



City of Gilroy

STAFF REPORT

Agenda Item Title: Approve First Amendment to Agreement with Ruggeri-Jensen-Azar & Associates in the amount of \$45,314 for the Sharks Ice Gilroy Street Improvements and Traffic Signal Project (24-RFP-PW-492) to complete American Land Title Association Survey for the Sharks Ice Gilroy Facility

Meeting Date: May 20, 2024
 From: Jimmy Forbis, City Administrator
 Department: Public Works
 Submitted By: Heba El-Guindy, Public Works Director
 Prepared By: Karl Bjarke, Assistant to the City Administrator

STRATEGIC PLAN GOALS

Promote Economic Development Activities
 Maintain and Improve City Infrastructure

RECOMMENDATION

Approve the attached First Amendment to the Consulting Services Agreement between the City and Ruggeri-Jensen-Azar & Associates for the Sharks Ice Gilroy Street Improvements and Traffic Signal project (24-RFP-PW-492) in the amount of \$45,314 to complete the American Land Title Association (ALTA) survey for the Sharks Ice Gilroy facility and authorize the City Administrator to execute the necessary Amendment documents.

EXECUTIVE SUMMARY

To complete the lease agreement with Sharks Sports & Entertainment for the construction and operation of the Sharks Ice Gilroy facility, a comprehensive survey of the Sharks Ice Gilroy site is required. The ALTA survey will meet this need as it provides accurate property boundaries, title encumbrances, recorded easements, and setbacks affecting the site. The proposed survey will provide firm boundaries of the specific site where the Sharks Ice Gilroy facility will be located via a plat map and legal description. In addition, the survey will provide aerial topography, topographic survey of conditions on the ground, and utility locations, all to support the design and construction

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of the Sharks Ice Gilroy facility.

The City has Ruggeri-Jensen-Azar & Associates (RJA) under contract to design the street improvements and traffic signal adjacent to the Sharks Ice Gilroy site. RJA has performed several ALTA surveys in the past and it is recommended that they prepare this proposed ALTA and associated survey work since they are providing survey services for the adjacent street and traffic signal project. The City Council has previously approved a maximum expenditure for the Street Improvements and Traffic Signal project in the amount of \$316,000. The proposed First Amendment will increase that amount by \$45,314, increasing the total expenditure to \$361,314.

BACKGROUND

The Sharks Ice Gilroy facility represents phase III of the Gilroy Sports Park Master Plan. The original 2002 Environmental Impact Report (EIR) for the Sports Park was amended in 2019 to consider the construction of the facility.

In June of 2022, the City and Sharks Sports and Entertainment, LLC (Sharks Sports) entered into a Non-Binding Term Sheet for an Operating Agreement for the proposed Sharks Ice Gilroy facility to be located at the City's Outdoor Sports Park. The Sharks Ice Gilroy facility is proposed to be a two-story 100,000-square-foot building with two indoor National Hockey League sized ice rinks, a restaurant, snack bar, pro shop, and other ancillary uses. The Term Sheet is set up to allow the City to build the facility and Sharks Sports to operate the facility under a long-term lease agreement.

Preparing an American Land Title Association (ALTA) survey is an important next step in the process to complete the lease agreement between the City and Sharks Sports. While the site for the Sharks Ice Gilroy facility is roughly established at the Outdoor Sports Park, the specific legal boundaries are not yet tied down. In addition to the need to establish firm boundaries of the Sharks Ice Gilroy facility site, it will be necessary to establish other metrics associated with the site such as topographic survey, property encumbrances, easements, setbacks, and utility locations. An ALTA survey is a very comprehensive land title survey and will provide the necessary title information required for the City and Sharks Sports to negotiate and execute the lease agreement for the Sharks Ice Gilroy facility. In addition, the survey will become a critical part of the design and construction of the facility.

On December 4, 2023, the City Council awarded a contract to Ruggeri-Jensen-Azar & Associates (RJA) for the design of the Sharks Ice Gilroy Street Improvements and Traffic Signal project. This project is a companion to the Sharks Ice Gilroy construction in the City's adopted Capital Improvement Program (CIP). In addition, the construction of the street improvements and traffic signal are required mitigation measures in the 2019 amended EIR for the completion of the Sharks Ice Gilroy facility. Since RJA is already under contract with the City and their current scope requires field survey, staff requested a proposal from RJA to perform the ALTA survey for the site. RJA has

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performed several ALTA surveys in the past and is in a unique position to begin this work immediately. The RJA proposal to perform the additional ALTA survey and associated compensation submitted on March 27, 2024 is included under Attachment 1.

ANALYSIS

For the Sharks Ice Gilroy facility to be completed as envisioned under the partnership with Sharks Sports and Entertainment, LLC, an ALTA survey will be required for the site. An ALTA survey is one of the most important documents in the real estate transaction process. It reveals information not covered by title insurance and helps avoid future legal disputes related to the property. The proposed survey will provide a legal description of the parcel that the facility is to be located on and identify all of the land title elements and encumbrances required to execute the lease agreement between the City and the Sharks. The survey work will also include topographic mapping and utility locations.

RJA's proposed scope includes the following survey components: Resolve property boundaries; aerial topography with ortho-photo mapping; flight marker control (to establish survey points for aerial topography); topographic ground survey; utilities location; plat and legal description of the Sharks Ice Gilroy specific site; and all other related ALTA data collection.

Once completed, the City and Sharks Sports will have a thoroughly documented description of the Sharks Ice Gilroy facility site that will become the basis for the lease agreement.

ALTERNATIVES

The City Council could opt to forgo the ALTA survey or choose to seek proposals from other firms. Without the survey, the lease transaction for building and operating the Sharks Ice Gilroy facility would likely not go forward. RJA's proposal is economical because the firm is already performing work in the area associated with the access road improvements and new signal.

FISCAL IMPACT/FUNDING SOURCE

The Sharks Ice Gilroy Street Improvements and Traffic Signal project is included in the adopted FY 2024 Capital Improvements Program (Project No. 800900), intended to be a companion project to the Sharks Ice Gilroy facility. Funding for this project comes from the Public Facilities Fund (440), Traffic Impact Fund (425), and subject to be reimbursed from future project bond proceeds.

On December 4, 2023, the City Council awarded a Consulting Services Agreement to Ruggeri-Jensen-Azar & Associates for the design of the Street Improvements and Traffic Signal project. Total approved expenditure for that contract is \$316,000. The

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additional amount for the proposed First Amendment is \$45,314. Therefore, subject to approval of the First Amendment, the revised total approved expenditure will be \$361,314.

PUBLIC OUTREACH

No public outreach was conducted for this phase of the project.

NEXT STEPS

Should the Council approve the First Amendment to the Agreement between the City and RJA, the ALTA and associated survey work will commence and is expected to take approximately 6 weeks. Once that is completed, the City and Sharks Sports can complete the lease agreement and the process for building the facility can begin. Under the current schedule, the Sharks Ice Gilroy facility will be completed and operational in mid-2026.

Attachments:

1. First Amendment to the Agreement between the City and RJA.
2. Exhibits A, B, and C submitted by RJA covering additional Scope of Services by ALTA Survey, associated compensation, and optional tasks.

**FIRST AMENDMENT TO GILROY ICE CENTER STREET IMPROVEMENTS AND
TRAFFIC SIGNAL DESIGN AGREEMENT**

WHEREAS, the City of Gilroy, a municipal corporation ("City"), and Ruggeri-Jensen-Azar & Associates entered into that certain agreement entitled "Agreement for Services", effective on December 4, 2023, hereinafter referred to as "Original Agreement"; and

WHEREAS, City and Ruggeri-Jensen-Azar & Associates have determined it is in their mutual interest to amend certain terms of the Original Agreement.

NOW, THEREFORE, for valuable consideration, the parties hereto agree as follows:

1. Article 1 (Term of Agreement) of the Original Agreement: The term of the agreement will continue in effect through December 31, 2025.
2. The Payment Schedule of the Original Agreement shall remain in effect and supplemented with the additional Scope of Services described in Exhibit A and associated Compensation described in Exhibit B, dated March 27, 2024.
3. This Amendment shall be effective on May 20, 2024.
4. Except as expressly modified herein, all of the provisions of the Original Agreement shall remain in full force and effect. In the case of any inconsistencies between the Original Agreement and this Amendment, the terms of this Amendment shall control.
5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
6. IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates set forth besides their signatures below.

CITY OF GILROY

Ruggeri-Jensen-Azar & Associates

By: _____

[signature]

Jimmy Forbis

[employee name]

City Administrator

[title/department]

By: _____

[signature]

Arminta J Jensen

[name]

Executive Vice President

[title]

Date: _____

Date: _____

Approved as to Form

ATTEST:

City Attorney

City Clerk

EXHIBIT A
SCOPE OF SERVICES
For
GIC STREET IMPROVEMENTS & TRAFFIC SIGNAL
SPORTS PARK ALTA SURVEY
GILROY, CALIFORNIA
MARCH 27, 2024

RJA JOB NUMBER: 242003

TYPE OF WORK: ALTA Survey and Supporting Documents

CLIENT: City of Gilroy

SUBJECT PROPERTY:

Approximately 78.5+/- acres located in Gilroy, CA known as the Gilroy Sports Park (APNs 808-21-026,-028,-030). City of Gilroy is considered the Lead Agency for processing the work described herein.

SCOPE OF SERVICES:

10. DESIGN SURVEY

A. Resolved Boundary

Consultant will establish project horizontal and vertical control, search for and locate existing controlling boundary monumentation and resolve project boundary based upon the record title information with supporting documents supplied by the Client and available Public Records. Client shall provide a current preliminary title report with exceptions package and legal description prior to the commencement of work for this item.

B. Aerial Topography & Ortho-photo

Consultant will coordinate with the photogrammetrist for flight marker requirements, layout, time of flight and scheduling, to provide a topographical map of the portion of the property shown in Exhibit C at a scale of 1" = 40' with a 1-foot contour interval. Scope and fee also includes a color ortho-rectified photo of the entire property at a scale of 1" = 40'.

C. Flight Marker Control

Consultant will perform field surveys to set flight markers for aerial photogrammetry control. Flight markers will be field surveyed to tie to project horizontal and vertical control. Flight marker field survey will be reduced and coordinate geometry results will be supplied to photogrammetrist.

D. Supplemental/Topo Survey

Consultant will provide supplemental ground survey and data reduction to augment aerial topography. Consultant will provide field supplemental survey within the project boundary and office support to obtain horizontal and vertical locations of selected visible aboveground features, as required for the ALTA Survey. Fee is for up to sixteen (16) hours of 2-Person Field Crew labor, and up to sixteen (16) hours of office labor for data reduction. Labor in excess of this will be considered "additional services"/"extra work" and be billed on a Time and Expense basis per the attached Rate and Expense Schedule.

E. Utility Survey

At the request of the Client, Consultant will subcontract with a private utility locate service to identify the approximate locations of underground utilities located within the area of the future ice rink facility area as shown on Exhibit D. The locations of the markings provided by the private utility locate service will be located and included on the ALTA Survey.

F. Plat and Legal Description

Consultant will prepare plat and accompanying legal descriptions (1 total) to describe a portion of the property to be used in a lease agreement.

This item specifically excludes the following items:

- Assistance with any property, easement or right-of-way acquisition or agreements
- Acquisition or assistance with signatories
- Preparation of grant, quit-claim or deeds
- Processing/Recording of documents

I. ALTA Survey

Consultant will prepare an ALTA/ACSM Land Title Survey to assist Client in obtaining an ALTA Owner's policy for the subject property. Survey will include resolved boundary, topographic survey of potential encroachments within 5 feet of the project boundary, plotting of easements in preliminary title report, and the location of existing utilities serving the property based upon readily visible surface evidence. The ALTA Survey document will be prepared in accordance with the 2021 Minimum Standard Detail requirements for ALTA/NSPS Land Title Surveys. These services exclude aerial photogrammetry and/or topographic mapping and Table A items not listed herein. ALTA Survey document will be prepared in accordance with the 2021 Minimum Standard Detail, including the following Table "A" items: 3, 4, 5, 8, 11A, 15, 20(a)(b), detailed in Exhibit C.

40. COORDINATION DURING FINAL DESIGN**A. Client Coordination**

Upon request of the Client, Consultant will assist Client in the coordination of items related to the project processing and subconsultant issues not specifically mentioned in this scope of work. Fee is for up to eight (8) hours of labor. Labor in excess of this will be considered "additional services"/"extra work" and be billed on a Time and Expense basis per the attached Rate and Expense Schedule.

EXCLUSIONS

The services to be provided are those detailed in this Scope of Services (Exhibit A). All items not expressly described in this Scope of Services shall be deemed "additional services"/"extra work" and compensation shall be on a time and expense basis per the attached Rate and Expense Schedule. The following items are specifically excluded from this Scope of Work:

A. Preliminary/Tentative Map and/or Final Map Exclusions

1. Plats and legal descriptions for easements or ROW not specifically mentioned in the Scope of Services
2. Provision of preliminary or final title report
3. Any plats and descriptions for offsite purposes
4. Preparation of a "Vesting Tentative Map"
5. Any and all documents required for public noticing or mailing of such
6. Assistance with any property, right-of-way, or easement acquisition.
7. Potholing of existing underground facilities/utilities

EXHIBIT B
COMPENSATION
for
GIC STREET IMPROVEMENTS & TRAFFIC SIGNAL
SPORTS PARK ALTA SURVEY
GILROY, CALIFORNIA
MARCH 27, 2024

Client shall compensate Consultant for the performance of the work previously described in Exhibit A, SCOPE OF SERVICES, and for such extras and additions as follows:

<u>I. SCOPE OF SERVICES ITEM</u>	<u>FEE</u>
10. DESIGN SURVEY	
A. Boundary/Control	\$6,985
B. Aerial Topography & Ortho-photo	\$7,059
C. Flight Marker Control	\$2,843
D. Supplemental/Topo Survey	\$8,558
E. Utility Survey	\$3,040
F. Plat and Legal Description	\$4,585
I. ALTA Survey	<u>\$9,884</u>
Sub-total:	\$42,954
40. COORDINATION DURING FINAL DESIGN	
A. Client Coordination	<u>\$2,360</u>
Sub-total:	\$2,360
TOTAL:	\$45,314

II. Printing and Miscellaneous Expenses

Any reproduction work, other than that required for the Consultant's in house use, and all mileage, Federal Express, UPS, On-Trac, and other deliveries and expenses will be billed per the attached Rate and Expense Schedule, in addition to the above fees.

III. Additional Services

The services to be provided are those detailed in Exhibit A, Scope of Services. All items not expressly described in this scope and all hours for a specific item which are above those stated in the scope of services shall be deemed "Additional Services"/"Extra Work" and compensation shall be on a time and expense basis per the attached Rate and Expense Schedule, in addition to the above fees.

IV. Payment Terms

Invoices will be rendered monthly for the work done in the preceding month and will be due and payable upon receipt. All accounts not paid within thirty (30) days after date of invoice will bear a FINANCE CHARGE OF 1.5% per month, or the legal rate of interest, whichever is less, on the unpaid balance until paid in full. In the event any action is brought in this agreement concerning any amounts due hereunder, the prevailing party shall be reimbursed for all litigation and collection expenses, including but not limited to reasonable attorneys' fees.

Fees shown are good through June 30, 2024. Rate & Expense Schedule is good through June 30, 2024. At the end of June each year, the rates and remaining fees for all services shall be increased proportionately to the increase in costs incurred by Consultant for labor and expenses and the Rate and Expense Schedules will be updated.

RATE AND EXPENSE SCHEDULES
(Effective through June 30, 2024)

HOURLY RATE SCHEDULE FOR PROFESSIONAL SERVICES

<u>Classification</u>	<u>Rate</u>
Senior Project Manager.....	\$279.00
Project Manager	264.00
Senior: Engineer, Surveyor, Planner	251.00
Associate: Engineer, Surveyor, Planner	234.00
Engineer, Surveyor, Planner.....	217.00
Assistant: Engineer, Surveyor, Planner.....	188.00
Senior Designer/Technician	184.00
Technician	163.00
Assistant Technician.....	141.00
Project Coordinator	125.00
Administrative Assistant	107.00
Clerical	81.00
Field Survey Manager	232.00
1-Person Survey Crew.....	214.00
2-Person Survey Crew.....	328.00
3-Person Survey Crew.....	395.00
Principal.....	295.00
Deposition/Court Appearance	rates are available upon request

EXPENSE SCHEDULE

Bond Copy (24"x36").....	\$1.50 each
Color/mylar plot (small, medium).....	\$10.00 each
Color/mylar plot (large).....	\$50.00 each
Xerox copy	\$0.15 each
Color xerox copy (8½ x 11 or 11 x 17)	\$0.50 each
Client-Requested Overtime	Hourly Rate plus 25%
All other expenses, including:	Actual Cost plus 15%
Delivery Service	Travel & Expenses
Outside Reproduction	Filing or Permit Fees
Mileage - Auto	Conference Call Expenses
Outside Consultants	

TABLE A**OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS**

NOTE: Whether any of the nineteen (19) items of Table A are to be selected, and the exact wording of and fee for any selected item, may be negotiated between the surveyor and client. Any additional items negotiated between the surveyor and client must be identified as 20(a), 20(b), etc. Any additional items negotiated between the surveyor and client, and any negotiated changes to the wording of a Table A item, must be explained pursuant to Section 6.D.ii.(g). Notwithstanding Table A Items 5 and 11, if an engineering design survey is desired as part of an ALTA/NSPS Land Title Survey, such services should be negotiated under Table A, Item 20.

If checked, the following optional items are to be included in the ALTA/NSPS LAND TITLE SURVEY, except as otherwise qualified (see note above):

1. ☐ Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the surveyed property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner.
2. ☐ Address(es) of the surveyed property if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork.
3. ☒ Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only.
4. ☒ Gross land area (and other areas if specified by the client).
5. ☒ Vertical relief with the source of information (e.g., ground survey, aerial map), contour interval, datum, with originating benchmark, when appropriate.
6. ☐ (a) If the current zoning classification, setback requirements, the height and floor space area restrictions, and parking requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, list the above items on the plat or map and identify the date and source of the report or letter.
☐ (b) If the zoning setback requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, and if those requirements do not require an interpretation by the surveyor, graphically depict those requirements on the plat or map and identify the date and source of the report or letter.
7. ☐ (a) Exterior dimensions of all buildings at ground level.
☐ (b) Square footage of:
☐ (1) exterior footprint of all buildings at ground level.
☐ (2) other areas as specified by the client.
☐ (c) Measured height of all buildings above grade at a location specified by the client. If no location is specified, the point of measurement shall be identified.
8. ☒ Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required pursuant to Section 5 above) (e.g., parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse).
9. ☐ Number and type (e.g., disabled, motorcycle, regular, and other marked specialized types) of clearly identifiable parking spaces on surface parking areas, lots, and in parking structures. Striping of clearly identifiable parking spaces on surface parking areas and lots.

10. _____ As designated by the client, a determination of the relationship and location of certain division or party walls with respect to adjoining properties.

11. Evidence of underground utilities existing on or serving the surveyed property (in addition to the observed evidence of utilities required pursuant to Section 5.E.iv.) as determined by:

___X___ (a) plans and/or reports provided by client (with reference as to the sources of information)

_____ (b) markings coordinated by the surveyor pursuant to a private utility locate request.

Note to the client, insurer, and lender – With regard to Table A, item 11, information from the sources checked above will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

12. _____ As specified by the client, Governmental Agency survey-related requirements (e.g., HUD surveys, surveys for leases on Bureau of Land Management managed lands). The relevant survey requirements are to be provided by the client or client's designated representative.

13. _____ Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."

14. _____ As specified by the client, distance to the nearest intersecting street.

15. ___X___ Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies as the basis for showing the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary. The surveyor must (a) discuss the ramifications of such methodologies (e.g., the potential precision and completeness of the data gathered thereby) with the insurer, lender, and client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data.

16. _____ Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the fieldwork.

17. _____ Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

18. _____ Pursuant to Sections 5 and 6 (and applicable selected Table A items, excluding Table A item 1), include as part of the survey any plottable offsite (i.e., appurtenant) easements disclosed in documents provided to or obtained by the surveyor.

19. _____ Professional liability insurance policy obtained by the surveyor in the minimum amount of \$_____ to be in effect throughout the contract term. Certificate of insurance to be furnished upon request, but this item shall not be addressed on the face of the plat or map.

20(a). X Stream Setback as described in the Santa Clara Valley Habitat Conservation _____

20(b). X _____

_____ Evidence of underground utilities only based on markings coordinated by the surveyor pursuant to a

Adopted by the American Land Title Association on October 1, 2020. More at: www.alta.org.
Adopted by the National Society of Professional Surveyors on October 30, 2020. More at: www.nsps.us.com.

