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Town of Moraga and EBMUD reach landslide remediation plan agreement

By Vera Kochan

The town council unanimously passed a resolution approving a settlement agreement with East Bay Municipal Utility District regarding the remediation of a landslide that occurred on EBMUD property in April 2017. The July 8 decision also allows for the protection of the Canyon Road Bridge. The landslide had caused structural damage to the original bridge initiating its closure and the installation of the temporary bridge. In October 2017, the town filed with EBMUD a claim for damages which EBMUD denied in January 2018.

Both parties engaged in three years of negotiations before Town Attorney Michelle Marchetta Kenyon and EBMUD's general counsel finalized a proposed settlement agreement resolving all claims related to the landslide and the construction of a new retaining wall.

According to the Settlement Agreement, EBMUD has three options regarding construction of the retaining wall. Option 1 is to build a full Retaining Wall System, consistent with a \$3 million grant EBMUD has applied for from the Federal Emergency Management Agency. Option 2 is to "build a shorter segment to protect the Town Bridge (Bridge Segment)." Finally, Option 3 would be to "pay the Town its estimated costs for the Town to build its own retaining wall to protect the Canyon Road Bridge (Town Stitch Wall)."

If EBMUD chooses either Options 1 or 2, it has no later than Dec. 1 to inform the town whether it will construct the RWS or Bridge Segment. By Feb. 1, 2021, EBMUD must complete and submit bid documents to the town for approval, allowing for bids to be put out no later than March 15. A construction contract must be awarded by April 30, 2021.

On the chance that EBMUD chooses Option 3, it must pay the town to build a stitch wall whose estimated costs for design and construction are \$757,000, plus any documented excess costs up to \$75,700 (10% contingency).

The parties also entered into a Letter Agreement whereby EBMUD agreed to pay the town \$105,000 to assist with designs for a town constructed retaining wall which will be credited against any future payments. Both the town and EBMUD note that the solution will pave the way for reestablishing the segment of the Lafayette-Moraga Regional Trail that was closed at the bridge site after the landslide occurred. Earlier this year, EBMUD reached a \$3.67 million settlement agreement with the homeowners on Augusta Drive whose residences were impacted by the landslide.

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