



Office of
**INDIAN RIVER COUNTY
ATTORNEY**

Dylan Reingold, County Attorney
William K. DeBraul, Deputy County Attorney
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MEMORANDUM

TO: Board of County Commissioners

FROM: Dylan Reingold, County Attorney

DATE: May 1, 2020

SUBJECT: Termination of Tower Structure Lease Agreements for 1340 Old Dixie Highway and 810 Bailey Drive

BACKGROUND.

Indian River County ("County") County leases property at 1340 Old Dixie Highway from the City of Vero Beach. That lease is set to expire in 2026. In December 1995, County entered into an agreement with Talcom, Inc., in which Talcom, Inc. made a one-time payment to County in exchange for the right to build a tower at the location (the "South Tower Lease Agreement"). As part of the South Tower Lease Agreement, County was able to install facilities on the tower. The South Tower Lease Agreement is set to expire on December 18, 2020. Per the South Tower Lease Agreement, upon termination, the tenant must remove all of its property and equipment from the property and the tower and the building become the property of the County. The County can terminate the South Tower Lease Agreement by providing written notice of the intent to terminate at least six months prior to the next term, which would be effective December 19, 2020. There is a sublease with Verizon Wireless under the South Tower, however, to date Verizon Wireless has not made any payments, as the County and Verizon Wireless have had issues with the installation of the Verizon Wireless equipment on the tower.

Additionally, County owns the property located at 810 Bailey Drive in the City of Sebastian. A similar agreement with Talcom, Inc. was entered into in December 1995 for the 810 Bailey Drive property (the "North Tower Lease Agreement"). Currently, the County receives income from subleases under the North Tower Lease Agreement. The current monthly revenue is \$4,801.92 with a 3% annual increase. The County also receives income from a lease directly with M/A COM, which is an annual revenue of \$12,000, and a lease directly with FPL, which for the period between April 2020 and March 2021 is \$10,964.38. This amount is subject to a 4% annual increase.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners ("Board") authorize the County Attorney's Office to send notice of termination to New Cingular Wireless, the assignee of the South Tower Lease Agreement and North Tower Lease Agreement, and all subtenants on both towers. Currently, the County brings in \$4,801.92 with a 3% annual increase per month from the

subleases of the North Tower Lease Agreement and the South Tower Lease Agreement. The County Attorney's Office also recommends that the Board authorize County staff to procure a consultant with expertise in communications leases who can assist the County in obtaining a lease with a carrier for collocation space on the towers at the best possible rental rate. The goal would be to procure these services as quickly as possible so that the County would be able to negotiate new leases with tenants for these two towers as soon as possible. The consultant would also be available to assist in negotiations for leases on other County structures. The leases with M/A COM and FPL are not being proposed to be terminated at this time.

FUNDING.

The loss in revenue due to termination of these leases is \$4,801.92 with a 3% annual increase per month. It is staff's intent to ensure new leases are in place shortly after December 18, 2020 to insure minimal revenue impacts. The cost of the consultant's services is not yet known and will be funded via budget amendment after an award is approved by the Board.

RECOMMENDATION.

The County Attorney's Office recommends that the Indian River County Board of County Commissioners ("Board") authorize the County Attorney's Office to send notice of termination to all tenants on both towers. The County Attorney's Office also recommends that the Board authorize County staff to procure a consultant with expertise in communications leases who can assist the County in obtaining a lease with a carrier for collocation space on the towers at the best possible rental rate.