City of Inglewood
Economic and Community Development Department
Planning Commission
1 West Manchester Boulevard, Suite 400
Inglewood, CA 90301

Re: Potential Amendment to the Sign Overlay Zone/Master Sign Plan for 3900 West Manchester Boulevard – Agenda Item 5a

Dear Chairperson and Honorable Commissioners:

This office represents WOW Media, Inc. for all relevant purposes. We are writing concerning the special meeting that has been hastily called to consider a potential amendment to the Sign Overlay Zone ("SOZ") and Master Sign Plan for 3900 West Manchester Boulevard that would convert the existing on-premise, marquee sign at the site of the Forum to a full motion, off-site billboard. The purpose of our letter is to voice our concerns and objections to several aspects of the potential Commission action.

For nearly a decade, WOW Media has faithfully served as manager of the City’s billboard assets, a role which also included acting as marketing agent and monitoring and informing regarding any circumstances that could negatively affect the revenue derived from the Inglewood billboards. In this capacity, it has been my client’s pleasure to come to understand and to diligently protect the investment of the Inglewood community in out-of-home advertising and the public revenues it generates. Part of protecting the Inglewood investments is alerting the City to situations that could expose it to legal liability.

My client’s commercial interests are fully documented through the public process and the records of the City Clerk’s office. Where there may be an intersection with Wow Media’s commercial interest and the concerns articulated in this letter, I would urge you to appreciate that the information provided herein stands on its own merit and reflects WOW Media’s commitment to defending the City's interests in a manner that should be untarnished by the aforementioned intersection.
Issue 1: Failure to Comply with CEQA

The City Staff have caused to be filed a Notice of Exemption under CEQA 15303 (Conversion of Small Structures) claiming that:

CEQA exempts the conversion of small structures, including accessory structures, from one use to another. The amendment of the MSP will allow for the conversion of the Primary Project ID sign from a static electronic display to a full motion electronic display. This modification is negligible because the light level limitations in the MSP will remain unchanged and any sensitive resources are obstructed from viewing the sign, by existing buildings in the surrounding area. [Emphasis added.]

Discussion: Historically, the City contracted with WOW Media to construct and operate a series of municipal owned digital LED displays. In order to ensure that these City-owned signs cause no environmental harm, the City conducted a CEQA study for each and every one. With respect, we challenge a determination that converting a sign with a current refresh rate of 8 seconds (only 7.5 images per minute) to full motion is such an insignificant change that it does not even require a study. It would also be strange to require CEQA studies for publicly owned structures directly benefitting the citizens while completely excusing a similar structure which benefits only one large real estate developer.

While full motion video is certainly an appropriate land use under certain conditions and in select areas, the idea that it categorically has no environmental impact is a mistake. In fact, not only were each of the City-owned digital signs subject to a CEQA study, but WOW Media was denied the ability to place such signs anywhere near land uses the City determined to be uniquely sensitive, including schools, residences, and, in one case, a park. Therefore, a categorical exemption is not only contrary to the City’s prior practice, but the City may be establishing a precedent which will allow the owners of numerous static billboards located throughout the municipality to demand equal treatment.

In contrast to the marquee sign at the Forum, consisting of three separate screens, the owners of a much smaller single screen sign at the development located at the corner of Florence and La Brea were required to perform a CEQA study merely to convert from static digital to full-motion digital. The CEQA study was required by the City, even though the sign at Florence and La Brea is already permitted as an off-premise digital sign, while the Forum sign is being converted both to off-premise and full motion digital. This is simply not fair, equal treatment.
Issue 2: Full Motion Video is Inappropriate Near Sensitive Land Uses

Discussion: Section 12-80 of the Inglewood Municipal Code (“IMC”) controls “Billboards and Off-Site Signs.” In enacting this section of the IMC, the City Council sought to protect certain sensitive land uses from the potentially harmful impact of billboards and other off-site signs. The land uses determined by the City Council to require special protection include “property zoned for residential use, school, childcare facility, nursery school, hospital, place of worship, park or recreational facility....” (IMC Section 12-80 (F) and (I)(1)(a).)

The existing marquee sign at the Forum is only 230 feet from residential property, 500 feet from Bright Beginning Day Care and 520 feet from Kelso Elementary School. Furthermore, the site is directly across the street (150 feet) from a cemetery, which we understand includes a functioning chapel, where full motion ads could be highly intrusive on burials, religious services and graveside visits by mourners, particularly if the content is not appropriately limited/managed. The approval of full motion without even conducting a CEQA study, which may recommend appropriate mitigation measures, completely disregards the environmental sensitivity of the Forum site and would seem to violate provisions of the IMC requiring greater distance from such especially vulnerable land uses.

Issue 3: Limitations on Content of Off-Site Advertising

Discussion: The Inglewood City Council has expressly prohibited certain types of advertising content on off-site signs close to areas it deems sensitive. IMC Section 12-80 (F) provides the following:

Prohibited Billboard Advertising. It is unlawful for any person or entity to place, display, establish, keep, maintain or locate any advertisement for any tobacco product or any alcoholic beverage on any billboard within one thousand feet of, or so oriented that the message portion of the sign is visible from, any property zoned for residential use, school, child care facility, nursery school, hospital, place of worship, park or recreational facility in the City of Inglewood....

No off-site sign or billboard is allowed to advertise content deemed inappropriate by the City Council within 1000 feet of the above listed land uses. However, the Planning Commission now proposes to allow not merely an off-site sign within this 1000-foot exclusion zone, but an attention grabbing, full motion\(^1\) off-site sign; and doing so without imposing on the marquee sign

\(^1\) To be clear, neither my client nor my firm would disparage full-motion out-of-home advertising mediums — indeed, we actively support and promote the medium. However, we are forced (as are all advertisers using this cutting-edge medium) to acknowledge that the greater functionality makes any violation of restrictions by bodies of competent jurisdiction more pronounced.
at the Forum the same restrictions that govern the operators of all other billboards and off-site signs in the jurisdiction.

It requires neither crystal ball nor the divining exercise of council meeting minutes or other legislative history to perceive that the City Council has enacted certain provisions of the IMC specifically to protect the land uses desired by the Forum. However, these protections should not and cannot be extended where the Forum marquee is already displaying ads in violation of the clear restrictions of the IMC. Any plan to allow full-motion video will only draw more attention to such content and increase their potential impact.

For example, the photos below depict examples of currently featured ads on the marquee. Historically, the City has already properly determined such ads to be inappropriate at any site near homes, religious services or children’s schools:
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One can imagine the reaction of mourners at a funeral being forced to see the ad above immediately before and after a burial. The addition of full-motion video will only magnify the harm the City sought to avoid in enacting the 1000 foot spacing restriction of the IMC. More significantly, it may imperil the City’s ability to enforce the same types of restriction against others.

Consider “The Greatest Show in Bourbon” ad shown above within close proximity to school facilities. Any harm flowing from such a sign will again only be magnified when full-motion alcohol commercials are aired promoting drinking.

The Staff Report appears to dismiss any concern for the 1000 foot requirement, because of the claim that the marquee sign cannot be seen from such properties. While Wow Media does not concur that the marquee sign cannot be seen from any of the specially protected land uses, the above prohibition on certain adult content is stated in the alternative, i.e., “within one thousand feet of, or so oriented that the message portion of the sign is visible from” ... such properties. The prohibited content violates the IMC due to proximity alone, even if it cannot be seen from the protected land uses. However, the Staff Report does not recommend imposing on
the marquee sign the same content limitations enforced against all other off-site signs and billboards near such sensitive land uses.

**Issue 4: The Current Permit for a Marquee Sign at the Forum Allows Only On-Premise Content**

**Discussion:** While the SOZ for the site provides for one “Primary Project ID” sign which may display “Off-Premise Related Advertising,” what currently physically exists at the site is a “marquee” sign. Attached hereto as Exhibit “A” is the permit which allowed for the construction of the existing marquee sign at the site. The permit describes the structure as follows: “Install new marquee sign after demolition old marquee. 80 foot tall marquee sign with (3) LED screen.”

The Staff Report claims that the only request of the applicant is the removal of the refresh rate restriction on the marquee sign. However, the IMC limits marquee signs to displaying only on-premise content. IMC Section 12-76 (I) defines marquee signs as follows:

(I) Marquee Signs. The height of letters located on a marquee shall be affixed flat to the surface and shall not have a vertical height of more than two feet and shall not extend vertically or horizontally beyond the marquee. Marquee signs are permitted for theaters, ticket outlets, sports and live entertainment uses and the signs may be utilized only for publicizing upcoming live events and live entertainment events. A marquee sign shall have a minimum vertical clearance of eight feet above grade. [Emphasis added.]

In contrast to on-premise marquee signs, Section 12-80 of the IMC details the requirements for “Billboards and Off-Site Signs.” Among such requirements is the issuance of a Special Use Permit (Section 12-80 (B) (1)), which was never sought for the existing marquee sign nor for any other sign at the Forum. Furthermore, Section 12-80 contains other restrictions on new and enlarged off-site signs, none of which have been complied with in relation to the Forum.

It is concerning to note that the Forum has been displaying off-premise advertising without obtaining the necessary permit. What is even more perplexing is the proposed decision at issue would have the effect of not just turning a blind eye to existing violations but, indeed, rewarding the Forum. The importance of requiring all businesses functioning in Inglewood, small, large and everything in between, to operate within the confines of the law should not require admonition. Unfortunately, the current posture of the City vis-à-vis the Forum and the proposed leniency and permissive approvals make the admonition necessary to maintain fairness and consistency in the application of the law. In delivering this admonition, my client is hopeful that the City will look upon Wow Media as the type of commercial partner who can be trusted to deliver quality service as well as no-nonsense opinions speaking to the overall best interests of the City, and not shying away when those opinions are controversial and frustrating to outside interests.
Examples of the numerous off-premise ads currently displayed on the marquee sign are shown below:
Issue 5: The Conversion of the Marquee Sign Creates a Spacing Conflict with Another Billboard Less Than 260 Feet Away

IMC Section 12-80 (B)(2) require spacing of at least 1000 feet between billboards. The proposed Forum marquee sign is less than 260 feet away from an existing billboard located in the parking lot of the Sizzler Restaurant. While there is a potential argument that this existing spacing conflict is "grandfathered," the transformation of the marquee sign into a full motion, off-site billboard would require compliance with current law and should fail to qualify with any grandfathering.

Case law is clear that increasing the volume of ads with the addition of full motion constitutes an enlargement of this land use that requires compliance with current existing laws and cannot rely on legal, non-conforming status. (*Hansen Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, 572 [48 Cal.Rptr.2d 778, 803, 907 P.2d 1324, 1349] [the enlargement or intensification of a legal, non-conforming use is prohibited].)
Issue 6: Floodgate of Litigation

The case of Metromedia, Inc. v. City of San Diego (1981) 453 U.S. 490 [101 S.Ct. 2882, 69 L.Ed.2d 800] states that a city can ban billboards entirely. What municipalities may not do is to play favorites and allow only preferred speakers to exercise their First Amendment rights (U.S. v. Playboy Entertainment Group, Inc. (2000) 529 U.S. 803, 816 [120 S.Ct. 1878, 1888, 146 L.Ed.2d 865] [where government imposes restrictions on speech, it bears the burden of proving its constitutionality].)

The City of Los Angeles has been embroiled in more than a decade of litigation over its billboard laws, primarily because it granted exceptions from the rules for certain favored speakers. Los Angeles spent millions of dollars in legal fees to address a multitude of First Amendment lawsuits, winning some and losing others. The Planning Commission is now risking opening a floodgate of litigation by allowing a full motion digital sign at the Forum, without even a single CEQA study and in close proximity to land uses the City deems specially sensitive. Other outdoor advertising companies and the owners of numerous existing static billboards may be justified in filing lawsuits to demand similar exceptions from the City’s carefully crafted restrictions.

Exemptions from otherwise valid restrictions on speech have often been used to call into doubt both the reliability of the government’s claimed reasons for its restriction on speech and whether it has sufficiently furthered its claimed goals to pass constitutional muster. The Supreme Court in City of Ladue v. Gilleo (1994) 512 U.S. 43 [114 S.Ct. 2038, 129 L.Ed.2d 36] found unconstitutional a ban on off-site signage due solely to various exceptions made by the city for certain speakers:

Exemptions from an otherwise legitimate regulation of a medium of speech may be noteworthy for a reason quite apart from the risks of viewpoint and content discrimination: They may diminish the credibility of the government’s rationale for restricting speech in the first place. See, e.g., Cincinnati v. Discovery Network, Inc., 507 U.S. 410, 424-426, 123 L. Ed. 2d 99, 113 S. Ct. 1505 (1993). In this case, at the very least, the exemptions from Ladue’s ordinance demonstrate that Ladue has concluded that the interest in allowing certain messages to be conveyed by means of residential signs outweighs the City’s esthetic interest in eliminating outdoor signs. Ladue has not imposed a flat ban on signs because it has determined that at least some of them are too vital to be banned. [Emphasis added.]
By so easily exempting the marquee sign at the Forum from virtually all of the rules constraining other sign owners and outdoor advertising companies, the Planning Commission will be unintentionally inviting a slew of lawsuits by others who want equally favorable treatment.

Issue 7: Economic Impact of Full Motion Marquee Sign

The IMC has carefully crafted restrictions of new billboards and off-site signs. IMC Section 12-80 (I)(b) allows for the limited placement of non-conforming billboards and off-site signs in cases where the operator of the sign enters into an agreement to provide public revenue to mitigate any harms flowing from the sign. Section 12-80 (I)(b) provides the following:

**An agreement shall be entered with the City that establishes provisions for the City to receive a percentage of the billboard revenues and sets forth other standards as deemed appropriate and necessary to mitigate any impact to any adjacent property zoned for residential use, school, childcare facility, nursery school, hospital, place of worship, park or recreational facility in the City of Inglewood. In negotiating an agreement pursuant to this Section, the City Manager shall consider standards established under subsections (B) through (F) of this Section to mitigate the impact of any proposed billboard. The agreement shall be negotiated by the City Manager and/or designee and thereafter placed on a regular City Council agenda by the City Manager and/or designee. [Emphasis added.]**

By allowing for full motion, off-site ads on the marquee sign, the Planning Commission is not only failing to require compliance with current Inglewood law but negatively impacting the volume of revenue the City receives for mitigation purposes from other signs which have been constructed with the revenue sharing agreements required by the IMC. The Planning Commission would be creating unfair competition for other off-site signs which provide essential municipal revenue used for mitigation and other important public services.

Issue 8: Mitigation Should be Required Due to the Sensitivity of the Site

As stated above, the existing marquee sign at the Forum is extremely close to land uses deemed uniquely susceptible to the potential harms that can result from unregulated development of billboards and off-site signs. Without a CEQA study, the Planning Commission is not fully informed of all such harms and potential mitigation measures which could reduce the impact of a full motion video sign near homes, school facilities and a cemetery.
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In contrast to the proposed full motion sign at the Forum, the digital signs owned by the City are all far away from any schools or residences. In the one instance in which a City sign might be seen from residential property, WOW Media installed a costly new technology to deflect the light. No such consideration is being made in the case of the Forum, certainly because the problem has not even been examined. Therefore, the Planning Commission does not have a full understanding of the potential impact of a full motion sign on nearby residential and school properties and has not considered mitigation of any adverse impact.

Potential mitigation measures that could be imposed on the applicant include:

- Limiting the hours of operation of the sign late at night to reduce the impact of the moving lights on nearby properties.

- Using light limiting technology to deflect increased light pollution away from nearby residences.

- Content controls to prevent the display of prohibited adult content, including tobacco products, alcohol and R rated movies, in such close proximity to school children.

CONCLUSION:

In conclusion, Wow Media respectfully submits that the Planning Commission should deny the application and require, at a minimum, a CEQA study to analyze the potential impact of full motion video at the Forum site and possible mitigation measures. Furthermore, some legal analysis of whether the application is consistent with the legal restrictions imposed on all other off-site signs and billboards under the current IMC should be conducted so that there is no denial of Equal Protection or First Amendment rights.

Although there was not significant pre-notification of the proposed approval that will be presented for approval tomorrow at City Hall2, Wow Media considered heavily in the limited moments between learning of the meeting and the transmission of this letter that the position expressed above could create an acrimonious environment. Ultimately, in deciding to send the letter, Wow Media took inspiration from the recollection that over the entire history of its many-year commercial partnership with the City prior to this issue, the City leadership has always welcomed critical thought and expressed appreciation of honest, direct communication. Imbued with that spirit and the hope that it continues, Wow Media expresses the current application to alter the existing marquee sign at the Forum should be denied and the request approached more

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2 Due to the emergency nature of the meeting; we are not aware of circumstances that would justify this proposal as emergent but perhaps that is planned to be discussed at the council meeting?
cautiously, in order to limit the potential harm that may be caused to the City of Inglewood and its citizens.

Sincerely,

Anthony DiMonte

AD:sd
Enclosure
cc:  James T. Butts, Mayor jbutts@cityofinglewood.org
    Gloria Gray, Councilperson ggray@cityofinglewood.org
    Dionne Faulk, Councilperson dfaulk@cityofinglewood.org
    Eloy Morales, Jr. Councilperson EMorales@CityofInglewood.org
    Alex Padilla, Councilperson APadilla@cityofinglewood.org
    Cheryl Shaw, Commissioner cawshop@verizon.net
    David Rice, Commissioner dlriceinvestments@yahoo.com
    Patricia Patrick, Commissioner pgpatri47@gmail.com
    Larry Springs, Commissioner lnsprings@aol.com
    Aide Trejo, Commissioner A-trejo@sceglobal.net
    Artie Fields, City Manager afields@cityofinglewood.org
    Christopher E. Jackson, Economic & Community Development Director
    cejackson@cityofinglewood.org
    Royce K. Jones, City Attorney royce@kbblaw.com
**PERMIT NO:** 334369-1-117  
**BUILDING PERMIT**  
**CITY OF INGLEWOOD**  
**DIVISION OF BUILDING AND SAFETY**  
**ONE MANCHESTER BOULEVARD, INGLEWOOD, CALIFORNIA 90301**  
310-412-5204

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**GROUP**  
**TYPE**  
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**USE**  
Plans Checked: Yes  
Date: 12/5/13  
Plans Approved: Yes  
Date: 12/5/13  
Permit Issued: Yes  
Date: 12/5/13  
**PLAN CHECKS**  
**FEE**  
**ADD PLAN CHECK**  
**PERMIT FEE**  
9,011

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**LICENSED CONSTRUCTION DECLARATION**  
I hereby declare that I am licensed under provisions of Chapter 9 (commencing with Section 7600) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

**Owner-Builders Declaration**  
I hereby declare that I am exempt from the Contractor's License Law for the following reasons (Section 793.5, Business and Professions Code):  
1. As owner of the property, or any employees with wages as their sole compensation, all work and the structure is not intended or offered for sale. (Section 793.5, Business and Professions Code)

2. As owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 793.5, Business and Professions Code).

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**CONSTRUCTION Lending Agency**  
I hereby declare that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3007, Civ. C).

**Owner**  
**Address**  
**City**  
**State**  
**Zip**  
**Tel**  

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**DESCRIPTION OF WORK TO BE DONE**  
Install new marquee sign after demolition old marquee  
80' tall marquee sign with (3) LEDs stainless  

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**Valuation (including labor and material)**  
$1,100,000  

**APPROVALS**  
**DATE**  
**INSPECTOR**  
**Final**  
12/5/13  
Mike Boardman

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**INSP. CHECK**  
**DATE**  
**INSPECTOR**  
**Final**  
12/5/13  
Mike Boardman

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**INSPECTION RECORD**  
**PLANS CHECKED**  
**DATE**  
**PLANS APPROVED**  
**DATE**  
**PERMIT ISSUED**  
**DATE**  
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**FEE**  
**ADD PLAN CHECK**  
**PERMIT FEE**  
9,011

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**License Number**  
**License Class**  

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**APPLICANT**  
**DATE**  
**AUTHORIZED AGENT**  
**DATE**

Mike Boardman

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**Purpose:** To clear and prepare the land for the construction of a new building.

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**Additional Notes:**
- The applicant has correctly completed the inspection and approval process.
- The building meets all code requirements.
- All necessary permits have been obtained.
WORKERS' COMPENSATION DECLARATION

I hereby affirm under pain of perjury one of the following declarations:

1. I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier's name and policy number are:

   CARRIRER: [Name]
   POLICY NUMBER: [Number]
   POLICY EXPIRATION DATE: [Date]

   WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS ($100,000) IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 70000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number: [Number]
License Class: [Class]
License Expiration Date: [Date]

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

[Reason]

CONSTRUCTION LEADING AGENCY

I hereby affirm that there is a construction leading agency for the performance of the work for which this permit is issued (Sec. 2097, Civ. C).

I certify that I have read this application and that the above information is correct. I agree to comply with all City ordinances and State laws relating to building construction, and hereby authorize representatives of the City to enter upon the above mentioned property for inspection purposes.

APPLICANT: [Name]
DATE: [Date]
AUTHORIZED CONTRACTOR

OWNER OR AGENT

PWA, Div. App't
Health Dept.

Co. San. Dist.
School Dist.

Fire Sprinklers
Fire Alarm

APPROVALS

DATE

Foundation

Floor Joints

Sheathing

Rear

Ext. Loop

Total

1 INSPECTOR'S COPY