



## MEMO

**To:** NCRA Board of Directors

**From:** Executive Director Stogner

**Date:** November 8, 2017

**Subject:** **Agenda Item E.1 - Discussion and Possible Action Regarding Proposed Agreement with FEC Real Estate Services regarding February 2017 AT&T Settlement Agreement**

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Last February, a settlement agreement was reached between NCRA and AT&T regarding AT&T's unauthorized use of NCRA property for installation of telecommunications equipment and facilities between Healdsburg (MP 68.22) and Arcata (MP 285). Under the settlement agreement approved by the NCRA Board in February, AT&T made a one-time payment of \$345,000. These funds were used to pay legal costs (\$120,000) and to fund the NCRA agency budget (\$225,000).

NCRA's property manager, FEC Real Estate Services, has maintained that it played a key role in the ultimate settlement, having identified several of the AT&T encroachments and initiating enforcement discussions with AT&T as called for in NCRA's service agreement with FEC Real Estate Services. Under this assumption, FEC submitted a claim for 30% of NCRA's share of the proceeds or \$67,500. NCRA objected to payment of 30% of the settlement amount, and both parties agreed to work to settle the issue in a fair and equitable manner.

In August, the NCRA Property Committee, and in September the NCRA Board approved an agreement negotiated by FEC Real Estate Services which required PG&E to make a one-time payment of \$96,000 for unauthorized encroachments on NCRA property discovered by FEC. Under this agreement, NCRA would receive \$48,000 and FEC would receive \$16,000 plus \$32,000 in application fees, as authorized under the Asset Services Agreement between NCRA and FEC Real Estate Services.

In September, the NCRA Board approved the PG&E settlement with the stipulation that the \$96,000 be held in trust unless and until NCRA and FEC reached agreement on FEC's share of the AT&T settlement of last February.

After discussing the matter with FEC management, NCRA staff and FEC have reached a tentative agreement that FEC would accept \$20,000 (\$10,000 now and 2 \$5,000 payments over the next 18

months) as its total payment for the time it spent researching the AT&T encroachments that contributed to the settlement last February.

**Staff Recommendation:**

Approve the tentative agreement between FEC Real Estate Services and NCRA staff for a total payment of \$20,000 for FEC's contribution to the February 2017 AT&T settlement.