




Office of Consent 05/23/2017  
**INDIAN RIVER COUNTY**  
**ATTORNEY**


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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
Kate Pingolt Cotner, Assistant County Attorney

MEMORANDUM

TO: Board of County Commissioners

THROUGH: Richard B. Szpyrka, P.E., Public Works Director 

FROM: William K. DeBaal, Deputy County Attorney 

DATE: May 17, 2017

SUBJECT: Extension of Lease and Agreed Notice to Vacate Property - Mermaid Carwash  
1935 43rd Avenue, Vero Beach, FL

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The County purchased the Mermaid Carwash owned by Timothy and Joshana Tynes on December 16, 2008. The property consists of a 0.47 acre lot with a 2-bay automatic carwash and 3 self-service wash bays with covered vacuum area. The facility was built in 1984. As part of the consideration for the purchase of the property, the County leased the property back to the tenant with the lease commencing on December 29, 2008 and expiring on March 31, 2010, for the amount of one dollar per month. Since that time, Mermaid Carwash has paid fair market value rent to the County. The current rent is \$1,750 per month and Mermaid Carwash has been a prompt and responsible tenant for the past 7 years. The County's lease with Mermaid Carwash expired on April 30, 2017, but continues on a month-to-month basis. The lease can be terminated or non-renewed with 60 days' notice to the other party, and the County gave Mermaid Carwash notice of non-renewal on February 17, 2017 (letter attached).

In June 2015, the County and the Florida Department of Transportation (FDOT) entered into a County Incentive Grant Program Locally Funded Agreement whereby FDOT would acquire the needed right-of-way for the SR 60/43<sup>rd</sup> Avenue intersection improvements with the cost of acquisition to be split equally between the parties. The FDOT uses the uniform method of right-of-way acquisition which requires payment of relocation expenses and certifying that the right-of-way is:

- Owned by FDOT or the local governmental agency in fee simple interest; and
- Has been cleared of any improvements; and
- Is ready for construction of the project

The uniform method also requires a 90-day notice to owners in possession subject to a lease that they must vacate the property. A copy of the 90-day FDOT Letter of Assurance to Mermaid Carwash is attached.

The County acquired the carwash site to use the property as a possible cure plan parcel, dividing the lot between the Cumberland Farms convenience store to the south and the Szechuan Palace restaurant to the north. The FDOT is in the process of finalizing appraisals, making good faith offers and negotiating with the landowners for needed rights-of-way. As the County will be responsible for demolition of the improvements, staff would like to end the lease agreement with Mermaid Carwash and begin the demolition bidding process.

Mermaid Carwash is being asked to vacate the property as of August 31, 2017. Staff has no objection to the 120-day extension of the current lease and requests the Board of County Commissioners consider the extension to allow the tenant adequate time to cease operation and vacate the property.

The Tynes have agreed to the extension and have signed the Extension of Lease and Agreed Notice to Vacate.

**FUNDING.** There is no impact to County funds associated with this Extension of Lease and Notice to Vacate.

**RECOMMENDATION.** Staff recommends approval of the 120-day extension so the lease will terminate on August 31, 2017 and authorize the Chairman to execute the Extension of Lease and Agreed Notice to Vacate.

#### ATTACHMENTS

IRC Letter to Tynes  
FDOT Letter of Assurance to Tynes  
Extension of Lease and Agreed Notice to Vacate

Copies to:  
Timothy and Joshana Tynes, Mermaid Carwash, Inc.  
Robin Brisebois, FDOT