

10/30/2018 PLUM Committee
Item No. 12
CF 18-0230

-----Original Message-----

From: gk@gideonlaw.net <gk@gideonlaw.net>
Sent: Tuesday, January 23, 2018 8:45 AM
To: Gideon Kracov <gk@gideonlaw.net>
Cc: Paul Roman <proman@uapcompanies.com>; eli@biglawpartners.com
Subject: Bixel Agreement - Settlement Confidential
Importance: High

Paul:

See attached for your asap review. The idea is to sign before the 430pm hearing today.

My client concurrently is reviewing and reserves rights to edit.

I am copying client's transactional lawyer Eli Taban.

Please confirm you got this.

We are available all day to finalize. 213-700-4448.

Stay tuned for something in writing in AM.

Sent from my iPhone. Please excuse typos.

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Date: 10/30/18
Submitted in PLUM Committee
Council File No: 18-0230
Item No.: 12
Communication from
Applicant Representative

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Exhibit A
Depiction of Billboard & Building Top Signage
Bixel Tower - 675 S. Bixel Street
Tract No. _____, Lots _____

**Building Top
Signage**

**100' X 140'
Billboard
Easement**

7th Street

Bixel Street



MEMORANDUM OF AGREEMENT

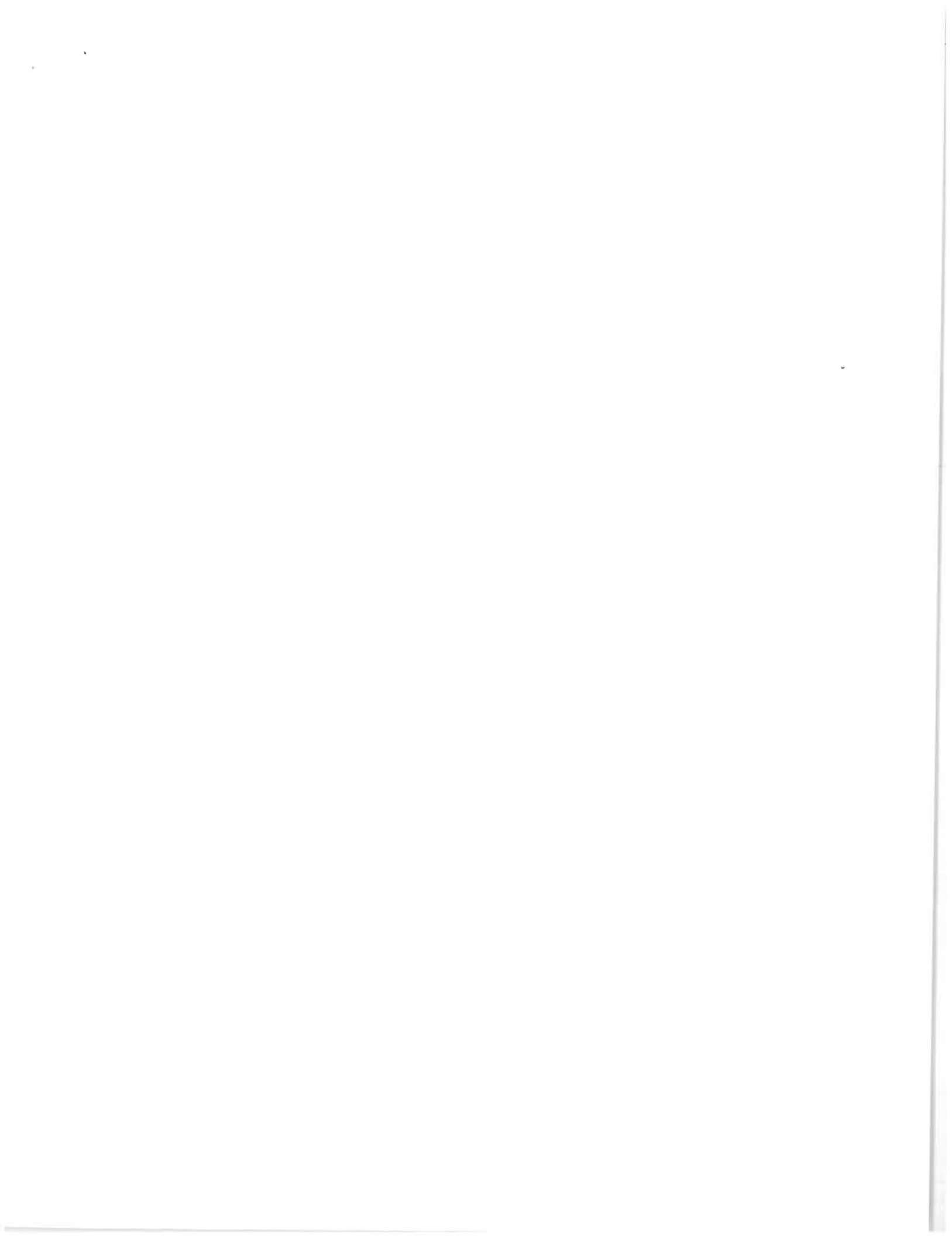
Prepared by and please return to:

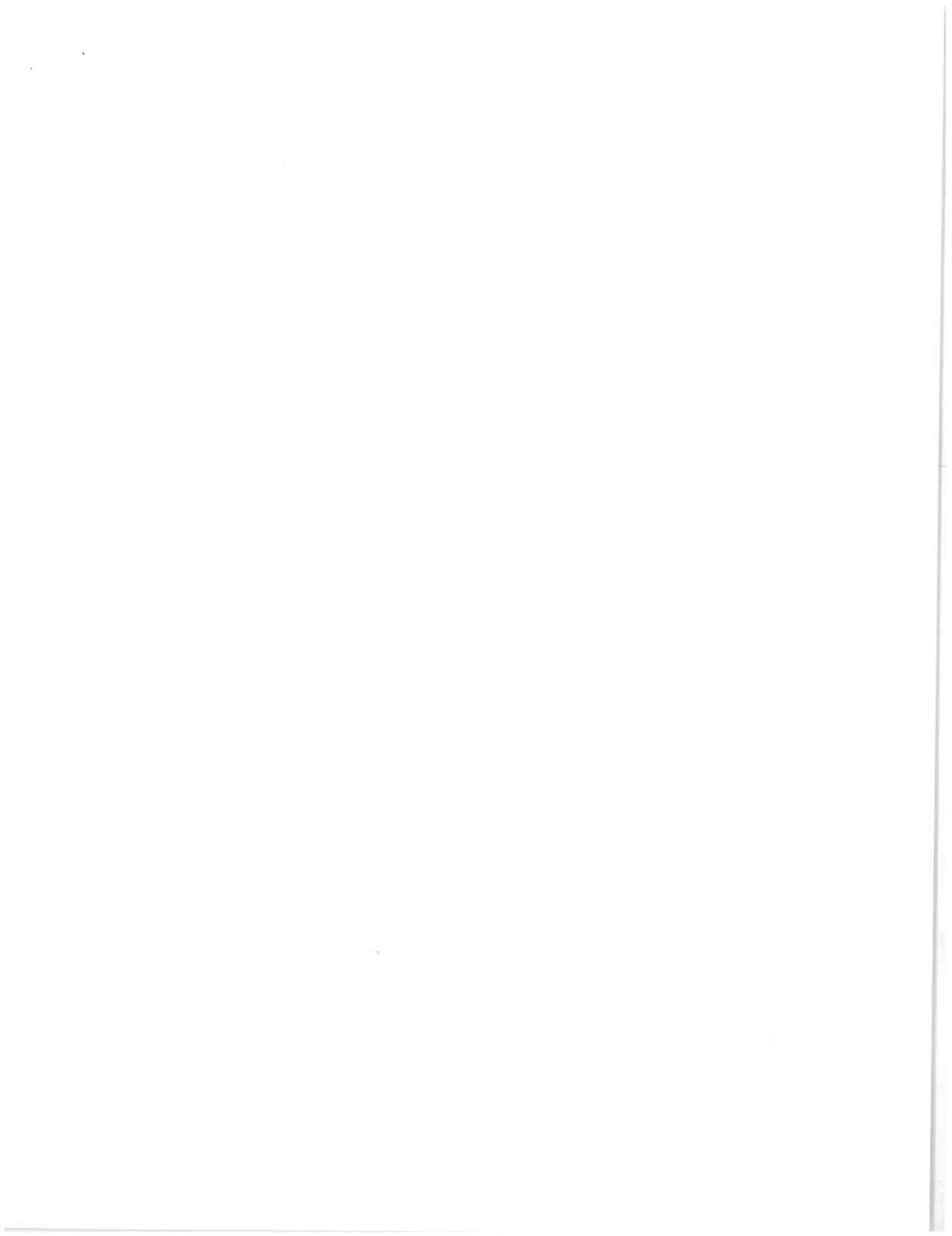
John Mackey
Little Wood Landing, LLC
4679 W. Prickly Pear Dr.
Eagle, ID 83616

This MEMORANDUM OF AGREEMENT is made and entered into as of the 23rd day of January, 2018, by and between _____ ("**Declarant**") and LITTLE WOOD LANDING, LLC, a California limited liability company ("**Billboard Easement Beneficiary**").

1. **Agreement of Billboard Easement.** This Memorandum is intended to evidence of record the fact that Billboard Easement Beneficiary and Declarant have agreed to enter into a certain Billboard Easement Agreement ("**Agreement**"), pursuant to which, among other things, Declarant shall grant to Billboard Easement Beneficiary or any assignee, nominee or successor thereof, the right to place billboard signage on the south-facing facade of Declarant's pending development project commonly known as Bixel Tower, located at 675-685 South Bixel Street; 1111 West 7th Street; 1112-1142 West Ingraham Street, Los Angeles, CA ("**Project**"), with easement area dimensions for the placement of such billboard signage not to be less than one hundred feet (100') wide by one hundred forty feet (140') tall, which shall begin no less than one hundred forty feet (140') from the ground-floor/street level elevation of the Project, and the top of which shall end no less than fifty feet (50') from the top of the Project elevation, which is estimated to be three hundred ninety-six feet (396') tall (such that the top of the billboard easement area would be approximately three hundred forty-six feet (346') from the street level), a rough depiction of which is shown on Exhibit 'A' attached hereto. The material terms and conditions of the Agreement, including, without limitation, with respect to access, installation, maintenance, repair and replacement shall be substantially similar to those of that certain Grant of Easement for a billboard dated December 10, 2009 (a copy of which is attached hereto as Exhibit 'B'), pursuant to which Billboard Easement Beneficiary is currently the beneficiary of billboard easement rights with respect to the property located at 1100 Wilshire Blvd., Los Angeles, CA.

2. **Condition to Declarant Entitlements.** Declarant acknowledges and agrees, and shall use good faith efforts to cause the Central Area Planning Commission ("**CAPC**"), to include the mutual execution of the Agreement in accordance with this Memorandum as an express condition of CAPC's approval of Case No. ZA-2015-3926-CU-CUB-SPPA-SPP-1A for the Project (the "**Entitlement Condition**"). If the Entitlement Condition is satisfied, Billboard Easement Beneficiary will withdraw its appeal of Case No. ZA-2015-3926-CU-CUB-SPPA-SPP-1A. Further, the Agreement shall contain a depiction of the easement area and full legal description prepared by PSOMAS, with all of Billboard Easement Beneficiary's rights thereunder acknowledged and described in the covenants, conditions, and restrictions of record for the Project which shall be recorded by Declarant prior to issuance of any demolition or building permits for the Project. For the avoidance of doubt, Declarant hereby agrees that it (and any successor thereof) shall not, under any circumstance, be permitted to commence with any construction related activity





for the Project before the Agreement is mutually executed and recorded in the Official Records of the County Recorder's Office for Los Angeles County.

3. **Vesting for Billboard Easement Beneficiary.** The parties acknowledge and agree that, prior to issuance of any demolition or building permits for the Project, the Billboard Easement Beneficiary shall assign all of its right, title, and interest under the Agreement to a newly formed entity that shall be jointly owned by Billboard Easement Beneficiary and Declarant (or affiliates thereof) in equal parts (i.e., 50% each); provided, however, Billboard Easement Beneficiary shall maintain full control over such entity as its managing principal. The type of entity and the terms and conditions of such entity's governing documents shall be mutually agreed upon by the parties concurrently upon their entry in the Agreement, with the form of such entity's governing documents to be attached as an exhibit to the Agreement. Notwithstanding the foregoing, the parties hereby acknowledge and agree that Declarant shall contribute its fifty percent (50%) pro-rata share of all costs associated with obtaining necessary government approvals for the signage rights under the Agreement from the date hereof as and when directed by Billboard Easement Beneficiary in its reasonable discretion, and any failure to promptly so contribute shall accrue default interest at a compounding rate of ten percent (10%) per annum and shall be deducted from any distributions eventually to be made by Billboard Easement Beneficiary to Declarant pursuant to the entity's governing documents.

4. **Additional Project Façade Signage.** Declarant hereby agrees that Billboard Easement Beneficiary shall also receive fifty percent (50%) of any and all revenue generated at the Project from any business identification signage, top of building signage, or any advertising signage from any portion of the exterior of the Project not already included in the Agreement's delineated easement area, such as depicted to be 'Building Top Signage' outside of the 'Billboard Easement' area on Exhibit 'A'. All such signage shall be available for use at arm's length market rates and shall be subject to baseball style arbitration in the event of any dispute over the determination of market rate value between Declarant and Billboard Easement Beneficiary.

5. **Limitation of Memorandum; Binding Intent.** Upon mutual execution of the Agreement, nothing contained herein shall be deemed to limit, modify or otherwise alter the respective rights and responsibilities of Declarant and Billboard Easement Beneficiary under the Agreement; provided, however, until such time as the Agreement is mutually agreed upon, all terms provided herein shall be deemed binding upon the parties and enforceable under California law, it being acknowledged and agreed that the terms hereof are entered into for good and valuable consideration.

6. **Recording.** This Memorandum shall be recorded in the Official Records of Los Angeles County, California.

7. **Counterparts.** This Memorandum of Agreement may be executed in counterparts, each of which so executed and delivered shall be deemed and original, but all of which taken together shall constitute but one and the same instrument.

8. **Successors & Assigns; Agreement Running with Land.** All covenants and agreements contained in this Agreement shall be construed as covenants running with the land, and all rights and powers given to, and obligations imposed upon, the respective parties shall be

construed as inuring to and binding upon their respective successors-in-interest and permitted assigns. Declarant shall not be permitted to assign its interest under the Agreement without the prior written consent of Billboard Easement Beneficiary, provided such consent shall not be unreasonably conditioned, withheld, or delayed. Billboard Easement Beneficiary shall have the right to assign its interest in the Agreement at anytime without the prior consent of Declarant, provided it shall notify Declarant of any such assignment in writing. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and assigns.

[Signatures appear on the following pages]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the Effective Date set forth above.

(As to Declarant)

DECLARANT:

Signed in the presence of:

_____,
a _____

Print Name: _____

By: _____

Print Name: _____

Name: _____

Title: _____

[INSERT CALIFORNIA NOTARY ACKNOWLEDGEMENT]

(As to Billboard Easement
Beneficiary)

Signed in the presence of:

Print Name: _____

Print Name: _____

BILLBOARD EASEMENT BENEFICIARY:

LITTLE WOOD LANDING, LLC,
an Idaho limited liability company

By: _____

Name: John Mackey

Title: Manager

[INSERT CALIFORNIA NOTARY ACKNOWLEDGEMENT]

EXHIBIT A

675 Bixel Depiction of Billboard Easement Area & Building Top Signage Area

[SEE ATTACHED]

EXHIBIT B

1100 Wilshire Billboard Easement Agreement

[SEE ATTACHED]

MEMORANDUM

To: Allan Abshez, Loeb & Loeb, LLP
FROM: Alex Irvine
DATE: October 30, 2018
RE: Projects that included Mitigated Negative Declarations within the CCWSP area

Dear Allan,

Per your request, please see below for a list of recent projects in the vicinity of the Bixel Residences project that were approved with a Mitigated Negative Declaration.

1100 Wilshire Blvd

- Case No. CPC-2003-5286-SPE-ZV-CU-ZAD-SPP and ENV-2003-5287-MND
- The City Planning Commission approved the conversion of an existing office tower to 240 dwelling units and 17,000 square feet of commercial.

1050 Wilshire ("Glo")

- Case No. DIR-2003-1372-SPP-SPPA and ENV-2003-1374-MND.
- The Director of Planning approved 201 new dwelling units within two 75-foot high buildings and not more than 10,000 square feet of commercial space.

1111 Wilshire (Initial Approval – High Rise)

- Case No. DIR-2003-1372-SPP-SPPA-M2 and ENV-2003-1374-MND
- The Director of Planning approved the construction of a 55-story, 640-foot high rise tower, including 398 condominium units and a 140 room hotel over an 8-story parking podium containing 814 parking spaces within the property located at 1111 Wilshire Blvd as a Unified Development with 1050 Wilshire Blvd.

1111 Wilshire ("Eleven Eleven")

- Case No. DIR-2003-1372-SPP-SPPA-M3 and ENV-2008-7218-MND-REC
- The Director of Planning approved a 7-story building with 214 residential units and 7,743 square feet of neighborhood serving open space.

1135-1147 West 7th Street

- Case No. DIR-2015-2799-SPP-DB and ENV-2015-2800-MND
- The Director of Planning approved a 27-story, 278-foot high rise tower, consisting of 241 condominium units and 7,291 square feet of commercial floor area.