up Roofing: Commercial  | \$ 1,670                                | X          |           | 2.1.1.1,2.3.1,                                  |
| 13 | B     |                    | Built-Up Roofing: Townhomes   | \$ 791,250                              | X          |           | 6.1.1.1,2,3,4,5,6,7,8,9,6.3.1.1,6.3.1.2,1,      |
| 14 | C     |                    | Shingle Roofing   | \$ 182,009                              | X          |           | 6.1.2.1   |
| 15 | 07    | 61                 | Flashing & Sheet Metal  |   |            |           |   |
| 16 | A     |                    | Parapet Coping  | \$ 171,227                              | X          |           | 6.3.3.1,2,3,4,5                                 |
| 17 | B     |                    | Scupper/Private Balconies   | \$ 35,785                               | X          |           | 6.3.7   |
| 18 | C     |                    | Gutters and Downspouts  | \$ 33,429                               | X          |           | 6.3.8.1,6.1.2.2                                 |
| 19 | 08    | 00                 | Doors and Windows   |   |            |           |   |
| 20 | A     |                    | Doors: Sliding  | \$ 360,648                              | X          |           | 7.1.1.1,2,3,4,7.1.3.1,7.1.3.2,5.8.1,5.7.3,8.2,  |
| 21 | B     |                    | Doors: Sliding Glass  | \$ 2,151                                | X          |           | 7.2.1   |
| 22 | C     |                    | Windows   | \$ 88,452                               | X          |           | 7.3.1,7.3.2,7.3.3,7.3.4,7.3.5,7.3.6             |
| 23 | 09    | 24                 | Stucco and EIFS Building Walls  |   |            |           |   |
| 24 | A     |                    | Stucco Wainscot at Garage   | \$ 93,325                               | X          |           | 3.1.1   |
| 25 | B     |                    | Miscellaneous Stucco  | \$ 771                                  | X          |           | 8.1.8   |
| 26 | 21    | 00                 | Fire Suppression, Sound Transmission  |   |            |           |   |
| 27 | A     |                    | Sprinkler heads and piping  | \$ 64,263                               | X          |           | 15.3.1,15.3.2,15.3.3                            |
| 28 | B     |                    | Firewalls   | \$ 688,048                              | X          |           | 16.1.8,8.2.1,8.2.2,8.2.3,8.2.4,5.3.1,5.4.1,5.9, |
| 29 | C     |                    | Lightweight Concrete Topping Problems   | \$ 749,400                              | X          |           | 2.4.1,2.4.2,2.4.3,2.4.4,2.4.5,8.4.1             |
| 30 | 22    | 00                 | Plumbing  |   |            |           |   |
| 31 | A     |                    | Plumbing Issues at Commercial   | \$ 3,120                                | X          |           | 4.2.2   |
| 32 | B     |                    | Leaking Bathtubs  | \$ 1,440,686                            | X          |           | 15.2.3,15.2.8,15.2.9,15.2.10,15.2.11            |
| 33 | C     |                    | Clothes Washer Shut-Off Inaccessible  | \$ 241,136                              | X          |           | 15.2.14   |
| 34 | D     |                    | Copper Piping is Defective  | \$ 189,246                              | X          |           | 15.2.19   |
| 35 | E     |                    | Other Plumbing Issues at Townhomes  | \$ 192,809                              | X          |           | 15.2.1,15.2.2,15.2.7,15.2.12,15.2.15,15.2.16,   |
| 36 | F     |                    | Storm drain system  | \$ 532,086                              | X          |           | 15.2.4,15.2.5,15.2.6                            |
| 37 | 23    | 00                 | Heating, Ventilating, and Air-Conditioning (HVAC)   |   |            |           |   |
| 38 | A     |                    | Issues at Commercial  | \$ 18,438                               | X          |           | 4.1.1.4,1.3.4,1.4,8.1,8.2                       |
| 39 | B     |                    | Issues at Townhomes   | \$ 337,360                              | X          |           | 15.1.1,15.1.2,15.1.3,15.1.4,15.1.5,15.1.7,15.1, |
| 40 | 26    | 00                 | Electrical  |   |            |           |   |
| 41 | A     |                    | Electrical Issues at Commercial   | \$ 4,637                                | X          |           | 5.1,5.2,5.3                                     |
| 42 | B     |                    | Electrical Issues at Townhomes  | \$ 62,629                               | X          |           | 16.1.1,16.1.2,16.1.3,16.1.4,16.1.5,16.1.6,16.2  |
| 43 | 99    | 00                 | Other / Miscellaneous   |   |            |           |   |
| 44 | A     |                    | Davit Supports Are Inadequate   | \$ 767,612                              | X          |           | 1.1.2   |
| 45 | B     |                    | Paint Issues at CMU   | \$ 100,535                              | X          |           | 4.3.1,8.3.2                                     |
| 46 | C     |                    | Roof Bridges  | \$ 627,129                              | X          |           | 4.5.2   |
| 47 | D     |                    | Rusted Components   | \$ 44,172                               | X          |           | 4.7.1   |
| 48 | E     |                    | Miscellaneous Framing   | \$ 30,540                               | X          |           | 5.6.1,5.6.2,5.6.3,5.7.4,5.7.5                   |
| 49 | F     |                    | Insulation  | \$ 64,003                               | X          |           | 6.5.1,1.6.5.2,1.6.5.2.2                         |
| 50 | G     |                    | Painting  | \$ 9,436                                | X          |           | 8.3.1   |
| 51 | H     |                    | Accessible Parking and Loading Zones  | \$ 46,102                               | X          |           | 11.2.1,11.2.2,11.2.3,11.2.4,11.2.5              |
| 52 | I     |                    | Drywall   | \$ 40,571                               | X          |           | 8.2.6, 8.2.7                                    |
| 53 |       |                    | Subtotal  | \$ 16,601,830                           | X          | X         |   |
| 54 |       |                    | Additional Burden   | \$ 2,450,443                            | X          | X         | 14.82%  |
| 55 |       |                    | Total   | \$ 19,052,273                           | X          | X         |   |
| 56 |       |                    | Relocation Costs <sup>2</sup>   | \$ 1,717,796                            | X          |           |   |
| 57 |       |                    | Total with Relocation Costs   | \$ 20,780,069                           |            |           |   |
| 58 |       |                    |   |   |            |           |   |
| 59 |       |                    | This is a re-format of Plaintiff's Defect List. Slightly different costs based on rounding errors.                            |   |            |           |   |
| 60 |       |                    | <sup>1</sup> Some issues have MANY plaintiff issues which don't all fit in the print area. The e-file has a complete listing. |   |            |           |   |
| 61 |       |                    | <sup>2</sup> Relocation information from Statement of Claims by Plaintiff Attorney.   |   |            |           |   |



### 3. A SENSIBLE LIST

# Assigning Values

- *Unit Cost*
- *Direct Cost*
- *Construction Value*
- *Project Cost*  
*(Used in Allocation)*

www.petefowler.com Date

### Construction Cost Estimate Summary

| Line | Code   | Description                                 | Notes       | Qty.  | Unit | Direct Cost<br>Unit | Direct Cost<br>Total | Construction<br>Values | Project Cost<br>Total |
|------|--------|---|-------------|-------|------|---------------------|----------------------|------------------------|-----------------------|
| 1    | 02-300 | Grading & Excavation                        |             | 1     | ls   | \$1,111.00          | \$1,111.00           | \$1,490.96             | \$1,856.55            |
| 2    | 06-100 | Framing                                     |             | 10    | ftm  | \$372.00            | \$3,720.00           | \$1,223.90             | \$1,223.90            |
| 3    | 07-300 | Roofing                                     | M=Allowance | 1     | sq   | \$445.00            | \$445.00             | \$597.19               | \$743.62              |
| 4    | 01-710 | Final Clean-Up                              |             | 1     | ls   | \$610.00            | \$610.00             | \$818.62               | \$1,019.35            |
| 5    |        |   |             |       |      |                     |                      |                        |                       |
| 6    |        |   |             |       |      |                     |                      |                        |                       |
| 7    |        |   |             |       |      |                     |                      |                        |                       |
| 8    |        |   |             |       |      |                     |                      |                        |                       |
| 9    |        |   |             |       |      |                     |                      |                        |                       |
| 10   |        |   |             |       |      |                     |                      |                        |                       |
| 11   |        | <b>Direct Cost Total</b>                    |             |       |      |                     | \$3,078              | \$4,131                | \$5,143.52            |
| 12   |        | General Conditions                          |             | 10.0% |      |                     | \$307.80             |                        |                       |
| 14   |        | Subtotal                                    |             |       |      |                     | \$3,386              |                        |                       |
| 15   |        |   |             |       |      |                     |                      |                        |                       |
| 16   |        | Contractor's Overhead                       |             | 10%   |      |                     | \$339                |                        |                       |
| 17   |        | Contractor's Profit                         |             | 10%   |      |                     | \$339                |                        |                       |
| 18   |        | Insurance & Bond                            |             | 2%    |      |                     | \$68                 |                        |                       |
| 19   |        |   |             |       |      |                     |                      |                        |                       |
| 20   |        | Subtotal                                    |             |       |      |                     | \$4,130.68           |                        |                       |
| 21   |        | Contingency on Estimated Construction Costs |             | 10%   |      |                     | \$413                | \$413                  |                       |
| 22   |        | <b>Total Estimated Construction Costs</b>   |             |       |      |                     | \$4,543.74           | \$4,543.74             |                       |
| 23   |        |   |             |       |      |                     |                      |                        |                       |
| 24   |        | <b>Other Project Costs:</b>                 |             |       |      |                     |                      |                        |                       |
| 25   |        | Construction Management                     |             | 5%    | ls   |                     | \$227.19             |                        |                       |
| 26   |        | Architecture/Design                         |             | 5%    | ls   |                     | \$227.19             |                        |                       |
| 27   |        | Structural Engineering                      |             | 0     |      |                     | \$0.00               |                        |                       |
| 28   |        | Geotechnical Engineering                    |             | 0     |      |                     | \$0.00               |                        |                       |
| 29   |        | Testing & Inspection                        |             | 0     |      |                     | \$0.00               |                        |                       |
| 30   |        | Permits & Fees                              |             | 2%    |      |                     | \$90.87              |                        |                       |
| 31   |        | Relocation                                  |             | 0     |      |                     | \$0.00               |                        |                       |
| 32   |        |   |             |       |      |                     |                      |                        |                       |
| 33   |        | Subtotal of Other Project Costs             |             |       |      |                     | \$545.25             |                        |                       |
| 34   |        | Contingency on Other Project Costs          |             | 10%   |      |                     | \$54.52              |                        |                       |
| 35   |        | <b>Total of Other Project Costs</b>         |             |       |      |                     | \$599.77             |                        |                       |
| 36   |        |   |             |       |      |                     |                      |                        |                       |
| 37   |        | <b>Total Estimated Project Cost</b>         |             |       |      |                     | \$5,143.52           | \$5,143.52             |                       |

Project Number: 01-C Estimate CASE STUDY 01-08-02 Petefowler Construction Services, Inc. Page 1 of 2



# Assigning Values

1. Allocated line items should be “Burdened” with all of the general project costs.
2. Generally, I prefer to make legal fees a separate line item, or better yet, leave them out.
3. General project costs can include, but are not limited to: General Conditions (project specific overhead), Overhead & Profit, Design Fees, Permits & Fees, Moving & Storage, Etc.
4. When estimating, I put as much into the line items as possible. Examples: Dumpsters, scaffolding, equipment.
5. This requires the application of professional judgment.



# Case Study: Otto's Outhouse

A SIMPLE "JOINT AND SEVERAL" ALLOCATION (IN FOR A PENNY, IN FOR A POUND)

| #  | Code                 | PLTF     | Owner    | GC     | Design   | Landscape | TOTAL    |
|----|----------------------|----------|----------|--------|----------|-----------|----------|
| 1  | A1010 Foundations    | 800.00   | -        | -      | 800.00   | -         | 800.00   |
| 2  | B2012 Ext. Enclosure | 500.00   | -        | 500.00 | -        | -         | 500.00   |
| 3  | B2030 Exterior Doors | 300.00   | -        | 300.00 | 300.00   | -         | 600.00   |
| 4  | D1000 Conveying      | 4,000.00 | 4,000.00 | -      | -        | -         | 4,000.00 |
| 5  | D3000 HVAC           | 1,250.00 | 1,250.00 | -      | 1,250.00 | -         | 2,500.00 |
| 6  | G2050 Landscaping    | 500.00   | 500.00   | -      | -        | 500.00    | 1,000.00 |
| 7  | TOTAL                | 7,350.00 | 5,750.00 | 800.00 | 2,350.00 | 500.00    | 9,400.00 |
| 8  |                      |          |          |        |          |           |          |
| 9  | Attorneys Fees       |          |          |        |          |           |          |
| 10 | Expert Fees          |          |          |        |          |           |          |
| 11 | Other Costs          |          |          |        |          |           |          |
| 12 |                      |          |          |        |          |           |          |
| 12 | Grand Total          | 7,350.00 | 5,750.00 | 800.00 | 2,350.00 | 500.00    | 9,400.00 |

