



## STAFF REPORT

**Date:** Tuesday, May 26, 2015  
**To:** Bryan H. Montgomery, City Manager  
**From:** Kevin Rohani, P.E. Public Works Director/ City Engineer

Approved and Forwarded to City Council:

  
Bryan H. Montgomery, City Manager

**SUBJECT:** Reimbursement Agreement with Ironhouse Sanitary District related to Sewer Improvements Associated with CIP No. 164 – Main Street Rehabilitation and Resurfacing Project (Bridgehead Road to Big Break Road)

### Background and Analysis

Capital Improvement Project No. 164 includes the rehabilitation and resurfacing of Main Street from Bridgehead Road to Big Break Road. On February 26<sup>th</sup>, Ironhouse Sanitary District (ISD) had an emergency overflow with their sewer line that affected the lines at Main Street and Live Oak Avenue and Bridgehead Road. In order to prevent any future sewer overflows and to protect the health and safety of the public, ISD needs to replace this sewer line as soon as possible.

The City has partnered with ISD on multiple projects in the past. Staff recognizes the risk that raw sewage poses to public health and safety and has determined that the sewer replacement should be done prior to the Main Street Rehabilitation project. If the sewer line overflows again, there is a danger that raw sewage could potentially get into the streets and adjacent lands by way of the City's storm drain system. This is an urgent matter, so City staff stepped in and facilitated a discussion between the City's contractor (Knife River) and ISD, to include the sewer repair work with the Main Street Rehabilitation Project. As a result, Knife River determined that the sewer line installation could be added to the project without a delay to the scheduled paving date. Accordingly, both Knife River and ISD agreed to a cost of \$216,960 for the sewer line construction. The amount is an estimate for the work and does not include a proportional part of any of the City's administrative costs. ISD agreed to reimburse the City for the total amount that City will expend on ISD's sanitary sewer portion of the project through a reimbursement agreement developed by City staff. Understanding the sense of urgency to mitigate future overflows and maintain the City's project schedule, ISD's Board of Directors approved the reimbursement agreement at their May 5, 2015 meeting.

### Fiscal Impact

There is sufficient budget to cover the construction costs for the project and the sewer line. The agreement requires the reimbursement of \$216,960 by August 1,

2015; or when the sewer is completed, whichever is sooner. The City shall be paid in full after the sewer improvements are installed and have been accepted by both ISD and the City.

**Staff Recommendation**

Staff recommends that the sewer line installation will be included as a change order to the original contract with Knife River Construction. Since the sanitary sewer is an additional change to the project and greater than the permitted amount for change orders, it requires approval from City Council.

Staff recommends that the City Council adopt the Resolution approving the Change Order and Reimbursement Agreement with Ironhouse Sanitary District for construction of the sewer line associated with CIP 164 - Main Street Rehabilitation and Resurfacing Project (Bridgehead Road to Big Break Road) and authorizes the City Manager to sign the agreement.

**Attachments**

- 1) Resolution
- 2) Reimbursement Agreement

**RESOLUTION NO. \_\_-15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY APPROVING A REIMBURSEMENT AGREEMENT WITH IRONHOUSE SANITARY DISTRICT RELATED TO CIP PROJECT NO. 164 – MAIN STREET REHABILITATION AND RESURFACING PROJECT (BRIDGEHEAD RD. TO BIG BREAK RD.)**

**WHEREAS**, the NCE prepared plans, special provisions, and cost estimates related to CIP Project No. 164 – Main Street Rehabilitation and Resurfacing Project (Bridgehead Rd. to Big Break Rd); and

**WHEREAS**, on March 24, 2015, by adopting Resolution No. 36-15, the City Council awarded a construction contract to Knife River Construction, for the construction of CIP No. 164 – Main Street Rehabilitation and Resurfacing Project; and

**WHEREAS**, Ironhouse Sanitary District (ISD) had an emergency overflow with their sewer line at intersection of Main Street and Live Oak Avenue and Bridgehead Road; and

**WHEREAS**, ISD and the City's contractor (Knife River) have negotiated an agreed upon price to replace the sewer line for an amount of \$216,960; and

**WHEREAS**, the City and ISD have agreed to a reimbursement agreement that calls for ISD to pay the City for the total amount that the City will expend on the Ironhouse portion of the project, including but may not be limited to, increases due to further change orders, unforeseen underground conditions, claim for additional reimbursement from the contractor, and stop notices filed by subcontractors; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED**, by the City Council of the City of Oakley that the Reimbursement Agreement with Ironhouse Sanitary District related to CIP Project No. 164 – Main Street Rehabilitation and Resurfacing Project (Bridgehead Rd. to Big Break Rd.) is approved and the City Manager is authorized to execute said Agreement. A copy of the Agreement is attached hereto as Exhibit A.

**PASSED AND ADOPTED** by the City Council of the City of Oakley at a meeting held on this 26<sup>th</sup> day of May, 2015 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTENTIONS:**

APPROVED:

\_\_\_\_\_  
Doug Hardcastle, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

**REIMBURSEMENT AGREEMENT RELATED TO CAPITAL IMPROVEMENT**  
**PROJECT NUMBER 164**

THIS REIMBURSEMENT AGREEMENT ("**Agreement**") is entered into as of this 5 day of May, 2015 by Ironhouse Sanitary District, a sanitary district formed under the Sanitary District Act of 1923 ("**Ironhouse**") and the CITY OF OAKLEY, a municipal corporation in the State of California ("**City**").

RECITALS

A. The City's adopted Five-Year Capital Improvement Program includes Project Number 164, Main Street Resurfacing Project (Bridgehead Road to Big Break Road (CIP 164). Ironhouse is requesting the City to construct certain sewer improvements as a part of the Project.

B. The Project requires, among other things, City to resurface Main Street from Bridgehead Road to Big Break Road, including base failure repairs, storm drain improvements, median island, traffic loops, landscape median, striping, and conforms to existing improvements (the "**Improvements**").

C. Ironhouse is the owner of approximately 105 feet of sanitary pipe in the City of Oakley located at the intersection of Live Oak Avenue and Main Street and 60 feet of sewer in Bridgehead Road north of Main Street. In March 2015, Ironhouse's sewer line had an overflow due to the "hump" in the sewer line crossing Main Street at Live Oak Avenue and a reverse slope of a sewer in Bridgehead Road north of Main Street.

D. Ironhouse retained Carlson, Barbee and Gibson, Inc. (CBG) to design the civil portion of the sewer line project and the plans for the sewer improvements were completed to the 100% stage.

E. The purpose of this Agreement is to clarify and define the terms of Ironhouse's reimbursement to the City for Ironhouse's share of the sewer line installation based on the contract proposal given by the City's contractors. The applicable change order adding the sewer line installation is attached hereto and incorporated herein as Exhibit A.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **CONSTRUCTION OF SEWER LINE IMPROVEMENTS**. The City shall proceed to construct or cause to be constructed CIP 164, Main Street Resurfacing Project (Bridgehead Road to Big Break Road) as required by the project plans, specifications, contract documents for said project. City will add the change order attached to this Agreement as Exhibit A to its contract for CIP 164, and require the City's contractor to perform the work added by such change order. Ironhouse consents and agrees that

CIP 164 includes installation of a sanitary sewer line via change order to said plans and contract and Ironhouse agrees to reimburse City in the amount and at the time agreed upon herein for Ironhouse's share for the installation of the sewer line improvements. Ironhouse shall have the ability to have the installation of the sewer line inspected by its own forces or by contract at its own cost and expense, and the contract work shall be completed to the reasonable satisfaction of Ironhouse. Completion of the construction of CIP 164 shall be signified by recordation of a Notice of Completion with the Contra Costa County Clerk Recorder's Office.

## **2. REIMBURSEMENT.**

- a. In exchange for performance of the work and installation of the sewer line included as part of CIP 164, Ironhouse shall reimburse City as further set forth herein ("**Reimbursement**"). The Reimbursement shall be for only the Sewer Line Improvements defined and included in the change order. Any additional Sewer Line Improvements associated with the change order's sewer line improvements shall remain the obligation of Ironhouse pursuant to Approval of City and Ironhouse and any subsequent modifications or extensions thereof.
- b. The Reimbursement shall be paid in full to the City after the sewer improvements are installed and have been accepted by Ironhouse or August 1, 2015, whichever comes first.
- c. **REIMBURSEMENT AMOUNT.** The City and Ironhouse agree to the Reimbursement amount of Two Hundred Sixteen Thousand Nine Hundred Sixty Dollars and Zero Cents (\$216,960.00). Said amount is an estimate for the work and does not include a proportional part of any of the City's administrative costs. Ironhouse shall reimburse the City for the total amount that City will expend on the Ironhouse portion of the project. Costs could include, but may not be limited to, increases due to further change orders, unforeseen underground conditions, claim for additional reimbursement from the contractor, and stop notices filed by subcontractors. City will consult with Ironhouse prior to incurring any additional expenses.

**3. NOTICES.** Any notice to either Party shall be in writing and given by delivering the notice in person or by sending the notice by registered or certified mail or express mail, return receipt requested with postage prepaid, to the Party's mailing address, or transmitted by facsimile equipment if receipt is acknowledged. The respective mailing addresses and contact information of the Parties are, until changed, the following:

**City:** City Engineer  
Attn: Kevin Rohani  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

**Ironhouse:** Ironhouse Sanitary District  
Attn: Jennifer Skrel, District Engineer  
450 Walnut Meadows Dr.  
Oakley, CA 94561

**4. BINDING ON SUCCESSORS AND ASSIGNS.** This Agreement shall be binding on and inure to the benefit of the respective heirs, successors and assigns of the parties to this Agreement.

**5. SEVERABILITY.** In the event any one or more of the provisions of the Agreement shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining provisions of the Agreement shall remain in effect and the Agreement shall be read as though the offending provision had not been written or as the provision shall be determined by such court to be read.

**6. GOVERNING LAW.** This Agreement is made under, shall be governed by and construed in accordance with the laws of the State of California.

**7. CONSTRUCTION.** This Agreement has been reviewed and revised by legal counsel for both Ironhouse and City and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of the Agreement.

**8. MUTUAL RELEASE OF LIABILITY.**

- a. Ironhouse shall defend, indemnify and hold City and its directors, officers, employees, partners, contractors or agents, harmless from and against any and all claims, actions, causes of actions, demands, or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges to the extent that such claims arise out of, were caused by, or result from any breach of the performance of this Agreement or the negligence, gross negligence, or willful misconduct of Ironhouse, its directors, officers, employees, partners, contractors or agents.
- b. City shall defend, indemnify and hold Ironhouse and its directors, officers, employees, partners, contractors or agents, harmless from and against any and all claims, actions, causes of actions, demands, or liabilities of whatsoever kind and nature, including judgments, interest, reasonable attorneys' fees, and all other costs, fees, expenses, and charges to the extent that such claims arise out of, were caused by, or result from any breach of the performance of this Agreement or the negligence, gross negligence, or willful misconduct of City, its directors, officers, employees, partners, contractors or agents.

**9. FURTHER ASSURANCES.** Each Party covenants, on behalf of itself and its successors and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all documents, instruments and writings as may be necessary or proper to achieve the purposes and objectives of the Agreement.

**10. WORK PERFORMANCE AND GUARANTEE.** CITY provides no guarantee or warranty for any work executed by CITY or CITY's agents associated with this agreement.

**11. TIME OF ESSENCE.** Time is of the essence for this Agreement.

**12. RECITALS.** All of the facts and background information set forth in the RECITALS, above, are incorporated into this Agreement and constitute a part hereof.

**13. ATTORNEY'S FEES.** In the event any action is commenced to enforce or interpret any term or condition of this Agreement, in addition to costs and any other relief, the prevailing party shall be entitled to reasonable attorney's fees. Jurisdiction and venue in the event of any legal action shall be in Contra Costa County, California.

**14. ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the Parties hereto with respect to the matters contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**IRONHOUSE SANITARY DISTRICT**

**CITY OF OAKLEY, a Municipal Corporation  
in the State of California**

BY: David Contreras  
David Contreras, President

BY: \_\_\_\_\_  
Bryan H. Montgomery, City Manager

Attest: Susan Walde  
Susan Walde, Secretary

Attest: \_\_\_\_\_  
Libby Vreonis, City Clerk

Approved as to Form:

\_\_\_\_\_  
Derek P. Cole, City Attorney



**Exhibit A – Change Order Proposal**



www.kniferiver.com

Northern California Division – Stockton  
655 West Clay Street  
Stockton, CA 95206-1722  
Ph: (209) 948-0302  
Fax: (209) 948-6652

Contr. Lic. No. 334653  
DSS Company

April 27, 2015

**Ironhouse Sanitary District**  
**450 Walnut Meadows Drive**  
**Oakley, CA 94561**

**Re: Sewer System Improvements**  
**Subject: Bridgehead Road and Live Oak Avenue**

Knife River Construction is pleased to offer for your review and consideration the following proposal for work at the above referenced project. Our bid is based on unapproved plans prepared by Carlson, Barbee & Gibson, Inc. (Sheets 1 – 6, dated April 2015).

The following information is offered to clarify our scope of work per the attached bid pricing breakdown sheet.

Please note the following items are **excluded** from our bid:

1. All bonds, fees, permits, engineering, staking, and testing (Sewer TV is included)
2. Removal or relocation of existing utilities
3. Testing, excavation, removal, handling or other related costs caused by the discovery of contaminated, hazardous, corrosive and/or buried materials on the project site.
4. Dewatering; KRC has included the handling of nuisance Ground water, but the installation and maintenance of Dewatering Wells.
5. Cathodic protection.
6. Over Excavation; if bottom of Trench is deemed unsuitable for placement of pipe, cost associated with over excavation will be considered Extra Work and be performed under force account once a suitable solution is determined.
7. *Our Pricing Sheet represents a detail list of items included within this proposal, if it not listed or clarified within this proposal letter it is excluded from our scope of work.*

**CONDITIONS TO THIS BID:**

1. Knife River Construction requires 48 hours notice prior to starting any digging/excavating work in order to notify Underground Service Alert (USA) utility locating service. Any privately owned utilities would need to be located by the owner of the property prior to commencement of work.

Iron House Sanitary District  
Bridgehead Rd & Live Oak Ave.  
04/27/2015

2. Our proposal is based on quantities derived from the plans provided by ISD. Upon receipt of the Final Approved Plans, KRC will reevaluate the changes and quantities to determine the final quantities and thus the Final Contract Amount.
3. One move-in has been included
4. Trench Patching includes installation of Asphalt Concrete per City of Oakley Standard Plans and Specifications.
5. Any overtime requested by the Owner/Client to expedite completion of this project must be approved prior to the work being done and any additional costs will be negotiated.
6. This proposal is based on using conventional construction equipment. We are not responsible for structure damage due to vibrations from our equipment or any other reason other than negligence.
7. Participation of Wrap/OCIP Insurance policy is based on there being no additional change to Knife River.
8. This proposal remains in effect for thirty (30) days from the date of the proposal. After this time we reserve the right to revise our proposal.
9. If this proposal is accepted we will participate in constructing a mutually agreeable schedule.
10. Any material to be exported will require a letter from Owner certifying material is non-toxic or non-hazardous.
11. Extra work will be done at cost plus 15% utilizing Caltrans Equipment Rates and Corresponding Union Wages for Labor.

We appreciate the opportunity to bid your project and look forward to the possibility of working together. Please call me if you have any questions.

Sincerely,  
**KNIFE RIVER CONSTRUCTION**

*Steve McPeak*

Steve McPeak  
Estimator / Project Maager



IRON HOUSE SANITARY DISTRICT  
SEWER SYSTEM IMPROVEMENTS  
Bridgehead Rd. and Live Oak Rd.  
04/27/15

Item	Description	Quantity	Unit Cost	Total
<b>BID PRICING</b>				
1	MOBILIZATION (incl Incidentals)	1	LS \$ 39,000.00	\$ 39,000.00
2	TRAFFIC CONTROL	1	LS \$ 19,660.00	\$ 19,660.00
3	CONNECT TO EXISTING SEWER - 18"	2	EA \$ 6,200.00	\$ 12,400.00
4	CONNECT TO EXISTING SEWER - 8"	2	EA \$ 4,050.00	\$ 8,100.00
5	18" PVC SDR26	116	LF \$ 450.00	\$ 52,200.00
6	8" PVC SDR26	60	LF \$ 360.00	\$ 21,600.00
7	STANDARD SEWER TRUNK MANHOLE (DWG-2)	2	EA \$ 16,700.00	\$ 33,400.00
8	SEWER PLUG	4	EA \$ 1,400.00	\$ 5,600.00
9	ABANDON-IN-PLACE EXISTING 18" SEWER	105	LF \$ 45.00	\$ 4,725.00
10	ABANDON-IN-PLACE EXISTING 8" SEWER	55	LF \$ 45.00	\$ 2,475.00
11	TRENCH REPAIR - 18" SEWER & MH	1	LS \$ 8,800.00	\$ 8,800.00
12	TRENCH REPAIR - 8" SEWER & MH (INCL VALLEY GUTTER)	1	LS \$ 9,000.00	\$ 9,000.00
<b>TOTAL</b>				<b>\$ 216,960.00</b>