

**REQUEST FOR CITY COUNCIL CONSIDERATION**

Meeting Date: March 1, 2021

Agenda Item: 5D	Prepared By: Chris Noury, City Attorney
Agenda Section: Consent: Resolution	Date: February 16, 2021
Subject: A Resolution to approve the Third Amendment to the Commercial Lease Agreement between the City and Midcon Cable	Division: Legal

**Background:**

The City currently leases a portion of the City’s warehouse located on the corner of Sixth Avenue South and Bay Street to Midcon Cable. The current lease is due to expire on March 31, 2021 and Midcon has timely requested that the lease be extended for a term of one year.

The Amendment to the Commercial Lease Agreement is attached for Council’s review. The document provides that the City will lease the premises to Midcon for a one-year term beginning on April 1, 2021 and terminating on March 31, 2022. The rent for the year term is \$181,885.56 payable in monthly installments of \$15,175.13 (the lease rate indicated above is an increase of the prior annual rate per the formula provided in the lease).

**Recommended Action:**

Approve the proposed Resolution

	Reviewed by City Manager	Reviewed by City Attorney
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Council Action:  
Motion By \_\_\_\_\_ 2<sup>nd</sup> By \_\_\_\_\_ To \_\_\_\_\_

**A RESOLUTION**

**A RESOLUTION TO EXERCISE THE CITY'S OPTION TO EXTEND THE LEASE BETWEEN THE CITY AND MIDCON CABLE COMPANY, INC. (MIDCON) REGARDING A PORTION OF THE CITY'S WAREHOUSE LOCATED ON THE CORNER OF 6<sup>TH</sup> AVENUE SOUTH AND BAY STREET FOR AN ADDITIONAL ONE-YEAR TERM WITH A LEASE RATE OF \$181,885.56 FOR THE ONE-YEAR TERM OF THE EXTENSION PAYABLE IN MONTHLY INSTALLMENTS OF \$15,157.13**

**Whereas**, The City and Midcon Cable Company Inc., entered into a two-year term Commercial Lease Agreement in April of 2014 whereby the City leased a portion of its warehouse located on the corner of Sixth Avenue South and Bay Street to Midcon for an annual lease rate beginning at One Hundred and Fifty Six Thousand Eight Hundred and Ninety Six Dollars (\$156,896); and

**Whereas**, in April of 2016 the City and Midcon renewed the lease for a two-year term which term expired on March 31, 2018; and

**Whereas**, the City and Midcon renewed the lease for an additional renewal term of three years from April 1, 2018 through March 31, 2021 with an annual rent for the first two years of the renewal term in the amount of \$177,444.60 with an increase in the annual rent for the third year of the renewal term per the formula contained within the lease.

**Whereas**, a document titled the Third Amendment to the Commercial Lease Agreement has been prepared for the purpose of extending the Lease Agreement for an additional one-year term beginning on April 1, 2021 and terminating on March 31, 2022 for \$181,885.56 payable in monthly installments of \$15,157.13.

**NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL FOR THE CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA:**

**Section 1:** The document titled the Third Amendment to the Commercial Lease Agreement is hereby approved.

**Section 2:** The City Manager is authorized to sign the document on behalf of the City.

**Section 3.** The Resolution shall be effective upon the date of passage.

**DONE, RESOLVED AND PASSED THIS FIRST DAY OF MARCH, 2021.**

\_\_\_\_\_  
Mayor Marilyn Hatley

ATTEST:

Date: March 1, 2021

\_\_\_\_\_  
City Clerk

RESOLUTION: RES 21-02

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

THIRD AMENDMENT TO  
COMMERCIAL LEASE  
AGREEMENT

THIS THIRD AMENDMENT TO COMMERCIAL LEASE AGREEMENT (hereinafter “AMENDMENT”), made effective as of the 1<sup>st</sup> day of April, 2021, by and between **City of North Myrtle Beach, a South Carolina Body Politic** (hereinafter referred to as the “LANDLORD”) and **Midcon Cables Co., Inc., a Missouri Corporation** (hereinafter referred to as “TENANT”).

WHEREAS, by Lease Agreement dated April 1, 2014, by and between LANDLORD and TENANT (“Lease”) LANDLORD leased to TENANT those certain Leased Premises, as defined in the Lease; and

WHEREAS, said Lease was amended by that certain First Amendment to Commercial Lease Agreement dated April 1, 2016, (“First Amendment”); and

WHEREAS, said Lease was amended again by that certain Second Amendment to Commercial Lease Agreement dated April 19, 2018, (“Second Amendment”); and

WHEREAS, pursuant to the lease and the Second Amendment the lease term was to be terminated March 31, 2021; and

WHEREAS, TENANT timely requested the extension of the lease for a period of one (1) additional year; and

WHEREAS, LANDLORD hereby agrees to TENANT’S request for extension based on certain terms and conditions; and

WHEREAS, in accordance with the terms of the Lease, any agreement to extend the term shall be evidenced in writing setting forth the terms of said extension; and

NOW THEREFORE, know all men by these presents, for and in consideration of mutual promises and covenants contained herein for One Dollar (\$1.00,) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties do agree as follows:

1. The Lease Term shall be amended to extend same for a period of one (1) year commencing April 1, 2021, and terminating on March 31, 2022.
2. In accordance with Section 2.01(A) of the Lease, the Annual Base Rent is to increase annually, and therefore, the Annual Base Rent for the one (1) year lease renewal term (from April 1, 2021 to March 31, 2022) shall be One Hundred Eighty One Thousand Eight Hundred Eighty Five and 56/100 (\$181,885.56) Dollars, payable in monthly installments of Fifteen Thousand One Hundred Fifty Seven and 13/100 (\$15, 157.13) Dollars.

3. Any additional rent that is due to LANDLORD by TENANT from April 1, 2021 due to the increase in the Annual Base Rent and any Additional Rent that may be due to LANDLORD by TENANT shall be paid simultaneously with and as consideration for the execution of this AMENDMENT.
4. Except to the extent modified herein, the Lease shall remain in full force and effect. All terms capitalized herein, but not defined shall have those same meanings as set forth in the Lease.
5. This document may be executed in multiple counterparts, the signature pages of which may be compiled to constitute an original document.

**IN WITNESS WHEREOF**, the LANDLORD and TENANT have executed this AMENDMENT effective as of the date and year above written.

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**LANDLORD:**

City of North Myrtle Beach, a South Carolina  
Body Politic

By: \_\_\_\_\_  
Michael G. Mahaney

Its: City Manager

Date: \_\_\_\_\_, 2021

**WITNESSES:**

\_\_\_\_\_  
\_\_\_\_\_

**TENANT:**

Midcon Cables Co., Inc., a Missouri  
Corporation

By: \_\_\_\_\_  
Charles D. Wheeler

Its: President/CEO

Date: \_\_\_\_\_, 2021