

**AMENDED AND RESTATED
STEWARDSHIP AGREEMENT BETWEEN
THE CITY OF PALO ALTO AND ACTERRA**

This Amended and Restated Stewardship Agreement (the "Agreement"), dated as of _____, 2007, is made by and between the City of Palo Alto, a California chartered municipal corporation (the "CITY"), and Acterra, a California public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law (the "STEWARD") (individually, a "Party" and, collectively, the "Parties"), in reference to the following facts and circumstances:

RECITALS:

1. The CITY owns certain Palo Alto real properties, commonly known as the Enid Pearson Arastradero Preserve (~523 acres) and the Hewlett-Mullen Property (~99 acres)(collectively, the "Preserve"), and shown in Exhibit A, attached hereto and incorporated herein by reference.

2. The CITY'S policy applicable to the Preserve, enunciated in the Arastradero Conceptual Master Plan, adopted June 20, 1983, is "to create a low intensity and minimal cost park with emphasis on natural and open space amenities of the land and sensitivity to the fragile foothills ecology. Uses planned for the park should not duplicate those provided in urban neighborhood or regional parks."

3. The CITY adopted a plan for the Preserve, the Arastradero Preserve Management Plan (the "Plan"), on November 12, 1996, and shown in Exhibit C, attached hereto and incorporated herein by reference.

4. The success of the Plan is directly related to the active support and involvement of the community.

5. The STEWARD intends to benefit the CITY and the general public by providing services in accordance with the CITY's referenced policy and the Plan. By this Agreement, the STEWARD will, under the direction of the CITY's City Manager, or designee, and through the use of supervised volunteers, provide education and research programs, and perform a variety of maintenance and habitat restoration activities on the Preserve.

6. The Parties entered into a Stewardship Agreement on July 1, 2002, and now desire to amend and restate this agreement.

NOW, THEREFORE, in consideration of the following covenants, terms and conditions, the Parties agree, as follows:

SECTION 1. PURPOSE

1.1 The purpose of this Agreement is to have both parties cooperate in the preservation, protection and enhancement of the Preserve.

SECTION 2. SCOPE OF SERVICES

2.1 The STEWARD shall:

A. Coordinate all of its activities at the Preserve with the City Manager or designee.

B. Under the direction of the CITY, perform habitat restoration, removal and control of non-native, invasive weeds, trail maintenance and repair, litter removal, erosion control, and habitat restoration activities in accordance with the Plan.

C. Under the direction of the CITY, provide and staff educational programs to educate the public about the Preserve and its amenities.

D. Under the direction of the CITY, conduct ecological research in order to monitor the resources and the impacts of visitor use on the Preserve.

E. Under the direction of the CITY, mobilize volunteers for Preserve projects and programs.

F. Under the direction of the CITY, organize fundraising efforts for Preserve projects and programs.

G. Within sixty (60) days after the Parties' execution of the Agreement, and thereafter on or before October 1 of each year during the term of this Agreement, the STEWARD shall submit to the City Manager, or designee, a proposed written annual work plan of activities to be carried out at the Preserve during the current fiscal year. On or before December 1 of each year, the STEWARD shall submit a proposed budget and any request for CITY funding for the following fiscal year. The STEWARD and the City Manager, or designee, shall jointly review the work plan, the budget, and any request for CITY funding, and shall jointly develop performance objectives and standards for the STEWARD'S activities. Upon approval, the City Manager, or designee, shall forward any budget request in accordance with the CITY's annual budget process. Any payments from approved requests for CITY funding will be made on a quarterly basis beginning July 1, 2007. As of September 1, 2007, and on or before September 1 of each succeeding fiscal year during the term of this Agreement, the STEWARD and the City Manager, or designee, shall conduct a performance review, indicating the activities that have been carried out at the Preserve for the past fiscal year, and conformance to the agreed upon performance objectives and standards. The performance review shall serve as a basis for consideration of any requests for funding or extension of the term of this agreement.

H. The STEWARD may perform other services related to the preservation, protection

and enhancement of the Preserve, as approved, in writing, by the CITY.

2.2 The CITY will:

- A. Provide overall management of the Preserve.
- B. Review all activities proposed for the Preserve. All activities of the STEWARD must be pre-approved by the City Manager.
- C. Be responsible for maintenance of all utility facilities within the Preserve, including those that do not benefit the Preserve directly.
- D. Be responsible for maintenance of all roads within the Preserve, signage, tree trimming and tree removal, fire management, law enforcement, and lake management.

2.3 The CITY may:

- A. Provide its own educational programs, conduct research, perform habitat restoration, remove and control non-native, invasive weeds, trail maintenance and repair, litter removal, erosion controls, raise funds, and supervise volunteers or contract with others to perform these duties.

2.4 As compensation for the services fully and faithfully provided during the Term specified in Section 3.1 by the STEWARD hereunder, the CITY will pay the STEWARD at the beginning of each calendar quarter, commencing July 1, 2007, upon receipt of the STEWARD's invoice the amount of twelve thousand five hundred dollars (\$12,500.00), for a total annual compensation of fifty thousand dollars (\$50,000.00).

2.5 The payment amount set forth in Section 2.4 above will be adjusted on each July 1 of FY 2008-09, FY 2009-10, FY 2010-11 and FY 2011-12. The amount of the adjusted compensation will be negotiated by the Parties on or before December 1 of 2007, 2008, 2009 and 2010, respectively, and be based on an adjustment factor reflected in the Consumer Price Index – All Urban Consumers for the San Francisco-Oakland-San Jose MSA. FY 2007-08 will be considered the base year 100 for purposes of the adjustment calculation.

SECTION 3. TERM; EXTENSION; TERMINATION

3.1 The term of this Agreement (the "Term") shall be five (5) years, commencing on July 1, 2007, unless it is earlier terminated as herein provided.

3.2 The Term may be extended by the Parties for one additional five-year period.

3.2 A Party may terminate this Agreement, with or without cause, upon thirty (30) days' prior written notice given to the other Party.

SECTION 4. CONTROL OF HOURS, PRICES AND PROCEDURES

4.1 The STEWARD shall have access to the Preserve for the uses specified in Section 2 during normal business hours of the Preserve. The STEWARD shall at all times maintain a written schedule, setting forth the operating hours and operating procedures for each service provided at the Preserve.

4.2 At the written request of the CITY, the STEWARD shall furnish to the City Manager, or designee, a copy of the schedules and procedures. Should the City Manager, or designee, decide that any part of these schedules or procedures is not responsive to the needs of the public, the STEWARD, upon receipt of written notice from the City Manager, or designee, shall modify the schedules and/or procedures to the reasonable satisfaction of the City Manager, or designee. Prior to issuing such notice, the City Manager, or designee, shall personally review and confer with the STEWARD or its representative.

4.3 Because the Preserve is public property and the STEWARD is acting for and on behalf of the CITY, the STEWARD, its officers, employees, agents and representatives shall conduct themselves in a courteous and efficient manner and be neat in appearance while they are working at the Preserve. The STEWARD shall hire and retain active, qualified, competent, and experienced personnel to supervise the STEWARD'S operations at the Preserve. The STEWARD shall closely monitor volunteers and otherwise ensure the highest standards of service to the public are maintained.

SECTION 5. INSURANCE

5.1 Minimum Limits and Forms of Coverage. The STEWARD shall obtain and maintain the following insurance coverage acceptable to the CITY in full force and effect during the Term.

<u>POLICY</u>		<u>MINIMUM LIMITS OF LIABILITY</u>		
A.	WORKER'S COMPENSATION			Statutory
B.	COMPREHENSIVE AUTOMOBILE LIABILITY including owned, hired, and non-owned automobiles	Bodily Injury	\$1,000,000	ea. person
		Property Damage	\$1,000,000	ea. person
C.	COMPREHENSIVE GENERAL LIABILITY including products & completed operations, broad form contractual, and personal injury.	Bodily Injury	\$1,000,000	ea. person
			\$1,000,000	ea. occurrence
			\$1,000,000	aggregate
		Property Damage	\$1,000,000	ea. occurrence
		Personal Injury	\$1,000,000	ea. occurrence

5.2 Required Clauses. Insurance shall be in full force and effect before the Term may commence. Every insurance policy required by this Agreement shall contain the following clauses:

- A. "This insurance shall not be canceled, limited in scope of coverage or nonrenewed until after thirty (30) days written notice has been given to: City of Palo Alto/Superintendent Open Space and Sciences, PO Box 10250, Palo Alto, Cal. 94303".
- B. "All rights of subrogation are hereby waived against the CITY OF PALO ALTO and the members of the City Council and elective or appointive officers or employees, when acting within the scope of their employment or appointment."
- C. "The CITY OF PALO ALTO is added as an additional insured as respects operations of the named insured at or from the Preserve."
- D. "It is agreed that any insurance maintained by the CITY OF PALO ALTO will apply in excess of, and not contribute to, insurance provided by this policy."

5.3 Evidence of Insurance Coverage and/or Changes

- A. Certificate of Insurance. STEWARD agrees to deposit with CITY'S Superintendent, Open Spaces and Sciences, before the effective date of this Agreement, certificates of insurance necessary to satisfy CITY that the insurance provisions of this Agreement have been complied with, and to ensure that such insurance is kept in effect, with the certificates on deposit with CITY, during the entire term of this Agreement. Should STEWARD not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, CITY may purchase such insurance, on behalf of and at the sole expense of STEWARD, to provide six-months coverage.
- B. Review of Coverage. CITY shall retain the right, at any time, to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the Risk Manager, the insurance provisions in this Agreement do not provide adequate protection for CITY and for members of the public using the Preserve, the City Manager, or his designee, may require an amount to provide adequate protection as determined by the Risk Manager. CITY's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk which exists at the time a change in insurance is required.
- C. Changes in Coverage. The City Manager, or his designee, shall notify STEWARD in writing of changes in the insurance requirements; if STEWARD does not deposit copies of acceptable insurance policies with CITY incorporating such changes within sixty (60) days of receipt of such notice, or in the event STEWARD fails to ensure that the required insurance coverage is maintained in effect, this Agreement shall be in default without

further notice to STEWARD.

- D. No Limit of Liability. The procuring of such required policy or policies of insurance shall not be construed to limit STEWARD's liability hereunder nor to fulfill the indemnification provision and requirements of this Agreement. Notwithstanding said policy or policies of insurance, STEWARD shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Agreement, with the STEWARD'S use of the Preserve.
- E. Acceptability of Insurers. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:X.

SECTION 6. INDEMNITY

6.1 Except as provided under section 6.2, the STEWARD hereby waives all claims, liability and recourse against the CITY, including the right of contribution for loss or damage of or to persons or property arising from, growing out of, or in any way connected with or related to this Agreement. The STEWARD agrees to protect, indemnify, hold harmless and defend the CITY, its elected officials, officers, employees and agents, against any and all claims, losses, liability, demands, damages, costs, expenses or attorneys' fees arising out of the STEWARD's negligent performance or nonperformance of its obligations under the terms of this Agreement. In the event the CITY is named as co-defendant, the STEWARD shall notify the CITY of such fact and shall represent the CITY in such legal action, unless the CITY undertakes to represent itself as co-defendant in such legal action, in which event the STEWARD shall pay to the CITY its reasonable litigation costs and expenses, including reasonable attorneys' fees.

6.2 The CITY agrees to protect, indemnify, hold harmless and defend the STEWARD, its officers, employees and agents, against any and all claims, losses, liability, demands, damages, costs, expenses or attorneys' fees arising out of the CITY's negligent performance or nonperformance of its obligations under the terms of this Agreement.

SECTION 7. NO PROPERTY RIGHTS

7.1 The Parties agree that this Agreement shall not confer any property right upon the STEWARD or its officers, employees, members or volunteers. Any work performed for the benefit of the Preserve and any improvements placed or constructed at the Preserve shall conform to the CITY's standards and approved by the City Manager, or designee, and shall, upon acceptance, become the property of CITY.

SECTION 8. ASSIGNMENTS

8.1 As the CITY has relied on the specific background and capabilities of the STEWARD in the award of this Agreement, any mortgage, pledge, hypothecation, encumbrance, transfer, sublease, or assignment (collectively referred to as "Encumbrance") of the STEWARD's interest in

the Preserve or any part or portion thereof, is prohibited. Any attempted Encumbrance shall be null and void and shall confer no right, title, or interest in or to this Agreement.

SECTION 9. NOTICES

9.1 Unless otherwise required by the terms and conditions of this Agreement, whenever notice is required to be furnished by this Agreement, it shall be mailed, first class, postage prepaid, to the following:

To CITY:

City Clerk
City of Palo Alto
P.O. Box 10250
Palo Alto, CA 94303

To STEWARD:

Executive Director
ACTERRA
3921 E. Bayshore Road, Suite 202
Palo Alto, CA 94303-4303

with a copy to:
Superintendent, Open Space and Sciences
City of Palo Alto
P.O. Box 10250
Palo Alto, Ca 94303

SECTION 10. EXHIBITS TO AGREEMENT

10.1 General Conditions. All general terms, conditions, and provisions applicable to contracts respecting land entered into by the City shall apply to this Agreement, and the same is attached hereto and incorporated herein by reference as Exhibit B.

10.2 This Agreement includes the following, which are expressly attached hereto and by this reference incorporated into this Agreement:

- Exhibit A - Map showing area of the Preserve
- Exhibit B - General Conditions
- Exhibit C - Arastradero Preserve Management Plan (dated July 1, 2002)

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The inclusion of provisions in Exhibit B (General Conditions) is not in any way intended to lessen their importance, but is merely done to enhance the organization of various sections and this Agreement.

IN WITNESS WHEREOF, the Parties by their duly appointed representatives have executed this Agreement as of the date first above written.

CITY OF PALO ALTO

ACTERRA

Mayor

Executive Director

APPROVED AS TO FORM:

Senior Asst. City Attorney

ATTEST:

City Clerk

APPROVED:

City Manager

Director, Community Services Department

EXHIBIT A
MAP SHOWING AREA OF THE PRESERVE

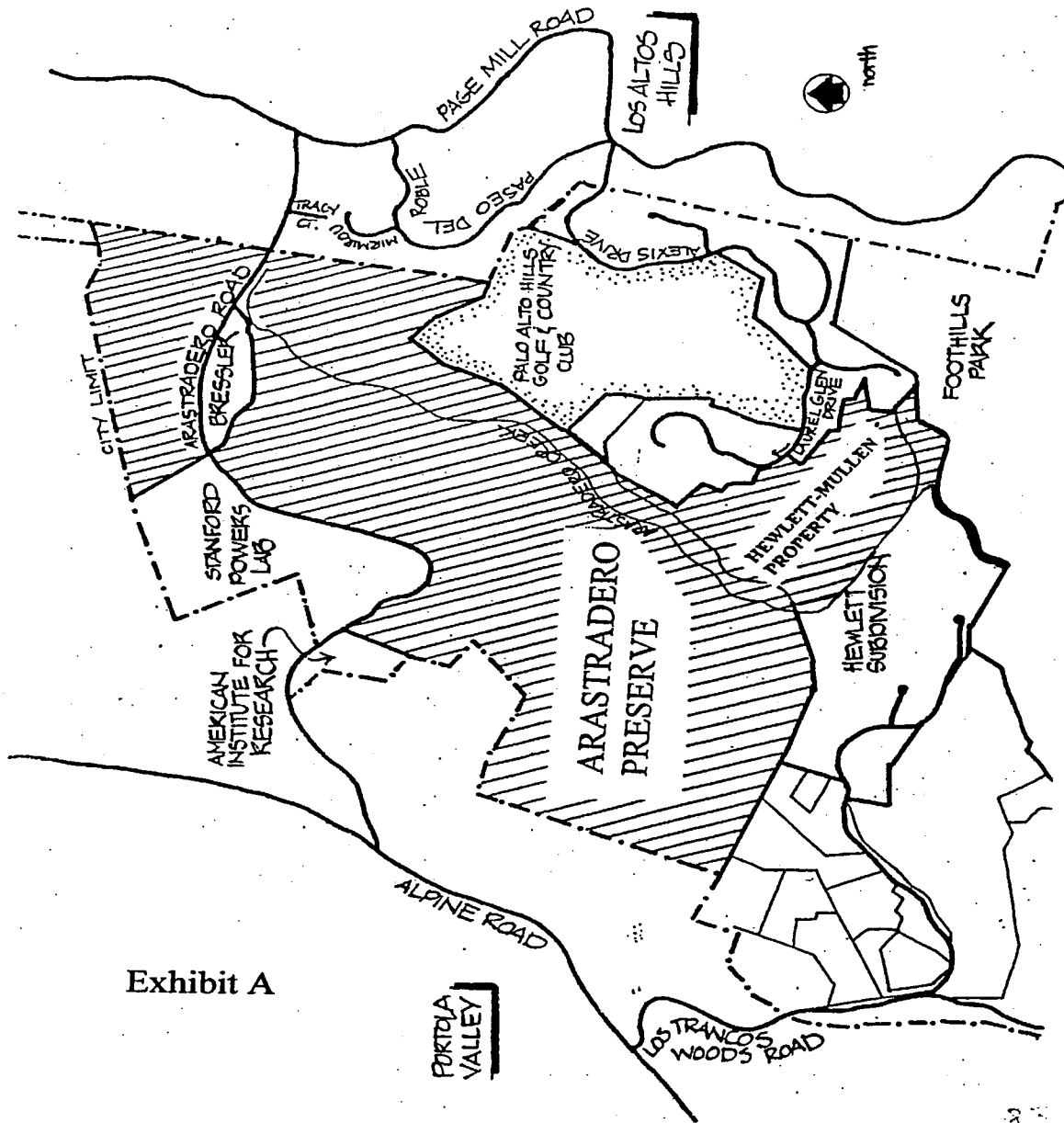


Exhibit A

EXHIBIT B GENERAL CONDITIONS

1. DEFINITIONS

CITY shall mean the City Council of the City of Palo Alto, a municipal corporation. The City Manager is hereby authorized to take any actions under this Agreement. Clauses in this Agreement refer to specific officers or employees of CITY. Should these positions be eliminated or the title changes, it is understood and agreed that such references shall be considered to be to the new title for renamed positions or to the replacement official designated with the responsibilities of any eliminated position.

2. NONPROFIT CORPORATE AUTHORITY & LIABILITY

If STEWARD is a nonprofit corporation, each individual signing this Agreement on behalf of STEWARD represents and warrants:

A. he is duly authorized to do so in accordance with an adopted Resolution of STEWARD'S Board of Directors or in accordance with the Bylaws of the nonprofit corporation; and

B. STEWARD is a duly qualified nonprofit corporation authorized to do business in Santa Clara County.

3. TIME

Time is of the essence of this Agreement.

4. PERMITS AND LICENSES

STEWARD shall be required to obtain any and all permits and/or licenses which may be required in connection with the operation of the Preserve as set forth in this Agreement.

5. AMENDMENT ORGANIZATION AND RULES OF CONSTRUCTION

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms "hereby", "hereof", "hereto", "herein", "hereunder and any similar terms, as used in this Agreement, refer to this Agreement. All the terms and provisions hereof shall be construed to effectuate the purposes set forth herein, and to sustain the validity hereof. The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall not in any way modify or restrict

any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provision hereof in ascertaining intent, if any question of intent shall arise.

6. AMENDMENTS

This Agreement sets forth all of the agreements and understandings of the parties and any modifications must be written and properly executed by both parties.

7. UNLAWFUL USE

STEWARD agrees that no improvements shall be erected, placed upon, operated, nor maintained upon the Preserve, nor any business conducted or carried on therein or therefrom, in violation of the terms of this Agreement, or of any regulation, order of law, statute, or ordinance of a governmental agency having jurisdiction over STEWARD'S use of the Preserve.

8. NONDISCRIMINATION

STEWARD and its employees shall not discriminate against any person because of race, color, religion, ancestry, age, sex, national origin, disability or sexual preference. STEWARD shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, disability or sexual preference. STEWARD covenants to meet all requirements of the Palo Alto Municipal Code pertaining to nondiscrimination in employment. If STEWARD is found in violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the conduct of its activities under this Agreement by the State of California Fair Employment Practices Commission or the equivalent federal agency or officer, it shall thereby be found in default under this Agreement, and such default shall constitute a material breach of this Agreement. CITY shall then have the power to cancel or suspend this Agreement in whole or in part.

9. DISPOSITION OF ABANDONED PERSONAL PROPERTY

If STEWARD abandons the Preserve or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to STEWARD and left on the Preserve forty-five (45) days after such abandonment or dispossession shall be deemed to have been transferred to CITY. CITY shall have the right to remove and to dispose of such property without liability therefore to STEWARD or to any person claiming under STEWARD, and shall have no need to account therefore.

10. HAZARDOUS SUBSTANCES

A. Definition. As used herein, the term 'Hazardous Materials' means any substance or material which has been determined by any state, federal or local governmental authority to be capable of posing risk of injury to health, safety, and property, including petroleum and

petroleum products and all of those materials and substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the California Water Quality Control Board, the U.S. Department of Labor, the California Department of Industrial Relations, the California Department of Health Services, the California Health and Welfare Agency in connection with the Safe Water and Toxic Enforcement Act of 1986, the U.S. Department of Transportation, the U.S. Department of Agriculture, the U.S. Consumer Product Safety Commission, the U.S. Department of Health and Human Services, the U.S. Food and Drug Administration or any other governmental agency now or hereafter authorized to regulate materials and substances in the environment. Without limiting the generality of the foregoing, the term "Hazardous Materials" shall include all of those materials and substances defined as "toxic materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 20, as the same may be amended from time to time.

B. STEWARDS Use of Preserve. During the term of this Agreement, STEWARD shall abide and be bound by all of the following requirements:

i. STEWARD shall comply with all laws now or hereafter in effect relating to the use of Hazardous Materials on, under or about the Preserve, and STEWARD shall not contaminate the Preserve, or its subsurfaces, with any Hazardous Materials.

ii. STEWARD shall restrict its use of Hazardous Materials in the Preserve to those kinds of materials that are normally used in constructing the Project. Disposal of any Hazardous Materials at the Preserve is strictly prohibited. Storage of such permissible Hazardous Materials is allowed only in accordance with all applicable laws now or hereafter in effect. All safety and monitoring features of any storage facilities shall be approved by CITY'S Fire Chief in accordance with all laws.

iii. STEWARD shall be solely and fully responsible for the reporting of all Hazardous Materials releases to the appropriate public agencies, when such releases are caused by or result from STEWARD'S activities on the Preserve. STEWARD shall immediately inform CITY of any release of Hazardous Materials, whether or not the release is in quantities that would otherwise be reportable to a public agency.

iv. STEWARD shall be solely and fully responsible and liable for such releases at the Preserve, or into CITY'S sewage or storm drainage systems. STEWARD shall take all necessary precautions to prevent any of its Hazardous Materials from entering into any storm or sewage drain system or from being released on the Preserve. STEWARD shall remove releases of its Hazardous Materials in accordance with all laws. In addition to all other rights and remedies of CITY hereunder, if the release of Hazardous Materials caused by STEWARD is not removed by STEWARD within ninety (90) days after discovery by STEWARD, CITY or any other third party, CITY may pay to have the same removed and STEWARD shall reimburse CITY for such costs within five (5) days of CITY'S demand for payment.

v. STEWARD shall protect, defend, indemnify and hold harmless CITY from and against

all loss, damage, or liability (including all foreseeable and unforeseeable consequential damages) and expenses (including, without limitation, the cost of any cleanup and remediation of Hazardous Materials) which CITY may sustain as a result of the presence or cleanup of Hazardous Materials on the Preserve.

vi. STEWARD'S obligation under this Clause shall survive the expiration or earlier termination of this Agreement.

EXHIBIT C
ARASTRADERO PRESERVE MANAGEMENT PLAN (DATED JULY 1, 2002)

CITY OF PALO ALTO
MANAGEMENT PLAN FOR THE
ARASTRADERO PRESERVE

Purpose

The purpose of this Management Plan is to provide guidelines for staff implementation of City Council direction regarding the management of the Arastradero Preserve and the Hewlett-Mullen property.

Council Policy and Mission Statement

At its meeting of July 23, 1984, the City Council adopted a Conceptual Master Plan for the creation of a "low intensity and minimal cost park, with emphasis on the natural and open space amenities of the land and sensitivity to the fragile foothills ecology. Uses planned for the park should not duplicate those provided in urban neighborhood or regional parks." The Conceptual Master Plan was based, in large part, on the recommendations of an eight-member Arastra Citizens Advisory Committee. This statement became, and remains, the mission statement for the Preserve.

This Plan incorporates habitat preservation as its primary goal, while at the same time providing for appropriate public access and activities. In instances where public access and activities conflict with the natural values of the Preserve, the preservation of the natural values of the Preserve shall prevail.

Responsibilities

The **City Council** is responsible for providing policy direction on all use of the Arastradero Preserve. The public's use of the Preserve is regulated by ordinances contained within the City's Municipal Code.

The **Community Services Department** has primary responsibility for implementing the elements of this Plan. Enforcement of the City's Municipal Code, as it relates to the Arastradero Preserve, will be the responsibility of the park ranger staff, with support from other City departments. Park rangers will also have a major role in responding to fire and medical emergencies on the Preserve.

The Steward, who will be a contracted nonprofit, local, community-based organization, may be used in maintaining the Preserve. The mission of the Steward would be complimentary to the mission of the Preserve and would enter into a contractual agreement for designated shared stewardship responsibilities for the Preserve.

Working under the direction of the City, the Steward will assist in habitat restoration, removal and control of non-native, invasive weeds, trail maintenance and repair, educational activities, research and riparian habitat management.

The Steward's responsibilities for each of these areas are discussed in more detail in the Appendix to this Plan. Notwithstanding, the overall administration and management of the Arastradero Preserve remains the responsibility of the City of Palo Alto.

The *Department of Public Works* is responsible for the oversight and coordination of engineered capital improvement projects on the Preserve.

The *Utilities Department* is responsible for maintenance of all electric, gas, water and wastewater facilities on the Preserve. Their activities are described in greater detail in Chapter 5 of the Management Plan, "Utilities Department Maintenance Responsibilities on the Preserve."

The *Fire Department* is responsible for wildland fire prevention and suppression on the Preserve through implementation and revision of the Foothills Fire Management Plan. The Department's activities are described in greater detail in the chapter on "Open Space Management and Habitat Protection."

The success of this Management Plan is directly related to the support the Preserve receives from the community. This support may come as financial contributions for specific activities on the Preserve, from individual volunteers working on projects, and from nonprofit organizations which provide groups of volunteers to assist in such activities as trail maintenance and repair, litter removal, erosion controls, and habitat restoration.

CHAPTER 1: HISTORY OF THE ARASTRADERO PRESERVE

In August 1969, Arastra Ltd., the owners of the Arastradero property, applied for a Planned Community zone change for construction of 1,776 dwelling units. The City denied this proposal. During this same period, the City hired a consultant to study land use and the ability of the City to provide services to potential foothills developments.

The City Council amended the Comprehensive Plan in June 1971, to include most of the foothills area in "Open Space - Controlled Development." An Open Space Element for the General Plan was subsequently adopted in April 1972. That year, the City also adopted an Open Space zone district, which required an average of ten acres per dwelling unit. In September 1972, Arastra Ltd. sued the City, claiming \$15.6 million in damages, plus interest, attorney's fees and costs.

Litigation proceeded for the next three years. In September 1975, the U. S. District Court ruled in Arastra Ltd.'s favor that the zoning amounted to a "taking" of Arastra's property and that all that remained to be completed was determination and payment of the value of the land as of September 1972. The City was ordered to purchase the land. Arastra Ltd. and City officials met several times and reached agreement out of court to settle the suit. A settlement fee of \$7,475,000 was paid to Arastra Ltd. in July 1976, and the City became the fee owner of the property, which, in addition to the approximately 510 acres, included a six-bedroom, 5,965 square foot house, a large barn and a second, small two-bedroom house.

In 1981, the Council adopted an ordinance dedicating 432.781 acres of the Arastradero Preserve as park land. In 1992, the Council dedicated 77.219 acres of the Preserve as park land. In addition, in 1982 the Council dedicated 99.002 acres of the Hewlett-Mullen property as parkland. Although not officially a part of the Arastradero Preserve, the Hewlett-Mullen property is included as part of this Management Plan. The total acreage for the area contained within the Plan is around 609 acres.

In March 1992 (CMR:165:92), staff requested Council direction as to the future of the improvements within the Arastradero Preserve. Staff recommended the demolition of the main and small houses, with the retention of the barn for use by the Recreation, Open Space and Sciences Division. Council, instead, directed staff to proceed with a Request for Proposal (RFP) to solicit alternatives for use of the structures on the Preserve, consistent with the requirements of the park dedication ordinance. In July 1993 (CMR:432:93), staff presented the responses to the RFP. The Challenge Learning Center (CLC) responded and then withdrew its proposal, citing in its decision to withdraw the "unwarranted, large time and expense anticipated in dealing with the opposition raised by Arastradero neighbors, and the fact that staff would not be able to recommend the proposal to Council in light of neighborhood concerns." Staff again recommended the demolition of the main house, as well as the small house, and the retention of the barn. Council, instead, referred the question of the disposition of the Preserve main house to the Policy and Services Committee for "consideration of subdividing the home for use as a single-family residence or other options that may be determined." The Policy and Services Committee recommended to Council, and Council ultimately approved, demolition of both the main house and caretaker's house.

On June 19, 1995, Council approved the 1995-96 Capital Improvement Program, which included \$90,000 for a project to dismantle the Arastradero main house and caretaker's house. At that time, however, Council directed staff to prepare an RFP for use of the main house, prior to proceeding with removal. Staff transmitted the RFP to Council in October 1995, and after receiving approval, solicited proposals. Proposals were received, from Bay Area Action and the Children's Tree House. Staff recommended that Council reject both proposals.

On March 11, 1996, Council adopted the staff recommendation to reject both proposals and further directed staff to take the following steps: 1) proceed with the removal of the structures, utilizing the prior budget funding of \$90,000, with the focus on the reuse and recycling of the materials from the structures, and report back to Council prior to the removal of the structures; 2) explore the possibility of a public/private partnership for both the structural work and habitat restoration implementation steps and with respect to the "stewardship" concept; 3) pursue with the individuals represented by attorney Theodore Carlstrom their contribution of \$350,000 to the City in connection with carrying out the steps in the recommendation; 4) pursue the implementation of the habitat restoration in the areas where the structures are currently located; and 5) explore the potential for a new modest facility (less than 1,500 square feet) as a gateway to the Arastradero Preserve, with the potential reuse of the materials from the existing structures.

On May 13, 1996, staff presented to Council, for which approval was received, a project work plan to implement Council direction for the Preserve.

CHAPTER 2: INTERPRETIVE SERVICES AND RESEARCH

Interpretive services and research on the Arastradero Preserve will be the responsibility of the City of Palo Alto, with the active support of the Steward. City staff will review and approve all proposed Steward interpretive and research activities on the Preserve and will evaluate such activities for their impact on the Preserve, and for their value to the community.

Interpretive Services

City staff and the Steward will conduct limited interpretive services. These services will include programs on the natural and human history of the Preserve, as well as programs on habitat restoration and biological research activities. These programs will be made available both during the week and on weekends and will be designed to assist the public in developing a better understanding and appreciation of the unique natural values of the Preserve.

Based on usage, and in order to protect the natural values of the Preserve, City staff may place limitations on the number and types of interpretive programs offered by both the Steward, the City, and other organizations.

Research Activities

The Arastradero Preserve provides an opportunity for research on the effects of human activity on natural systems. Although minimally developed, the Preserve has had a long human history, which included livestock grazing. Proposed research on ecological and human impact on the Preserve will be approved in advance by the City. The City will also monitor all research activities to ensure that such activities do not negatively impact the natural values of the Preserve and provide a benefit to the community.

The intent is for this research to directly benefit the Preserve through the identification of issues related to habitat restoration and preservation, and the possible development of management techniques designed to maintain the Preserve in as natural a condition as possible. Another goal of research on the Preserve is to provide information that will assist in the management of other open space areas in the region.

CHAPTER 3: OPEN SPACE MANAGEMENT AND HABITAT PROTECTION

Although nature preserves are intended to be maintained with minimal human activity, there are several situations which require active human involvement to protect native plant and animal species and to maintain the habitat in as natural a state as possible. One element of the 1984 Conceptual Master Plan for the Preserve was to, Return the land to its natural state as much as possible, with protected plantings of native oaks and elimination of intruding vegetation, using ecologically sound methods, and eventually placing utilities underground. In addition, on August 13, 1990, the City Council established a policy for overall open space management and habitat protection, which contained the following components:

1. The official policy of Palo Alto will be to retain natural habitat, except in areas where qualified City personnel certify that plants create a fire hazard or on firebreaks, roads or trails which are routinely maintained.
2. In times of higher fire danger, when public safety concerns require the use of non-routine fire prevention methods, the policy of the City of Palo Alto will be to use the least intrusive methods on open space lands. These methods, in the order they are to be used, are:
 - a. Establish fire lines on the perimeters of open space lands, leaving the centers natural.
 - b. Mow, rather than disc, fire lines when the terrain permits.
 - c. Disc fire lines.
 - d. Use herbicides as a last resort.
3. Prior to weed abatement activity, staff will identify and mark for protection any suspected nesting sites for burrowing owls or other ground dwelling animal species.
4. Herbicides shall not be used for weed abatement, except for the control of poison oak in high use areas or interfering with City weed abatement activity. The use of herbicides for this purpose is to be at the discretion of the Superintendent of Open Space and Sciences.
5. Private land owners should be encouraged to follow City policies on weed abatement.

Habitat Restoration

Working under the direction of the City, the Steward will design and recommend a habitat restoration plan for the Preserve. Upon approval, the City will implement the plan with the active support of the Steward. The plan will include:

- Habitat restoration on the site of the former houses and barn.
- Development of a tree planting plan and implementation schedule, incorporating the use of local, native sources of trees, with an emphasis on the re-establishment of oaks on the Preserve.
- Habitat restoration of other sections of the Preserve.
- Maintenance of restored areas during the first few years of new vegetation growth. This includes watering of plants and removal of any remaining non-native invasive weeds.
- Monitoring of habitat restoration activities, to determine the effectiveness of the plan and to identify areas for further research or effort.

Habitat restoration activities may require the closing of sections of the Preserve for periods of time, to allow grasses, trees and shrubs to become established. Areas to be closed for habitat restoration will be approved by the City. Appropriate signs will be installed to notify the public of the areas closed. These signs will be posted, both in the parking lot and adjacent to the closed area(s).

Management of Non-Native Invasive Weeds

Non-native, invasive weeds are encroaching on the natural habitat of the Arastradero Preserve. These include but are not limited to:

- Canary Grass
- Yellow Star Thistle
- Bull Thistle
- Bristly Ox-Tongue
- Poison Hemlock
- Fuller's Teasel
- Fennel
- Italian Thistle
- French Broom
- Pampas Grass

The Steward will develop and submit to the City a recommended plan for the removal or control of non-native, invasive weeds. Upon approval, the City and Steward shall implement the plan.

Methods of control of non-native invasive weeds will include:

- Hand and mechanical clearing of the plants, including removal of root stock
- Mowing prior to the full development of seeds or fruiting bodies
- Re-seeding of cleared areas with native plants, primarily grasses
- Planting of native trees and shrubs

Poison Oak Management

Compared with other open space lands operated by the City, poison oak is not a major problem on the Preserve. Where poison oak is found in dense concentration, generally along trails and around Arastradero Lake, poison oak will be controlled by trimming or removal. Herbicides shall be used as a last resort. Poison oak management will remain the responsibility of the City, with support as appropriate, from the Steward.

Tree Trimming

Trees on the Arastradero Preserve are trimmed or removed only when they create a hazard to the public. This usually involves trees which are along roads or on the trail system. City staff will respond to any tree issues on the Preserve. Trimming of trees along the edge of the utility road will be the responsibility of the City.

Lake Management

City staff is responsible for the removal of pond weed and cattails from Arastradero Lake. This work is accomplished through mechanical harvesting of materials to maintain fishing and viewing access to the Lake. No chemicals are used to control pond weed and cattail growth. Materials harvested are composted on site, to reduce the costs of transporting the materials to the City's Refuse composting facility.

Periodic fish creel census or other assessment work will be conducted by City staff to determine the health of the fish population in Arastradero Lake. There are no plans for restocking the Lake with fish. This is consistent with the 1983 Conceptual Master Plan.

There are no plans to perform any lake management activities on the small lake, sometimes referred to as John Soby Lake.

Riparian Habitat Management

Working with an existing citizens' committee, the City will proceed with the Public Works Department's Capital Improvement Projects for seismic repairs to Arastradero Lake dam and for repairs or replacement of the culvert system and erosion control on Arastradero Creek, between Arastradero Lake and the Preserve's southern boundary.

The role of the Steward will be to assist the City in riparian habitat management along Arastradero Creek.

Wildlife Management

Wildlife management on the Preserve will be limited during the first few years of this Plan to observations and research related to existing animal populations. The City and the Steward will work collaboratively on the development of a long range wildlife management plan, when appropriate.

The City's Wildlife Management Team will continue to collect information related to mountain lion sightings on the Preserve, and will continue to inform the public of any changes in mountain lion activity in the area. City staff will work closely with the State Department of Fish and Game and the U. S. Fish and Wildlife Service regarding any management issues related to mountain lions on the Preserve.

Fire Management

Given the above policy guidelines, Open Space and Fire Department staff will maintain the disked fuel breaks on the Arastradero Preserve, as outlined in the 1982 Foothills Fire Management Plan. This includes the disked of most perimeters which border homes and all perimeters of the 77-acre parcel. The only exception to the Foothills Fire Management Plan is that the disk lines on the Preserve will continue to be maintained at 60 or 120 foot widths, depending on the location of the disk line.

Staff from Open Space Division and the Fire Department will continue to work with the disked contractor and concerned citizens over the issues of habitat disruption and the loss of seedling oaks within the disk lines. In addition, staff will direct the Steward in the identification and marking for protection of any suspected sites for burrowing owls.

Although included as an element of the City's Fire Management Plan, proscribed burning of sections of the Preserve is not now being considered.

CHAPTER 4: CONSTRUCTION AND MAINTENANCE OF FACILITIES

Trails

Formal trails on the Preserve are generally former access roads, constructed before the City acquired the property in 1976. Because of increased traffic of all kinds on the Preserve, numerous informal trails have become established. These are particularly evident since the Preserve became a popular area for mountain bikes.

In March 2001, City Council adopted a comprehensive Trail Master Plan for the Arastradero Preserve. This document designates year-round and seasonal use trails, standards for the maintenance of these trails and guidelines for the construction of new trails. The Trail Master Plan also provides important information on areas of environmental constraint that has affected certain trail recommendations. This document will provide direction to staff and the Steward on methods of trail maintenance and repair.

Generally, trails will be maintained by removing overhanging vegetation, repairing the trail tread, and controlling erosion.

The City will work with the Steward to close informal trails as part of the habitat restoration plan for the Preserve. Signs stating "Trail Closed: Habitat Restoration" will be installed at the junctions of formal and informal trails. Soil preparation and seeding of informal trails will be conducted by the Steward under the direction of City staff. In addition, an active program of educating the public about the proper use of the Preserve and its trail system will be implemented by the City with the support of the Steward.

Sections of the formal trails on the Preserve may be closed for maintenance or habitat restoration. Trails may be closed to equestrian, bicycle, pedestrian or all travel during wet weather, when such traffic would damage the trail surface. Signs notifying the public about trail closures will be posted in the parking lot, trail heads and trail junctions.

One of the significant current issues related to the management of the Preserve is mountain bike activity on both the formal and informal trails. Staff has noticed a considerable increase in the number of informal trails ("single-track" trails), which contribute to overall environmental degradation of the Preserve, and which increases the potential for erosion and accidents. Based on the Municipal Code, bicycles are restricted to designated trails. Staff will increase its efforts to educate bicyclists to the need to stay on the trails. Staff and the Steward will work together to remove informal trails through habitat restoration. And, as a last resort, staff will use its citation powers to enforce the ordinances protecting the Preserve.

Road Repair and Maintenance

The Arastradero Creek Trail, Meadowlark Trail (Segment 1), Juan Bautista de Anza Trail (Segments 2 and 5), Woodland Star (Segment 1), and the connecting asphalt road to the Corte Madera water tank are the only designated vehicle-accessible service trails on the Preserve. As mentioned elsewhere in this Plan, these 10-foot wide gravel trails are maintained by the Utilities Department.

Signs and Fence Standards

In keeping with the low intensity use for the Preserve, the sign standards for the Arastradero Preserve are as follows:

Trail markers and signs will be made of painted aluminum, with a brown background and yellow lettering. The signs will be mounted on one (or two, if needed) 6-inch x 6-inch redwood post, extending no more than four feet above the ground. The intent is to have the signs accomplish their intended purpose without becoming the dominant features of the landscape. The only exceptions to this standard are the retention of the existing large wooden signs with routed lettering.

Split rail fencing will be the fence standard for future fencing projects on the interior of the Preserve. The existing fencing will be maintained along the perimeter, with replacement fencing being installed only in areas where there is a need to protect the Preserve from unauthorized access, including motor vehicles and motorcycles.

Additional signs will be added, as needed, to direct visitors and to mark areas where habitat restoration is occurring or to provide trail closure information.

Because large, carved wooden trail signs and interpretive displays in parking lots and at trail heads are often targets of vandalism, trail maps will continue to be made available in the parking lot and preserve entrances.

Picnic Areas and Benches

Presently, there is a single picnic table on the Vista Point trail. The table is made of galvanized leg supports, with wooden benches and tabletop. No other picnic facilities are proposed.

Benches have been approved for three locations on the Preserve. Bench standards will be comparable to those used at the Baylands Nature Preserve (six-foot oak, 13-slat contour benches, with metal ground installed frame). Benches will be made of wood, varnished and constructed in such a way as to minimize maintenance and vandalism.

Trash Receptacles

Trash receptacles are located at the parking lot and at Arastradero Lake. There are no plans for

additional trash receptacles on the Preserve, in keeping with the philosophy that visitors to the Preserve should carry their trash out with them.

Restrooms

Two portable restrooms are located at the parking lot, one of which provides handicapped access.

Drinking Fountains and Horse Watering Troughs

There is one drinking fountain at the parking lot. In addition, staff proposes the installation of a drinking fountain at Arastradero Lake.

Staff also proposes moving the horse trough from the barn site to Arastradero Lake.

Parking Lot and Bicycle Racks

During the development of conceptual plans for a gateway facility, citizens and staff discussed the expansion of the present 35-space gravel parking lot presently located on the 77 acre portion of the Preserve. The consensus of the design committee was to not expand the parking lot at this time. Limiting the impacts on the Preserve by users and limited funds were the factors that led to this decision. Since the lot often becomes full on warm weekend days, staff created a 20-space, unsurfaced overflow parking area which could be opened for special events.

The parking lot will remain unlighted and closed when the Preserve is closed.

Bicycle racks in the Arastradero Road parking lot are rarely used. Most park visitors with bicycles either transport them in vehicles to the parking lot or ride them directly onto the Preserve from other locations. Bicycle parking will be included in the designs for the gateway facility.

Gateway Facility

As part of the workplan for the Preserve approved by the City Council on May 13, 1996, staff will explore the potential for a new, modest facility to be used as a gateway to the Arastradero Preserve.

CHAPTER 5: UTILITIES DEPARTMENT MAINTENANCE RESPONSIBILITIES ON THE PRESERVE

Electric Utility

The electric utility service for the Alexis Drive area, Foothills Park and other City electric customers in the foothills is provided by the 12,470-volt overhead electric power lines entering the Arastradero Preserve from Arastradero Road near Tracy Court. The overhead electric lines continue into the Preserve and split near Arastradero Lake and the Corte Madera Booster Station. One leg continues overhead toward Alexis Drive, then goes underground along Alexis Drive and the adjoining streets. The main line continues overhead along Arastradero Creek. The overhead line splits again near the Boronda Reservoir. The main line continues a short distance overhead into Foothills Park. A tie line goes underground to the end of Alexis Drive, providing an alternate feed into the Alexis Drive area, should the direct buried underground cables along Alexis Drive fail.

The overhead facilities are standard wood poles with eight to ten-foot wood cross arms. The three current-carrying wires are installed on insulators on top of the cross arm. The wood poles (fir) are treated with approved preservatives to extend their life. Their expected life is 30 years. However, because of the increased exposure to termites and insects, the last set of poles along Arastradero Creek lasted only 20 years. The poles were replaced in 1993-94.

City-owned low-voltage communication cables are often mounted on the power poles and buried near the underground cables. These cables (about 1 inch in diameter) provide interconnection between water pumps, gas pressure sensors, water reservoirs, fire stations and radio facilities. Some maintenance of these facilities is necessary, usually when a problem with a communication circuit develops.

Access roads to inspect, repair and operate all overhead facilities need to be maintained. The most likely cause of emergency repairs is winter weather. Heavy rain and winds blow trees and branches into power lines. When this occurs, heavy trucks must have access to the damaged facilities, often during the storm itself, to make timely repairs. Repairs cannot be performed without vehicle access.

The areas near overhead facilities must be kept clear of trees, grasses, and brush (fuel sources). State of California codes require a ten-foot radius of cleared land around all poles with operable devices (switches, fuses, transformers, and corner poles). Trees must be trimmed or removed that overhang power lines or that may fall or be blown into power lines. Tree trimming can usually be done every two to three years. Ground clearing must be done annually.

Water, gas and wastewater utilities

Water, gas, and wastewater (WGW) lines enter the Arastradero Preserve from the south side of Arastradero Road, approximately 3/8 of a mile west of Page Mill Road. The water and sewer lines also continue in a westerly direction on Arastradero Road for about a mile. This branch of the sewer

line terminates at this location. The water line continues along Arastradero Road, and then enters the Preserve again and extends to the 1.5-million-gallon steel Corte Madera Reservoir.

The WGW lines entering the Arastradero Preserve nearest Page Mill Road continue in a southwesterly direction on the property to and past the Arastradero Lake and Corte Madera Pump Station. Except for the gas main, the lines then continue along the alignment of the Arastradero Creek Trail into Foothills Park,. After following the Juan Bautista de Anza Trail (Segment 2) for approximately 1200 feet, the gas main turns southeast and extends into the Palo Alto foothills neighborhood (Alexis Drive area), where it then ends.

These lines were constructed between 1962 and 1969 in anticipation of major development in the Palo Alto foothills. Although they have been well maintained, repairs will be necessary as these systems continue to age. The depth of these systems will require the City to dig large shored trenches to facilitate repairs. Large equipment, backhoes and dump trucks are necessary for underground repairs on the water, gas and wastewater lines.

APPENDIX: RESPONSIBILITIES OF STEWARD

Working under the direction of the City, the Steward will develop and submit to the City a recommended annual habitat restoration plan for the Preserve, which will include:

- ❖ Habitat restoration on the site of the former houses and barn.
- ❖ Development of a tree planting plan and implementation schedule, incorporating the use of local, native sources of trees, with an emphasis on the re-establishment of oaks on the Preserve.
- ❖ Habitat restoration of other sections of the Preserve.
- ❖ Maintenance of restored areas during the first few years of new vegetation growth. This includes watering of plants and removal of any remaining non-native invasive weeds.
- ❖ Monitoring of habitat restoration activities, to determine the effectiveness of the plan and to identify areas for further research or effort.

Working under the direction of the City, the Steward will develop and submit to the City a recommended aggressive program of non-native, invasive weed removal and control. All plans for such weed removal and control will be consistent with established City policy and will be approved by the Superintendent, Open Space and Sciences prior to implementation. Vegetation to be removed and/or controlled includes, but is not limited to:

- Canary Grass
- Yellow Star Thistle
- Bull Thistle
- Bristly Ox-Tongue
- Poison Hemlock
- Fullers Teasel
- Fennel
- Italian Thistle
- French Broom
- Pampas Grass

Methods of control will include:

- Hand and mechanical clearing of the plants, including removal of root stock
- Mowing prior to the full development of seeds or fruiting bodies
- Re-seeding of cleared areas with native plants, primarily grasses
- Planting of native trees and shrubs

Under direction of the City, the Steward will maintain the existing dedicated trail system.

Construction of new trails or significant upgrades to any existing trails in the Preserve will be done through the active collaboration of the City, the Steward and other volunteers. City Staff will work closely with the Steward to close informal trails in an effort to restore habitat.

Under direction of the City, the Steward will be involved in riparian habitat management along Arastradero Creek.

The City and the Steward will work collaboratively on the development of a long-range wildlife management plan, when appropriate.

Poison oak management will remain the responsibility of the City, with support as appropriate from the Steward.

The Steward will assist the City in the provision of limited interpretive services.

With the approval of the City, research on ecological processes and human impact will be designed and conducted by the Steward.

Staff anticipates that the Steward will be actively involved with the development of the gateway facility, including fund raising, landscaping, painting and other special projects.

