DATE: December 11, 2018
TO: Mayor and Council Members
FROM: Economic and Community Development Department

SUBJECT: Second Amendment to Billboard Agreement with WOW Media, Inc.

RECOMMENDATION:
It is recommended that the Mayor and Council Members approve and authorize execution of a Second Amendment to Billboard Lease Agreement No. 16-035 with WOW Media, Inc.

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. As a result of this determination and considering that the freeway locations are the highest income producing billboards on the network, alternative billboard locations were to be identified and considered separately. Additionally, with these impediments being realized, both WOW and City staff have discussed certain amendments to the Agreement that will address the loss in revenue to the City and WOW.

The requested Amendments are summarized as follow:

1. Add an additional ten (10) year lease extension option to the Billboard Lease Agreement;
2. Provide for the relocation of the Location 4 billboard from its current location to Century Boulevard and La Brea Avenue;

3. The geological clearance requirement of both parties for the relocated Revised Location 4 site (identified and referenced as Location 4 in the First Amendment);

4. The relocation of the Revised Location 6 (formerly Location 6) to a privately-owned parcel and the reduction of its One-time Bonus from $100,000 per face to $75,000 to recover/recapture costs for the relocation; and

5. The elimination of the Premises Zone and Expanded Premises Zone (i.e., the radius requirements) which previously applied to Locations 4 and 6 as described in the First Amendment but are not applicable or available to the relocated Revised Locations 4 and 6 as identified and described in the Second Amendment.

The Mitigated Negative Declaration (MND) issued and certified with the original Agreement satisfied the California Environmental Quality Act (CEQA) and therefore this action is not subject to further CEQA review.

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: [Signature]
Administrative staff has verified that this report, in its entirety, has been submitted to, reviewed and approved by Special Outside Counsel.

FINANCE REVIEW VERIFICATION: [Signature]
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 – Second Amendment to Billboard Lease Agreement No. 16-035
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
SECOND AMENDMENT TO BILLBOARD
LEASE AGREEMENT NO.: 16-035

This Second Amendment to Billboard Lease Agreement No.: 16-035 ("Second Amendment") is made, entered and dated as of December __, 2018, by and between the City of Inglewood, a California municipal corporation and charter city ("Lessor") and WOW Media, Inc., a California corporation ("Lessee"). This Second Amendment specifically amends Billboard Lease Agreement No.: 16-035, dated November 3, 2015 (the "Initial Lease"), as amended by a First Amendment to Billboard Agreement, dated June 19, 2018 ("the First Amendment"). Both the Initial Lease and the First Amendment are sometimes referred to collectively herein as the "Amended Lease."

RECITALS

A. WHEREAS, on or about November 3, 2015, Lessor and Lessee entered into Initial Lease which provided for the construction of certain billboard displays within the City of Inglewood (the "Lease") by the Lessee.

B. WHEREAS, the Initial Lease described ten (10) Initial Locations for Billboards and an unspecified number of potential Future Locations. (Initial Lease paragraph 1.g.i and ii).

C. WHEREAS, due to certain unforeseen circumstances, primarily related to certain delays and difficulties in obtaining Caltrans sign permits, Lessor and Lessee entered into the First Amendment to provide for the unanticipated expenses due to Lessee’s inability to obtain the requisite Caltrans approval to construct the total number and types of digital sign Faces contemplated in the Initial Lease.

D. WHEREAS, due to additional unforeseen circumstances that, once again, resulted in the inability of Lessee to construct the total number and types of digital sign Faces as contemplated and provided for Amended Lease, Lessor and Lessee now desire to enter into this Second Amendment to provide for certain revisions to the Amended Lease as specifically described and provided below.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged hereby, the parties mutually agree as follows:

1. **Recitals Incorporated: Certain Defined Terms.** The recitals set forth above are incorporated herein by this reference and shall be deemed terms and provisions hereof with the same force and effect as if fully set forth in this Paragraph 1. Capitalized terms that are not
otherwise defined herein shall be deemed to have the same meanings herein as are ascribed to such terms in the Amended Lease.

2. **Reaffirmation of Terms.** Except as expressly modified herein, all of the terms, covenants, provisions and specially defined terms of the Amended Lease are hereby confirmed, ratified and reaffirmed by this Second Amendment and shall remain unchanged and in full force and effect. Except as amended herein, all terms, covenants, provisions and specially defined terms of the Amended Lease shall not be repeated in their entirety in this Second Amendment but are instead incorporated herein by reference and deemed terms, covenants, provisions and specially defined terms hereof with the same force and effect as if fully set forth.

3. **Relocation of Location 4:-East Freeway on-off-Ramp.** The Billboard site identified as Location 4 (East Freeway on-off Ramp) in the Amended Lease will now be relocated from its currently identified location to a specific location at Century Boulevard and La Brea Avenue mutually agreed upon by the parties after a determination of physical and geological feasibility (the “Revised Location 4”). Paragraph 6 of the First Amendment is hereby amended and accordingly revised to eliminate the “Premises Zone” and “Expanded Premises Zone” application to Location 4.

4. **Minimum Monthly Rent for Location 4.** Payment of Minimum Monthly Rent for the Revised Location 4 as provided in this Second Amendment shall now be calculated as set forth in Paragraph 4 of the First Amendment previously applicable to Location 4, subject to the same Threshold payment requirements, calculations, and adjustments established for Location 4 as set forth in said Paragraph 4 of the First Amendment (i.e., 50% percentage rent payments prior to reaching the Threshold amount, and 55% percentage rent once the Threshold amount has been reached). However, notwithstanding the foregoing payment adjustment for the Revised Location 4, the one-time bonus payment applicable to Location 4 as stated in Paragraph 2.b.ii., of the Initial Lease shall remain the same for the Revised Location 4.

5. **Relocation of Location 6:-La Cienega and Olive.** The Billboard site identified as Location 6 (La Cienega and Olive) in the Initial Lease shall be relocated to a private property location previously approved by Lessor (the “Revised Location 6”). Additionally, as a cost/revenue recovery measure for WOW’s relocation of Location 6, the one-time bonus payable on a per face basis for Location 6 shall be reduced from $100,000 per digital face to $75,000 per digital face with respect to the Revised Location 6.

6. **Amendment/Revisions of Paragraph 6 of the First Amendment.** That portion of Paragraph 6 of the First Amendment with respect to the “Premises Zone” and “Expanded Premises Zone” applicable to Location 4 and Location 6 is hereby amended and accordingly revised to eliminate its application to the Revised Location 4 and the Revised Location 6 established by this Second Amendment.

7. **Term of the Amended Lease.** The initial term of the Amended Lease is hereby extended for an additional period of ten (10) years from the Effective Date of the Initial Lease (meaning that the initial term shall now be a total of twenty (20) years from the Effective Date, prior to the exercise of Options). However, notwithstanding this
extended initial term, all Options and option periods previously provided in paragraph 2.a.i of the Initial Lease shall remain unchanged.

8. **Joint Preparation of Second Amendment**: This Second Amendment shall be deemed to have been jointly prepared by the parties to it, and it shall not be construed against any party hereto by virtue of California Civil Code Section 1654 or any other provision of law.

9. **Severability.** The invalidity of any provision of this Second Amendment, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof or of any provision of the Amended Lease.

10. **Effect of Amended Lease.** Except as otherwise and specifically modified by this Second Amendment, the Amended Lease shall remain in full force and effect.

11. **Second Amendment.** This Second Amendment consists of three (3) pages of text and no exhibits or attachments.

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed as of the date first above written.

**CITY OF INGLEWOOD**

By__________________________

James T. Butts, Jr.,
Mayor

**WOW MEDIA, INC.**

By__________________________

Scott Krantz,
CEO

**APPROVED AS TO FORM AND CONTENT:**

By__________________________

Kenneth R. Campos
Lessor Attorney

**APPROVED:**

By__________________________

Royce K. Jones
Kane, Ballmer & Berkman
Lessor Special Counsel

**ATTEST:**

By__________________________

Yvonne Horton
City Clerk