DATE: December 11, 2018

TO: Mayor and Council Members

FROM: Economic and Community Development Department

SUBJECT: Memorandum of Understanding with WOW Media, Inc. to Enter into a Billboard Agreement

RECOMMENDATION:
It is recommended that the Mayor and Council Members approve and execute Memorandum of Understanding with WOW Media, Inc. to enter into a Billboard Agreement.

BACKGROUND:
On November 3, 2015, the City entered into a Billboard Agreement (Agreement) with WOW Media, Inc. (WOW) to construct ten (10) generally designated billboard locations in the city. To date, six digital billboards (Billboards) have been constructed pursuant to the Agreement and are now operational. Two billboards are located on Century Boulevard (Locations 1 and 3), three billboards are located on La Cienega Boulevard (Locations 2, 7 and 8), one billboard is located on Manchester Boulevard (Location 5), and one additional billboard is nearing permitting on La Cienega Boulevard and Florence (Location 6).

Due to time and permitting constraints with Caltrans for proposed billboard locations along the 405 freeway corridor, the City approved a First Amendment to the Agreement on June 19, 2018.

DISCUSSION:
Subsequent to the approval of the Agreement, staff and WOW worked diligently to secure all necessary permits for construction of all Billboards as set forth in the Agreement. Two freeway billboard locations (Sites 9 and 10) that were originally identified in the Agreement were re-evaluated at the direction of Councilman Eloy Morales (Council District 3) due to unanticipated visual impacts to the surrounding residential areas. After reviewing photo simulations and conducting an examination of the details of the two sites, the Councilman and staff concurred that the billboard locations would not be suitable and this determination was conveyed to WOW. The freeway locations are the highest income producing billboards on the network.

In an effort to assist the City with recouping much of the loss revenue anticipated from the billboard displays provided for in the Agreement, WOW now seeks to explore the potential development, construction, operation, maintenance and replacement of up to two (2) billboard displays, each with two faces, in an area of the City outside the locations identified in the original Agreement. The areas is bounded by Florence Avenue to the north, Imperial Highway to the south, Crenshaw Boulevard to the east and La Brea Avenue to the west.
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If the MOU is approved, it is contemplated that a written Billboard Agreement consistent with the terms and conditions outlined in the MOU will be entered into by all parties, subject to City Council approval.

FINANCIAL/FUNDING ISSUES AND SOURCES:
All signing bonus and rent proceeds generated will be paid to the City as set forth in Agreement.

LEGAL REVIEW VERIFICATION:  
Administrative staff has verified that this report, in its entirety, has been submitted to, reviewed and approved by Special Counsel.

FINANCE REVIEW VERIFICATION:  
Administrative staff has verified that this report, in its entirety, has been submitted to, reviewed and approved by the Finance Department.

DESCRIPTION OF ANY ATTACHMENTS:
Attachment 1 – Draft MOU with WOW Media Inc.
APPROVAL VERIFICATION SHEET

PREPARED BY:
Christopher E. Jackson, Sr., Economic and Community Development Director
Royce Jones, Special Outside Counsel

COUNCIL PRESENTER:
Christopher E. Jackson, Sr., Economic and Community Development Director

DEPARTMENT HEAD APPROVAL:
Christopher E. Jackson, Sr. Econ. Comm. Dev. Director

CITY MANAGER APPROVAL:
Artie Fields, City Manager
MEMORANDUM OF UNDERSTANDING

This Memorandum Of Understanding ("MOU") dated as of December __, 2018 (the "Effective Date"), between City of Inglewood, a California municipal corporation and charter city (the "City") and WOW Media, Inc., a California corporation ("WOW"), is entered into by the parties to outline certain terms and conditions pursuant to which the City is prepared to engage in preliminary discussions regarding the potential lease of certain City-owned property by the City for the development, construction, operation, maintenance and replacement of billboard displays within the City of Inglewood. This MOU is also based upon the following:

WHEREAS, the City has entered into a number of billboard display agreements with private parties for the development, construction, operation, maintenance and replacement of billboards within the City of Inglewood (including the display agreements with WOW) resulting in the receipt of much needed revenue by the City used to fund in whole and in part a number of critical City services;

WHEREAS, as a result of the potential additional billboard revenue available to the City, and the need to generate additional revenue to fund critical City services, the City is desirous of engaging in preliminary discussions with qualified and experienced billboard owners and/or operators for the express purpose of potentially entering into billboard display agreements with such owners and/or operators for the strategic development, construction, operation, maintenance and replacement of billboard displays within the City; and

WHEREAS, consistent with the City’s goal of generating billboard revenue, the City previously entered into Billboard Lease Agreement No. 16-035, dated November 3, 2015, with subsequent amendments (the "Billboard Agreement") authorizing WOW to construct certain street and freeway billboard displays within certain specified areas of the City;

WHEREAS, due to unforeseeable circumstances beyond its control and despite fully complying with all its obligations under the Billboard Agreement, WOW has been unable to fully construct the billboard displays contemplated by the Billboard Agreement, thereby depriving the City of the much anticipated revenue that would have been generated by the billboard displays;

WHEREAS, in an effort to assist the City with recouping much of the loss revenue anticipated from the billboard displays provided for in the Billboard Agreement, WOW now seeks to explore the potential development, construction, operation, maintenance and replacement of two (2) billboard displays, each with two faces, in an area of the City outside the locations identified in the Billboard Agreement, consisting of Florence Avenue to the north,
Imperial Highway to the south, Crenshaw Boulevard to the east and La Brea Avenue to the west (the “Designated Area”), a map of which depicting the Designated Area is attached hereto as Exhibit A; and

WHEREAS, the City, in an effort to both recover and expand its revenue base from billboard displays, now seeks to engage in preliminary discussions with WOW regarding the potential development, construction, operation, maintenance and replacement of billboard displays within the Designated Areas pursuant to the terms and conditions of this MOU.

NOW, THEREFORE the City and WOW (collectively, the “Parties”) hereby agree as follows:

A. GENERAL TERMS.

(1) The Parties agree that the sole purpose of this MOU is to provide for preliminary discussions for the potential development, construction, operation, maintenance and replacement of billboard displays within the Designated Area only and that the City shall not be under any obligation to enter into any agreement for the actual development, construction, operation, maintenance and replacement of billboard displays within the Designated Area, and that any such agreement(s) entered into may be subject to the California Environmental Quality Act as well as general land use and entitlement requirements applicable to any proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area.

(2) The Parties agree to engage in preliminary discussions for a period of ninety (90) days; pursuant to which, the Parties shall discuss specific terms and conditions regarding the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area which shall include but not be limited to, all pertinent land use regulatory requirements, the number of billboard faces to be constructed, the scheduled period of time over which the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area is to take place, a compensation schedule consisting of any signing bonus payments, minimum and percentage rent payments and any other compensation matters deemed necessary by the City to generate and provide the necessary additional billboard revenue required to fund critical City services, termination and billboard removal terms and conditions, good faith deposits, billboard display limitations, City and local business allocation of billboard use, the submittal and approval of plans and specifications applicable to the proposed development, construction, operation, maintenance and replacement of billboard displays at the Designated Area, City insurance and indemnification requirements, and any other provisions required by the City for the proposed development, construction, operation, maintenance and replacement of billboard displays at the Designated Area.

(3) The Parties further agree that in the event that the preliminary discussions by the Parties pursuant to this MOU does not result in the preparation and execution of a mutually acceptable billboard agreement providing for the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area within the requisite 90 day MOU period, the Parties may agree to an extension of this MOU for an additional sixty
(60) day period; provided however, this MOU has not been terminated by the City or WOW, in their respective sole discretion, following the initial 90 day MOU period.

(4) WOW hereby fully acknowledges that the City may also engage in negotiations and enter into an agreement(s) with other third party billboard owners and/or operators with respect to the proposed development, construction, operation, maintenance and replacement of billboard displays at various sites within the City, including the Designated Area, and that such negotiations shall not constitute a violation of the terms of this Agreement. However, notwithstanding the foregoing, the City hereby agrees that should it engage in formal negotiations within the 90 day MOU period (or the 60 day extension period, if applicable) with any such other billboard owners and/or operators for the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area, City shall provide written notice to WOW.

(5) WOW fully acknowledges and agree that this MOU shall in no way constitute or be deemed to constitute any requirement that the City enter into a billboard agreement with the WOW or confer any right upon WOW to cause the City to enter into a billboard agreement with it as to the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area.

B. IMPLEMENTATION. This MOU authorizes City staff and Special Legal Counsel to engage in preliminary discussions with authorized representatives of WOW with respect to the proposed development, construction, operation, maintenance and replacement of billboard displays within the Designated Area consistent with the terms and conditions of this MOU.

C. COOPERATION. In connection with this MOU, the Parties shall reasonably cooperate with one another to achieve the objectives and purposes of this MOU.

IN WITNESS WHEREOF, the parties executed this Memorandum of Understanding as of the Effective Date.

CITY OF INGLEWOOD

By: ________________________________
James T. Butts, Jr., Mayor

WOW MEDIA, INC.

By: ________________________________
Scott Krantz, CEO
APPROVED AS TO FORM
AND LEGALITY:

By: _________________
    Kenneth R. Campos
    City Attorney

APPROVED:

By: _________________
    Royce K. Jones
    Kane Ballmer & Berkman
    Special Counsel

ATTEST:

By: _________________
    Yvonne Horton
    City Clerk
EXHIBIT A

Designated Area Map

[To Be Added]