TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES AND COMMUNITY SERVICES

DATE: AUGUST 1, 2005 CMR: 322:05

SUBJECT: LICENSE AGREEMENT WITH ACTERRA FOR OPERATION OF A NATIVE PLANT NURSERY AND RESTORATION OF A 0.53 ACRE PORTION OF A CITY-OWNED 7.7-ACRE PARCEL ADJACENT TO FOOTHILLS PARK

RECOMMENDATION:
Staff recommends that Council hold a public hearing and approve the attached license agreement between the City and Acterra to permit the operation of a non-profit native plant nursery and restoration of a 0.53-acre portion of a City-owned 7.7-acre City-owned parcel adjacent to Foothills Park.

BACKGROUND
In 1981, the Lee family granted a 7.7-acre parcel to the City of Palo Alto for purposes of conservation, including park and recreational purposes, reserving an estate until March 1996. Subsequently, the remainder of the estate in the parcel and the adjacent Lee Quarry were sold to John Arrillaga, who developed a family estate on the Lee Quarry and used the parcel for nursery and stonemason operations related to his development. When ownership of the parcel reverted to the City in 1996, the City leased the parcel to Mr. Arrillaga to continue his nursery and stonemasonry operations. The lease terminated in 2003 and Mr. Arrillaga subsequently removed his improvements from the parcel.

On November 12, 1996, Council approved the Arastradero Preserve Management Plan and the concept of a Stewardship Agreement for habitat conservation and restoration. On April 28, 1997, Council approved a five-year contract, with a five-year option to extend, with Bay Area Action to act as the steward of the 609-acre Enid Pearson-Arastradero Preserve and to implement action steps of the Arastradero Management Plan (CMR:199:97). Restoration efforts were so successful that the Peninsula Conservation Center Foundation awarded Bay Area Action a Business Environmental Award at the Foundation’s annual ceremony November 12, 1999. In 2000, Bay Area Action merged with the Peninsula Conservation Center Foundation to become a new organization named Acterra. In accordance with the Stewardship Agreement, Acterra has faithfully pursued all of the goals of the Arastradero Preserve Management Plan. Acterra has also annually mapped both native California grasses and invasive weeds throughout the Preserve in order to evaluate the effectiveness of various control methods and to monitor the spread of both weeds and nurtured native plant stands. In 2002, the original 5-year term of the Stewardship Agreement was extended another five years.
In 2004, Acterra lost its native plant nursery facility (outside the City of Palo Alto) to commercial development and was in urgent need of a new location. In August 2004, Acterra received Architectural Review Board (ARB) approval for a small nursery maintenance structure on a portion of the 7.7 acre parcel. Under the direction of City staff, Acterra has been operating the nursery on a month-to-month agreement pending development and approval of a long-term agreement.

**DISCUSSION**

The purpose of the attached license agreement (Agreement) is to have the City and Acterra cooperate in the preservation, protection and enhancement of the 7.7 acre parcel, the Preserve, local creeks and other open space areas. Under the direction of the City staff, Acterra will operate a non-profit nursery facility on a 0.53 portion of the parcel to grow native plants and trees to be placed in parks and to propagate native plants for re-vegetation of the 7.7 acre parcel, the Preserve and other open space areas. Acterra will be responsible for providing all labor, materials and supplies necessary to germinate and maintain plants; and for furnishing all water, electricity and other utilities needed for operation of the nursery.

City staff and Acterra meet annually to review Acterra’s annual work plan of activities to be carried out on the 0.53-acre portion of the parcel including the restoration of that portion of the parcel and other primary restoration sites. They will also jointly develop performance objectives and standards for Acterra’s activities, including but not limited to the number and location of plants to be planted each year. On or before August 1 of each year of the agreement, Acterra and City staff will conduct a performance review to evaluate the activities that have been carried out on the 0.53 acre portion of the parcel and other restoration sites for the past fiscal year, and to determine conformance to the agreed-upon performance objectives and standards. The performance review shall serve as a basis for consideration of any extension of the term of the Agreement.

Under the terms of the Agreement, the City shall retain the right of overall management of the 7.7-acre parcel; review of all activities proposed for the parcel; and, responsibility for fire management and maintenance of the creek and the ingress and egress road. Either party may terminate the Agreement, without cause, upon 90 days written notice to the other party. The City may revoke the Agreement for cause immediately upon providing written notice to Acterra.

**RESOURCE IMPACT**

Acterra will be responsible for all costs associated with the installation and operation of the nursery and habitat restoration and maintenance. Minimal Open Space Division staff time will be required to supervise this project.

**POLICY IMPLICATIONS:**

In accordance with Policy and Procedures 1-11, Leased Use of City Land/Facilities, the public has been notified of the Council’s consideration of the proposed agreement. The proposed agreement represents an extension to the City’s previous use of volunteers and is in accordance with Policy and Procedures 1-15, Public/Private Partnerships, which encourages the cooperation between the City and the private sector or nonprofit organizations in providing services, facilities or other capital projects to the community. The proposed agreement does not represent any changes to existing City policies and is in conformance with the Comprehensive Plan and the Palo Alto Municipal Code.
ENVIRONMENTAL IMPACT ASSESSMENT:
The License Agreement does not involve a change of use and therefore is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15301, Class I, existing facilities. The August 20, 2004 ARB approval of the nursery facility noted that the nursery project is exempt from the provisions of CEQA per section 15303, which exempts the construction of a limited number of new, small facilities less than 2,500 square feet in floor area. The total of 1,200 square feet of structures falls within the requirements of this section.

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ATTACHMENTS:
Attachment A   Map of the 7.7 acre City-owned Parcel and the .53-acre Property
Attachment B   License Agreement

cc: Acterra