



# ***Atascadero City Council***

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## ***Staff Report - City Manager's Office***

### **Atascadero Creek Reservation No. 3 Acceptance of Quitclaim Deed and Acceptance of Assignment and Assumption of Lease (Revised)**

*(Atascadero Creek Reservation No. 3 is the portion of Atascadero Creek from the El Camino Real Bridge to the Lewis Avenue Bridge. The Atascadero Unified School District currently owns this property and the Atascadero Historical Society holds a lease on this property.)*

#### **RECOMMENDATION:**

Council adopt the Draft Resolution, thereby:

1. Accepting interest in real property conveyed by the Quitclaim Deed dated October 02, 2007 from the Board of Trustees of the Atascadero Unified School District; and,
2. Accepting Assignment and Assumption of the Atascadero Historical Society Lease to the City.

#### **DISCUSSION:**

The Atascadero Unified School District (District) is the owner of real property known generally as Atascadero Creek Reservation No. 3. This property is the portion of Atascadero Creek from the El Camino Real Bridge to the Lewis Avenue Bridge. Atascadero Creek Reservation No. 3 is subject to a lease between the District as Lessor and the Treasure of El Camino Real, now known as the Atascadero Historical Society (AHS) as Lessee. The Lease is dated October 11, 1965.

On February 28, 2002, Creekside Parcel Associates, James M. Harrison and Kenneth B. Fryer (Plaintiffs), filed a lawsuit against the City of Atascadero (City), the District, and the AHS, contending that they were in some manner responsible for the damage to the Plaintiffs' property.

In August of 2004, after a lengthy litigation process, all parties entered into a settlement agreement. This agreement contains several requirements, including the District's

conveyance of the Atascadero Creek Reservation No. 3 to the City. The 2004 settlement agreement also directs the District to assign the AHS Lease to the City.

In October 2007, the District executed a Quitclaim Deed for Atascadero Creek Reservation No. 3 and an Assignment and Assumption of Lease (Revised) for the AHS Lease of Atascadero Creek Reservation No. 3, to the City. Subsequently, a few legal irregularities were discovered and resolved. The documents are now ready for implementation.

Adoption of the attached Resolution will authorize the City Manager to execute the Certificate of Acceptance of the Quitclaim Deed and record the document. Also, the adoption of the attached Resolution will authorize the Mayor to execute the Assignment and Assumption of Lease (Revised).

### **FISCAL IMPACT:**

There are no direct fiscal impacts resulting from the acceptance of Atascadero Creek Reservation # 3. There may be future fiscal impacts associated with the acquisition, including, but not limited to:

- Legal costs and damages arising out of future injuries and claims.
- Maintenance and care of the vegetation in the riparian area, \$2,000 - \$10,000 annually. This estimate can vary depending upon storm damage, fire concerns, or other issues.
- Irrigation water for Creekside Park, \$800 - \$1,500. The water fee is currently paid by the Atascadero Historical Society.

### **ALTERNATIVES:**

None. The recommended actions are part of the 2004 settlement agreement with Creekside Parcel Associates, et.al.

### **ATTACHMENTS:**

1. Map of Atascadero Creek Reservation No. 3
2. Draft Resolution, including the Quitclaim Deed and the Assignment and Assumption of Lease (Revised)

**ATTACHMENT #1**  
**ATASCADERO CREEK RESERVATION #3**

