This agreement is entered into by Acterra, a California nonprofit organization ("the nonprofit organization") and the City of Palo Alto ("the owner").

**PERTINENT FACTS**

A. The owner owns certain real property ("the property"), located at the Pearson-Arastradero Preserve in the City of Palo Alto, Santa Clara County, California, as shown in Exhibit A, which is incorporated by reference and attached.

B. The nonprofit organization is a California nonprofit organization existing under Section 501(c)(3) of the United States Internal Revenue Code and whose purposes are consistent with Division 21 of the California Public Resources Code.

C. The owner seeks the assistance of the nonprofit organization in restoring the natural resources and enhancing habitat on the property, and the nonprofit organization seeks to provide this assistance.

D. On December 13, 2007, the State Coastal Conservancy ("the Conservancy"), an agency of the State of California established under Division 21 of the Public Resources Code, authorized a grant to the nonprofit organization, subsequently awarded under Grant Agreement No. 07-100 ("the grant agreement"), to undertake on the property a habitat restoration project with school and volunteer groups.

E. The grant agreement requires that the nonprofit organization enter into an agreement sufficient to protect the public interest in any restoration projects implemented under the Conservancy's grant, and to ensure that the nonprofit organization has permission to implement and monitor projects on the owner's land.

**THE PARTIES AGREE AS FOLLOWS,** in light of the Pertinent Facts, above:

1. **DURATION.** This agreement shall take effect when fully executed, on the date last signed below, and shall run until the later of 20 years from its effective date or completion of the restoration described in this agreement, unless the agreement is terminated earlier by either party in writing, with written consent of the Executive Officer of the Conservancy, which shall not be unreasonably withheld.
Agreement: Habitat Restoration Hands-On Project

(Pearson-Arastradero Preserve)

2. **RESTORATION AND MAINTENANCE.** The nonprofit organization shall implement a restoration project on the property in accordance with the grant agreement, including, without limitation, invasive plant removal and revegetation. The nonprofit organization shall maintain the project during the term of this agreement. This clause shall survive termination of this agreement.

3. **COASTAL CONSERVANCY GRANT.** The nonprofit organization shall fulfill the requirements of the grant agreement with respect to the property.

4. **SIGNS.** The nonprofit organization shall provide signs, placards, or other approved forms to acknowledge the role of the nonprofit organization and funding from the Conservancy. The owner shall allow installation of the acknowledgment on the property during the term of this agreement. The number, design, placement, and wording of the signs or other forms of acknowledgement shall be subject to approval of the Executive Officer of the Conservancy. This clause shall survive termination of this agreement.

5. **ACCESS BY THE NONPROFIT ORGANIZATION.** The nonprofit organization shall have access to the property to accomplish the purposes of this agreement, including monitoring during the entire term of this agreement. The owner may restrict or deny access to the property if an emergency exists which threatens public health and safety or the natural resources of the property. In that event, all reasonable measures shall be taken to remedy the emergency conditions and restore the nonprofit agency’s right of access to the property.

6. **INSPECTION.** The nonprofit organization and the owner shall permit the Conservancy, its agents or employees, to visit the project site at reasonable intervals during the term of this agreement to determine whether the site is being restored and maintained in a manner consistent with the grant agreement. This clause shall survive termination of this agreement.

7. **OWNER’S USE OF THE PROPERTY.** Except as provided in this paragraph, the owner reserves the right to use the property in any manner, provided that its use does not unreasonably interfere with the nonprofit organization’s rights under this agreement. During the term of this agreement, the owner shall use the property and habitat improvements in a manner consistent with the purposes of the grant agreement; this includes, but is not limited to, refraining from harming, damaging, removing, altering, or interfering with the restored sites.

8. **SUPERVISION.** The nonprofit organization shall exercise reasonable diligence in supervising school children, members of the public, and others who participate in restoration projects. The nonprofit organization shall not conduct its program in any manner that would jeopardize public safety or damage property.
Agreement: Habitat Restoration Hands-On Project

(Pearson-Arastradero Preserve)

9. **LIABILITY.** The nonprofit organization shall be responsible for, indemnify and save harmless the Conservancy, its officers, agents, and employees from any and all liabilities, claims, demands, damages or costs resulting from, growing out of, or in any way connected with or incident to the property and improvements on it, except for active negligence of the Conservancy, its officers, agents or employees. The duty to indemnify and save harmless includes the duty to defend as set forth in Civil Code Section 2778. The nonprofit organization waives any and all rights to any type of express or implied indemnity or right of contribution from the Conservancy, its officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to the project, the property, and improvements on it.

10. **SUCCESSORS TO THE NONPROFIT ORGANIZATION.** If, for any reason, including, but not limited to the dissolution and winding up of the nonprofit organization, the nonprofit organization is unwilling or unable to meet its obligations under this agreement, the Executive Officer of the Conservancy shall have the right to designate a public entity or nonprofit corporation to assume the responsibilities of the nonprofit organization under this agreement, with written consent of the owner, which shall not be unreasonably withheld.

11. **AMENDMENT OR TERMINATION.** This agreement shall not be amended, terminated or modified without the written consent of the Executive Officer of the State Coastal Conservancy, which is agreed to be a third-party beneficiary of this agreement.

12. **SUCCESSORS IN INTEREST.** The terms of this agreement shall be binding on all successors and assigns of the parties to this agreement.

13. **FORBEARANCE NOT A WAIVER.** Any forbearance on the part of a party or its successor in interest, to enforce the terms and provisions of this agreement in the event of a breach shall not be deemed a waiver of the party's right regarding any subsequent violation or breach.

14. **SEVERABILITY.** If any of the provisions of this agreement are found by a court of law to be of no force or effect, the validity of all other provisions shall be unaffected.

15. **NOTICES.** Notices issued pursuant to this agreement shall be sent to the following addresses (or to a subsequent address of which notice has been provided in writing):

   Executive Officer
   State Coastal Conservancy
   1330 Broadway, 13th Floor
Agreement: Habitat Restoration Hands-On Project
(Pearson-Arastradero Preserve)

Oakland, CA  94612-2530

City of Palo Alto
1305 Middlefield Road
Palo Alto, CA 94301

Acterra: Action for a Sustainable Earth
3921 East Bayshore Road
Palo Alto, CA 94303

ACTERRA

[Authorized signature]  
Sheri Lubin
[Print or type name]
Stewardship Program Director
[Title]

2/29/08
Date

CITY OF PALO ALTO, the owner

[Authorized signature]  
[Print or type name]
[Title]
Resolution

Resolution No. 1-08

Resolution of Acterra: Action for a Sustainable Earth

Approving the Grant of Funds from the
State Coastal Conservancy

For Pearson-Arastradero Preserve Restoration Project

WHEREAS, the Legislature of the State of California has established the State Coastal Conservancy ("Conservancy") under Division 21 of the California Public Resources Code, and has authorized the Conservancy to award grants to public agencies and nonprofit organizations to implement the provisions of Division 21; and

WHEREAS, the Conservancy awards grants for projects that it determines are consistent with Division 21 of the Public Resources Code and with the Conservancy’s Strategic Plan and that best achieve the Conservancy’s statutory objectives, in light of limited funding.

WHEREAS, at its December 13th, 2007 meeting, the Conservancy adopted a resolution authorizing a grant to Acterra ("grantee") for Pearson-Arastradero Preserve Restoration Project ("the project"). The resolution was adopted by the Conservancy pursuant to and is included in the Conservancy December 13th, 2007 staff recommendation, a copy of which is on file with the grantee and with the Conservancy.

WHEREAS, the Conservancy requires that governing body of the grantee certify through a resolution that it approves the award of Conservancy grant funding and authorizes the execution by a representative of the grantee of a grant agreement on terms and conditions required by the Conservancy [or, if the grant agreement if already finalized: and authorizes the execution of a grant agreement in substantially the form of the agreement attached to this resolution as Exhibit 1];

NOW, THEREFORE, be it resolved that the grantee hereby:

1. Approves the award of grant funding from the Conservancy for the project.

2. Acknowledges that it has or will have sufficient funds to complete the project and, if any facilities are constructed as a part of the project, to operate and maintain the project for a reasonable period, not less than the useful life of the facilities.
3. Agrees to provide any funds beyond the Conservancy grant funds necessary to complete the project.

4. Agrees to be bound by all terms and conditions of the grant agreement and any other agreement or instrument as may be required by the Conservancy and as may be necessary to fulfill the terms of the grant agreement and to complete the project.

5. Authorizes any of the following named officers or employees of the grantee [or: any person holding any of the following positions with the grantee] to act as a representative of the grantee, to negotiate and execute on behalf of the grantee all agreements and instruments necessary to comply with the Conservancy's grant requirements, including, without limitation, the grant agreement: Sheri Lubin: Stewardship Program Director, Miriam Sachs Martín: Chief Preserve Steward, Claire Elliott: Education Coordinator.

APPROVED AND ADOPTED February 28th, 2008.

I, the undersigned, hereby certify that the above Resolution No. 1-08 was duly adopted by the grantee by the following roll call vote of its board of directors:

Ayes:

Noes:

Absent:

[Signature]

Andrew Fenselau, President