

## **RESOLUTION NO. 2016-74**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE LEASE AGREEMENT WITH THE KIRK VEALE, DBA VEALE OUTDOOR ADVERTISING, FOR CITY-OWNED DIGITAL BILLBOARD SIGN EFFECTIVE JULY 12, 2016**

**WHEREAS**, the City of Rohnert Park ("City") owns the property and sign for the digital billboard adjacent to the Highway 101 freeway sign, and the manual message board at the Community Center Complex; and

**WHEREAS**, the City and Kirk Veale (Tenant) entered into a Digital Billboard Lease ("Lease") effective June 11, 2013, and authorized by City Council Resolution No. 2013-070 on April 23, 2013, for the financing, installation, operation and maintenance of a Digital Billboard, and a new digital freeway sign on certain property owned by the City; and

**WHEREAS**, the Lease also provided for Tenant's replacement of a Community Center Sign under specified terms and conditions; and

**WHEREAS**, the City and Tenant would like to amend the Lease to relieve Tenant of its obligations under to design and replace the Community Center Sign in exchange for additional consideration; and

**WHEREAS**, the City and Tenant would like to amend certain other provisions of the Lease to reflect changed understandings and circumstances; and

**WHEREAS**, the City and Tenant would like to release Tenant from the obligation to construct, install, operate, and maintain the Community Center Sign; and

**WHEREAS**, the Tenant's sole obligation for the Community Center Sign shall be a payment to the City in an amount not to exceed \$65,000 for construction and installation of a sign to replace the Community Center Sign; and

**WHEREAS**, the Tenant shall no longer be obligated to secure a performance bond; and

**WHEREAS**, the City shall not permit commercial advertising on Community Center Sign unless City obtains written consent from Tenant, or City enters into a mutual written agreement granting Tenant exclusive right to sell all commercial advertising subject to the provisions pertaining to commercial advertising set forth in the Lease, including, Exhibit C; and

**WHEREAS**, the First Amendment to the Lease agreement with Veale shall be effective July 12, 2016.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rohnert Park that it does hereby authorize and approve a lease amendment by and between Kirk Veale, dba Veale Outdoor Advertising, a sole proprietorship, for the City-owned digital billboard

in substantially similar form as provided for in "Exhibit A," attached hereto and incorporated by this reference, subject to minor modifications as approved by the City Attorney.

**BE IT FURTHER RESOLVED** that the City Manager is hereby authorized and directed to execute all documents pertaining to the Lease Agreement for and on behalf of the City of Rohnert Park and to take all action necessary or reasonably required to carry out, give effect to, and/or consummate the transactions contemplated by this Resolution.

**BE IT FURTHER RESOLVED** that the Finance Director is hereby authorized and directed to increase the appropriation for the Community Center Digital Sign Capital Improvement Project No. 310-1520-400-9901 from \$50,000 to \$65,000 with funding from Kirk Veale, dba Veale Outdoor Advertising.

**DULY AND REGULARLY ADOPTED** this 12th day of July, 2016.

**CITY OF ROHNERT PARK**

  
Gina Belforte, Mayor

**ATTEST:**

  
Caitlin Saldanha, Deputy City Clerk

Attachment: Exhibit A

AHANOTU: Aye CALLINAN: Aye STAFFORD: Aye MACKENZIE: Aye BELFORTE: Absent  
AYES: ( 4 ) NOES: ( 0 ) ABSENT: ( 1 ) ABSTAIN: ( 0 )

**“Exhibit A”**  
First Amendment to the Digital Billboard Lease

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**FIRST AMENDMENT  
TO THE DIGITAL BILLBOARD LEASE AGREEMENT  
BY AND BETWEEN THE CITY OF ROHNERT PARK  
AND KIRK VEALE**

This First Amendment to the Digital Billboard Lease ("First Amendment") is made this 12th day of July, 2016, by and between the City of Rohnert Park ("City"), a California municipal corporation, and Kirk Veale, a sole proprietorship dba Veale Outdoor Advertising (formally doing business as B.P.O. of California) ("Tenant"). City and Tenant may sometimes be referred to hereinafter individually as a "party" and collectively as the "parties." Capitalized terms used throughout this First Amendment shall have the same meaning as provided for in the Digital Billboard Lease except where expressly stated otherwise.

**RECITALS**

**WHEREAS**, the City and Tenant entered into a Digital Billboard Lease ("Lease") effective June 11, 2013, and authorized by City Council Resolution No. 2013-070 on April 23, 2013, for the financing, installation, operation and maintenance of a Digital Billboard, a new digital freeway sign on certain property owned by the City and;

**WHEREAS**, the Lease also provided for Tenant's replacement of a Community Center Sign under specified terms and conditions; and

**WHEREAS**, the City and Tenant would like to amend the Lease to modify Tenant's obligations under the Lease related to the Community Center Sign; and

**WHEREAS**, the City and Tenant would like to amend certain other provisions of the Lease to reflect changed understandings and circumstances;

**NOW, THEREFORE, IT IS AGREED**, based upon mutual promises of the Parties, the sufficiency of which is hereby acknowledged, as follows:

1. **Community Center Sign.** Section 5.2.5 of the Lease, Exhibit C, and that portion of Section 1.7 of the Lease following "California" shall be deleted in its entirety. Section 5.2.5 shall be amended to read as follows:

"Community Center Sign. Tenant shall pay to the City the actual cost, not to exceed sixty-five thousand dollars (\$65,000), for the City's construction and installation of a sign to replace the Community Center Sign ("Replacement Sign"). Such payments shall be made in three installments. Tenant shall pay City twenty thousand dollars (\$20,000) for the first installment payment within ten (10) business days after the effective date of the First Amendment. Tenant shall pay City twenty-two thousand five hundred dollars (\$22,500) for the second installment payment within ten (10) business days prior to the commencement of construction of the

Replacement Sign. Tenant shall pay City an amount based upon actual costs which shall not exceed twenty-two thousand five hundred dollars (\$22,500) for the third and final installment payment. City shall notify Tenant in writing of the duty to make an installment payment and of the actual costs to construct and install the Replacement Sign, and shall provide Tenant documentation of such costs. Tenant shall pay City final payment within thirty (30) days of receiving a final invoice from the City. Any late or unpaid installments shall be subject to a late payment charge equal to five percent (5%) of the unpaid amount. Upon full payment, the City shall be fully responsible for the design, construction, installation, operation and/or maintenance of the Replacement Sign. City shall not permit commercial advertising on the Replacement Sign unless: (a) City first sought and obtained the written consent of Tenant, or (b) the Parties have entered into a mutual written agreement granting Tenant the exclusive right to sell all commercial advertising on the Community Center Sign for the term of the Lease, subject to the provisions pertaining to commercial advertising set forth in the Lease, including, Exhibit C. All payments under this amended Section 5.2.5 shall be returned by City to Tenant if construction of the Replacement Sign is not completed by 6/30/2017, or such other date as the Parties mutually agree upon in writing.

2. **Performance Bond.** Sections 5.5 and 6.11 of Exhibit B to the Lease are hereby deleted in their entirety.

Except as expressly amended by this First Amendment, all remaining provisions of the Lease are reaffirmed and shall remain in full force and effect.

**NOW, THEREFORE, BE IT RESOLVED**, that the City and Tenant executed this First Amendment as of the date first written above.

**CITY OF ROHNERT PARK, a California  
municipal corporation**

**KIRK VEALE, a sole proprietorship, dba  
Veale Outdoor Advertising**

By: \_\_\_\_\_

Darrin Jenkins, City Manager

Date: \_\_\_\_\_

Per Resolution No. 2016-\_\_\_\_ adopted by the Rohnert  
Park City Council at its meeting of July\_\_\_\_\_, 2016.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Caitlin Saldana, Deputy City Clerk