

The Agua Dulce Residential Project

Agua Dulce Town Council meeting

Wednesday January 10th, 2024

Agenda

- Disclosures from Public Works re 20” water main project and related bonds
 - The 20” water main along Sierra Hwy and Valley Sage Rd appears to have been performed without any valid surety bonds in effect
 - As of January 2024, the replacement bonds and agreement are still not in place
 - LA County Waterworks District 37 discounted some of the replacement bonds by 80% even though no valid replacement bonding was in place
 - Future water infrastructure located on Phase 1 was removed from the plans for the water main during the plan check process
- Disclosures from California Department of Fish and Wildlife regarding Streambed Alteration Agreement Permit oversight
- Next steps

20" Water Main plans and permits

- May 20th 2021 - Plans approved for 20" CML&C Steel Water line Pipeline along Valley Sage Road from Sierra Highway to Avenida Vasquez under reference PWRP2021000257
- June 8th 2021 - Road Excavation Permit issued to Sukut Construction to install 9,200' of new 20" CML&C Steel Water line Pipeline along Valley Sage Road from Sierra Highway to Avenida Vasquez.
 - Permit is void if work is not started by December 6th 2021.
- December 1st 2021 - Elite Earthworks provided liability insurance documentation to LA County as required under PWRP2021000257
- Work commenced on trenching for the 20" main along Sierra Highway in early 2022
- December 20th 2022 – installation of the 20" water main was almost complete
- May 25th 2023 – final testing of the water main is scheduled to take place

Statement by Applicant

- April 4th 2022, RTG signed a 'Statement by Applicant' with LA County Public Works agreeing to install certain water facilities before service is provided
 - 13,000 linear feet (~2.5 miles) of 20" water main along Sierra Hwy, Old Ward Road and Valley Sage Road
 - 0.6 million gallon storage tank for PZ3758
 - 2 x 500 gallon/minute booster pumps for PZ3758
 - 3 x 750 gallon/minute booster pumps for PZ3483
 - All enclosed in a building
 - 10,000 linear feet (~1.9 miles) of 12" fronting water main for PZ3758
 - 2,700 linear feet (~0.5 mile) of 12" diameter and 2,200 linear feet (~0.4 mile) of 16" diameter in-tract water mains for PZ3483
 - 16 fire hydrants
 - Sufficient new water supply to meet the projects annual requirements and dedication of the pump station to Waterworks District 37
 - Fireflow of 1,250 gallons per minute at 20 psi for a minimum of 2 hours

Phase 1 Bonding 2023 values vs. 2002

	2022-23 value	Prior bond #	2002 value
Sanitary sewers Private Contract (PC 11567)	\$971,300	N/A	\$0
Storm Drains Private Drain (PD 2546)	\$4,122,700	B34217656	\$1,550,000
Road Improvements	\$2,312,000	B34217655	\$1,096,000
Survey Monuments and Tie Points	\$54,800* [\$40,300]	Cash	\$14,500
Onsite 12" Water Main Facilities (PZ3758)	\$2,526,400	B34217654	\$750,000
Onsite Water System Facilities (North Tank)	\$1,798,700	B34217662	\$338,000
East Pump Station	\$2,318,400	B34217661	\$702,000
Offsite water main facilities (Sierra Hwy)*	\$1,907,500	B34217663	\$868,000
Offsite water main (Valley Sage Road)	\$5,301,800	B34217664	\$1,880,000
TOTALS	\$21,313,600		\$7,198,500

Dialogue regarding bond validity

May 2nd 2022 letter to ADTC from Mark Pestrella, Director of Public Works

- Phase I is a fully entitled project with approved infrastructure improvement plans (street, storm drain, and water) that are bonded to ensure construction.

August 12th 2022 letter from ADTC to Anish Saraiya, Planning and Public Works Deputy, Supervisor Barger District 5

- Raising concerns about the validity of the bonds issued in 2002 and noting the gap in bond extensions between 2015/16 and 2021. Requested confirmation of which bonds were extended by virtue of the 2021 extension payment. Requested confirmation as to whether the prior bonds still exist and under what legal theory they continue to extend surety to the new owner of the project.

Dialogue regarding bond validity

September 26th 2022 letter to ADTC from Supervisor Kathryn Barger

- Appropriate County departments, **in consultation (and in conjunction) with County Counsel**, investigated these concerns and provided my office with their findings. Further my staff has continued to reach out to the developer for this project to encourage them to open dialogue with the Town Council to discuss this matter further, *provide transparent answers to questions*, and to work with the community.
- The Multiple Agreement [from 2002] and existing bonds are still valid (until they are replaced by the new developer) and in place for the required public infrastructure improvements related to Phase 1, including Storm Drain Improvements, Water System Facilities and Road Improvements.
- Article 15 of the Multiple Agreement allows the extension of the agreement at the discretion of the Director of Public Works or upon request of the subdivider. The extension was granted, and the fees were paid by the new developer on June 15, 2021.
- Public Works is also following up with the new developer to stress the need to execute the replacement Multiple Agreement, which we provided, and to provide the replacement bonds.

Dialogue regarding bond validity

June 5th 2023, meeting with community members and LA County reps

- no permits will be issued for any of the water system, road or storm water infrastructure until replacement bonds have been secured reflecting 2023 values of the labor and materials
- Advised that the developer is working with Sikand Engineering to secure replacement bonds to allow these permits to be issued

July 31st 2023, letter from ADTC to Anish Saraiya, Planning and Public Works Deputy, Supervisor Barger District 5

- Requesting confirmation that no further permits will be issued for the project until a replacement agreement and replacement bonds are in place given the uncertainty over the validity of the 2002 bonds

Dialogue regarding bond validity

August 24th 2023, letter to ADTC from Art Vander Vis, Interim Deputy Director LA County Public Works

- Confirming that no further permits will be issued for storm drain improvements, survey monuments, on site water system or street improvements until the replacement bonds are in place. However, changes to the existing grading, street excavation (Valley Sage) and main water line permits may be approved **as they have current securities in place.**

August 25th 2023, email to ADTC from Traveler's Insurance

- If the [2002] multiple agreement governing the bonds is not renewed for a period of three years (California Civil Code of Procedure 338(a)) or four years (California Civil Code of Procedure 337) the County loses the right to take any action against the bonds for (i) liability created by statute and (ii) breach of contract.

October 2023 disclosures from Public Works

September 8th 2023, public record request seeking

- copies of agreements between Los Angeles County and the current and any previous owner of the water main related to the planning, permitting and construction of the water main
- copies of financial assurance documents provided by the previous or current owner of the water main related to any agreement and/or permit(s) to construct the water main since Tract 50385 was first approved in 1994.
- copies of any and all correspondence from January 1st 2022 onwards between the County and the owner of the water main related to the adoption of the water main to become part of infrastructure owned and operated by Los Angeles County.

October 2023 disclosures from Public Works

November 30th 2021, Deputy Director of LA County Public Works to President of Sikand Engineering

- We (LA County) have briefed the community at the Town Council meetings and requesting a 'kick off' meeting to involve Regional Planning, Fire, Health and Public Works

September 14th, 2022 Senior VP Project Management, Sikand Engineering to LA County Public Works, Copied to Sikand Engineering staff

- RTG has been focused on obtaining the grading permits and has now engaged John Musella of the Musella Group for community outreach under whose guidance RTG will work with the community to keep it updated on the project. They intend to immediately engage with the Agua Dulce Town Council, Public Works and the 5th District Supervisor's office.
- Hunt Braly of Poole Shaffery has been engaged to help RTG navigate through the land use entitlement process. A tentative map extension is before Regional Planning for the September 20th 2022 Hearing Officer meeting to approve an extension and map phasing boundaries as directed by regional planning. The intent of the large lot map request would allow a 'no improvement' map to be recorded that allows the expiration to be extended by a further four years which is necessary to complete the treatment plant plans with LA County Department of Sanitation. Grading of Tract 50385-01 will begin once the off-site water line is built. Construction of the water line is 70% complete.

October 2023 disclosures from Public Works

October 13th, 2022 Sikand Engineering to LA County Public Works staff with a copy to RTG's in-house counsel

- Trying to match up the 2002 water system bond amounts to current replacement bonds for bonds B34217661, B34217653, B34217654, B34217662, B34217663 and B34217664.
- Also updated the street, sewer and storm drain replacement bond amounts from the 2020-21 to the 2022-23 work sheet

November 1st, 2022 Sikand Engineering to LA County Public Works

- When the plan revisions were approved in 2020, it seems that the bond estimates for storm and sewer were not approved at the time by the County

October 2023 disclosures from Public Works

December 19th, 2022 LA County Public Works staff to Sikand Engineering

- Confirming omission of 2002 Bond B34217664 [Valley Sage Water Main] in the amount of \$1,880,000 from the calculations and adding it back to the water system bonds. Confirming that Bond B34217664 was last extended in May of 2015.

December 20th, 2022 Sikand Engineering to LA County Public Works

- RTG is waiting for the revised bond cost estimates so that they can decide whether to use a letter of credit or a surety bond company

October 2023 disclosures from Public Works

December 20th, 2022 Sikand Engineering to LA County Public Works

- Waterworks District 37 has eliminated one of the water storage tanks (bonded in 2002 and no longer required) and the installation of the 20" water line is almost complete. **Sikand requested Waterworks District 37 reduce the bond amount from the approximately \$7.2m** (approved in August 2022)
- Awaiting estimates for the tank and pump station and onsite water infrastructure
- Requested approval of the survey bond
- All this is needed in order to provide a revised Replacement Multiple Agreement

December 22nd, 2022 Sikand Engineering to LA County Public Works

- Asking what level of reduction may be possible on the Sierra Highway water main bond

October 2023 disclosures from Public Works

December 22nd, 2022 LA County Public Works internal email

- Please review and follow up on the water bonds ASAP.
- This is a high profile project and we need to get these bonds in place in order to have a replacement Multiple Agreement with the developer

December 29th, 2022 LA County Public Works internal email

- Waterworks recommends 20% of the Sierra Highway water main bond (\$381,500) and 100% of the Valley Sage Road bond (pending inspection)

January 4th, 2023 Sikand Engineering to LA County Public Works

- KWC Engineers were directed to remove the future facilities (PZ3483) during plan check. **Can the Valley Sage water main bond be discounted as well?**

October 2023 disclosures from Public Works

January 4th, 2023 LA County Public Works to Sikand Engineering

- The Valley Sage water main bond cannot be discounted as there has been no inspection

January 6th, 2023 Sikand Engineering to LA County Public Works

- Surety company is requesting 'approved' copies of the bond estimates

January 9th, 2023 Sikand Engineering to LA County Public Works

- Submitted drafts of the Replacement Multiple Agreement, Faithful Performance Bond, Labor and Material Bond, existing and replacement bond estimates, County-approved bond estimates.

October 2023 disclosures from Public Works

March 16th, 2023 LA County Public Works to Sikand Engineering

- Stamped copies of the bond cost estimates for the pump station and water tank as requested by the surety company

March 23rd, 2023 LA County Public Works to Elite Earthworks and RTG

- District 37 should be reaching out to discuss the percentage completion and bonds for the Valley Sage water main
- Within 10 years of facilities being accepted by Waterworks, any applicants for new water service or increased level of service (higher fire flow), will be directed to obtain a participation letter from the initial financial participant(s), which is the applicant who built the main and retained the rights to recover participation reimbursement. All participants would have the right to certain fee credits for new service connection or increased level of service. Only financial participants retain rights to recover future reimbursement from additional new participants.

October 2023 disclosures from Public Works

March 24th, 2023 LA County Public Works to Sikand Engineering

- Requesting update on the status of the replacement multiple agreement and bonds that need to be in place ASAP

March 24th, 2023 Sikand Engineering to RTG, Poole & Shaffery, The Musella Group

- Requesting update on the status of the surety bonds that were supposed to be two weeks away two weeks ago (March 10th). Emphasizes that Public Works has been supportive of the project, **especially as it relates to the Agua Dulce Town Council**. The replacement bonds need to be posted immediately to ensure the County's continued support.

October 2023 disclosures from Public Works

March 27th, 2023 RTG to Modab Insurance Services

- Requesting update on the surety bond insurance process

March 27th, 2023 Modab Insurance Services to RTG subsequently forwarded to Poole & Shaffery, The Musella Group, Sikand Engineering and LA County Public Works

- Obtaining the surety bonds is a top priority. Due to the size of the bonds and the current market conditions (interest rates, banking crisis) the underwriting is taking more time than expected. RTG has responded to the surety company's requests in a timely manner.
- The carrier is now reviewing the updated underwriting package that was recently provided

October 2023 disclosures from Public Works

April 18th, 2023 Sikand Engineering to LA County Public Works

- No update on the bonds, hoping to know more later today

April 27th, 2023 LA County Public Works to Sikand Engineering

- What is the status of the bonds, we need them now. Why is this taking so long?

April 27th, 2023 Sikand Engineering to LA County Public Works

- Sikand is frustrated too. We bug them [RTG] twice a week but cannot tell LA County why this is taking so long. I have a call in to Art (LA County?) to discuss.

May 1st, 2023 LA County Public Works to Sikand Engineering

- What is the status? Did you speak to Art (LA County)?

October 2023 disclosures from Public Works

May 1st, 2023 Sikand Engineering to LA County Public Works

- Art has been given an update. We continue to bug them twice a week but this is taking longer than anticipated. Hopefully we will have something in the next couple of weeks. Sikand have explained to Art that they have no control over the timing

May 25th, 2023 RTG to LA County Public Works

- Final testing of the water main will commence next week, requesting an in-person meeting to discuss the final steps

June 5th, 2023 LA County Public Works to Agua Dulce Community members

- RTG is working with Sikand Engineering to secure replacement bonds to allow the permits to be issued

October 2023 disclosures from Public Works

June 14th, 2023 LA County Public Works to RTG

- Reiterating 10 year financial participation information from March 23rd email

July 1st, 2023 LA County Public Works to Sikand Engineering

- Any updates on the bonds?
- Nothing

January 9th, 2024, LA County Public Works confirms that the new bonds and replacement Multiple Agreement are still not in place, but none of the permits that they relate to have been applied for either

- It is now over 10 months since RTG advised Sikand/LA County that it would take them a couple of weeks to secure the new bonds

Phase 1 Bonding 2023 est. discounted value

	2022-23 value	
Sanitary sewers Private Contract (PC 11567)	\$971,300	
Storm Drains Private Drain (PD 2546)	\$4,122,700	
Road Improvements	\$2,312,000	
Survey Monuments and Tie Points	\$40,300*	Cash
Onsite 12" Water Main Facilities (PZ3758)	\$2,526,400	
Onsite Water System Facilities (North Tank)	\$1,798,700	
East Pump Station	\$2,318,400	
Offsite water main facilities (Sierra Hwy)	\$381,500	20% of original \$1,907,500
Offsite water main (Valley Sage Road)	\$1,060,360	20% of original \$5,301,800
TOTALS	\$15,531,660	-\$5,781,940 discount (-27%)

December 2023 disclosures from CDFW

June 21st, 2023 CDFW Environmental Scientist to RTG Asst. Project Manager

- Thank you for meeting us on site today
- Please reach out regarding the designated biologist monitor on site. Per the Streambed Alteration Agreement 1600-2020-0157-R5 measure 1.11, there shall be a designated biologist on-site to monitor all project activities within and adjacent to CDFW streambed areas. We want to make sure the Project remains in compliance to continue work.

June 21st, 2023 RTG to CDFW and Agua Construction LLC

- We will do as advised so as to remain in compliance

June 28th, 2023 CDFW Environmental Scientist to RTG and Agua Construction

- Has there been any updates on hiring a new company or trying to retain Endemic? Please let me know as soon as possible so we can get this issue resolved.

December 2023 disclosures from CDFW

October 18th, 2023, CDFW Environmental Scientist to Agua Construction

- Thank you for showing us the site today
- As there is no designated biologist on-site, all work shall halt within and around streams until the designated biologist is present to monitor all activities in and around these areas. Having a designated biologist on-site during these project activities was a requirement under condition 1.11 for SAA No. 1600-2020-0157-R5. Please keep me updated as to when the biologists from Endemic are to return

Next steps

Respond to August 23rd letter to ADTC from LA County Public Works

- ADTC disagrees that there is or was any valid bonding in place for the water systems on Sierra Highway and Valley Sage Road since the 2002 Multiple Agreement was not renewed between May of 2016 and June of 2021. Under California Civil Code of Procedure 338(a) and California Civil Code of Procedure 337, the County can no longer take any action against the bonds for liability created by statute and breach of contract. The CCCP takes precedent over the discretion of the Director of Public Works to extend the Multiple Agreement.
- Recent disclosures from Public Works show that the developer has not secured replacement surety for any part of the public infrastructure, including the off site water main for which Waterworks District 37 has already reduced the bonding requirement by 80%
- ADTC is aware that the CDFW advised the developer to cease work in the Phase 1 project areas covered by the Streambed Alteration Agreement permit in mid-October 2023 since the required designated biologist ceased work in mid-2023 due to developer non-payment
- The County has persistently misled the community as to the validity of the 2002 bonds and has acted recklessly by allowing an offshore developer with no prior US history to develop public infrastructure without any tangible financial security. How does the County plan to remedy any deficiencies in the infrastructure such as the current water leak under Sierra Highway?