

RECORDATION REQUESTED BY:
AFTER RECORDATION RETURN TO:

IN-N-OUT BURGERS, a California corporation
13502 Hamburger Lane
Baldwin Park, California 91706-5885
Attention: Real Estate Department

RETURN BY: MAIL (X) PICK UP ()

INWest 149627 Pt 13-042-0013

Store # _____

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is made as of this 14th day of August, 2009, between DW ASSOCIATES, L.L.C., a Utah limited liability company ("Landlord") and IN-N-OUT BURGERS, a California corporation, having an office for business at 13502 Hamburger Lane, Baldwin Park, California 91706-5885, ("Tenant").

In consideration of One Dollar (\$1.00) and other valuable consideration paid by Tenant to Landlord and the mutual covenants contained in that certain Ground Lease between the parties hereto dated on or about May 8, 2009 as amended by that certain First Amendment to Ground Lease dated on or about July 21, 2009, (as amended, the "Lease"), Landlord has leased and does hereby lease to Tenant, and Tenant has hired and does hereby hire from Landlord, upon the terms and conditions set forth in the Lease, the real property described on **Exhibit A** to this Memorandum. The Center of which the leased real property is a part is described on **Exhibit B** to this Memorandum. Exhibits A and B are incorporated herein by reference.

The term of this Lease is twenty (20) years commencing on the Rent Commencement Date as defined in the Lease. The Lease provides for options to renew for two (2) terms, each for a period of five (5) years, and one (1) term for a period of four (4) years and eleven (11) months.

The Lease contains the following covenants and agreements:

Landlord grants Tenant and the employees, agents, contractors, suppliers, customers and invitees of Tenant, the non-exclusive right to use all of the Common Area. The Common Areas will remain open at all times during the Term (subject to temporary closures by Landlord as reasonably necessary to preempt the establishment of prescriptive rights) and Landlord shall not allow the use of the Common Areas within the Tenant Protection Area for any use not acceptable to Tenant in its sole, but reasonable discretion (including without limitation any carnival type shows, rides, entertainment, outdoor shows, automobile and other product shows, or the leasing of kiosks).

Landlord may, only with the consent of Tenant, make any alterations or changes to the Tenant Protection Area or the improvements thereon. Tenant shall have the right to disapprove any alterations or changes to the Tenant Protection Area in Tenant's sole and absolute discretion. The Tenant Protection Area is depicted on **Schedule 1** to this Memorandum.

Landlord or any Affiliate thereof shall not allow any other portion of the Center (other than the Premises) to be used for a quick-service or fast food, hamburger-oriented restaurant including,

without limitation, quick-service restaurants such as Burger King, Carl's Jr., Jack-in-the-Box, McDonald's, Wendy's, and Sonic Burgers. The restriction set forth above is referred to herein as the "Tenant Exclusive". Tenant acknowledges and agrees that the foregoing restrictions shall not apply to Red Robin or its successors wherever in the Center Red Robin may be located.

If during the Term of this Lease, Landlord is able to acquire or ground lease all or a portion of the UDOT Remainder Parcel which is approximately depicted on **Schedule 2** to this Memorandum, Landlord agrees that (i) it shall not develop or allow to be developed on the UDOT Remainder Parcel (or any portion thereof) any improvement in excess of thirty-five feet (35') in height inclusive of architectural treatments but excluding signage (provided, however, that any such signage shall not materially interfere with the visibility of Tenant's Freeway Sign); and (ii) the Tenant Exclusive shall apply to any use conducted on all or any portion of the UDOT Remainder Parcel.

The purpose of this Memorandum is to give record notice of the Lease and of the terms thereof and the rights created thereby. It is not intended to amend or modify any of the rights and obligations set forth in the Lease. To the extent that any provisions of this Memorandum and the Lease conflict, the provisions of the Lease shall control.

This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

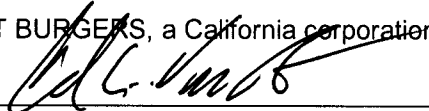
TENANT

LANDLORD

IN-N-OUT BURGERS, a California corporation

DW ASSOCIATES, L.L.C.
a Utah limited liability company


By:

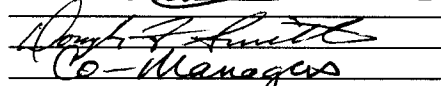


Carl G. Van Fleet
Executive Vice President of Planning and
Development

By:

Its:





Co-Managers

*****SIGNATURES MUST BE NOTARIZED*****

STATE OF UTAH
COUNTY OF SALT LAKE

On the 20 day of July, 2008 personally appeared before me Douglas Smith & Warden Law who duly acknowledged to me that he executed the foregoing Memorandum of Lease as Manager of DW ASSOCIATES, L.L.C.
CO-

Geri Lynn West
Notary Public



STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.

On August 14, 2009 before me, Lori Brazzill, Notary Public, personally appeared Carl G. Van Fleet, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Lori Brazzill
Notary Public



EXHIBIT APREMISES LEGAL DESCRIPTION

BEGINNING AT A POINT NORTH 89°53'25" WEST ALONG THE SECTION LINE 1108.33 FEET AND SOUTH 291.43 FEET FROM A FOUND UTAH COUNTY BRASS CAP MONUMENT MARKING THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, AND RUNNING THENCE SOUTH 89°28'19" EAST 7.15 FEET; THENCE NORTH 00°31'00" EAST 30.77 FEET; THENCE EAST 114.16 FEET; THENCE SOUTH 56.76 FEET; THENCE SOUTH 54°20'10" EAST 146.19 FEET; THENCE SOUTH 35°39'51" WEST 131.76 FEET; THENCE SOUTH 62°58'03" EAST 53.12 FEET; THENCE SOUTH 36°09'04" WEST 71.05 FEET TO A POINT ON THE PROPOSED CONTROLLED ACCESS LINE OF INTERSTATE 15, PER PROJECT NO. S-I15-6(175)245, SAID POINT BEING ON THE ARC OF A 2500.86 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT (CENTER BEARS NORTH 35°03'07" EAST); THENCE ALONG SAID PROPOSED CONTROLLED ACCESS LINE THE FOLLOWING (2) COURSES: (1) NORTHWESTERLY ALONG THE ARC OF SAID 2500.86 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF 03°02'21" A DISTANCE OF 132.65 FEET (CHORD BEARS NORTH 53°25'42" WEST 132.64 FEET), (2) NORTH 44°35'46" WEST 89.20 FEET; THENCE NORTH 00°04'37" EAST 157.31 FEET TO THE POINT OF BEGINNING.

EXHIBIT B**CENTER LEGAL DESCRIPTION****Original Parcel:**

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH; THENCE NORTH 89°53'25" WEST ALONG THE NORTH LINE OF SAID SECTION 771.29 FEET AND SOUTH 143.72 FEET TO THE REAL POINT OF BEGINNING; THENCE SOUTH 00°56'47" EAST 593.72 FEET TO THE NORTH RIGHT OF WAY LINE OF I-15; THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING 2 COURSES AND DISTANCES; (1) NORTH 69°57'50" WEST 344.14 FEET; (2) NORTH 62°12'58" WEST 27.09 FEET; THENCE NORTH 00°04'37" EAST 316.05 FEET; THENCE SOUTH 89°28'19" EAST 7.15 FEET; THENCE NORTH 00°31'00" EAST 150.09 FEET TO THE SOUTH LINE OF MAIN STREET; THENCE SOUTH 89°29'00" EAST ALONG SAID SOUTH LINE 328.55 FEET TO THE REAL POINT OF BEGINNING.

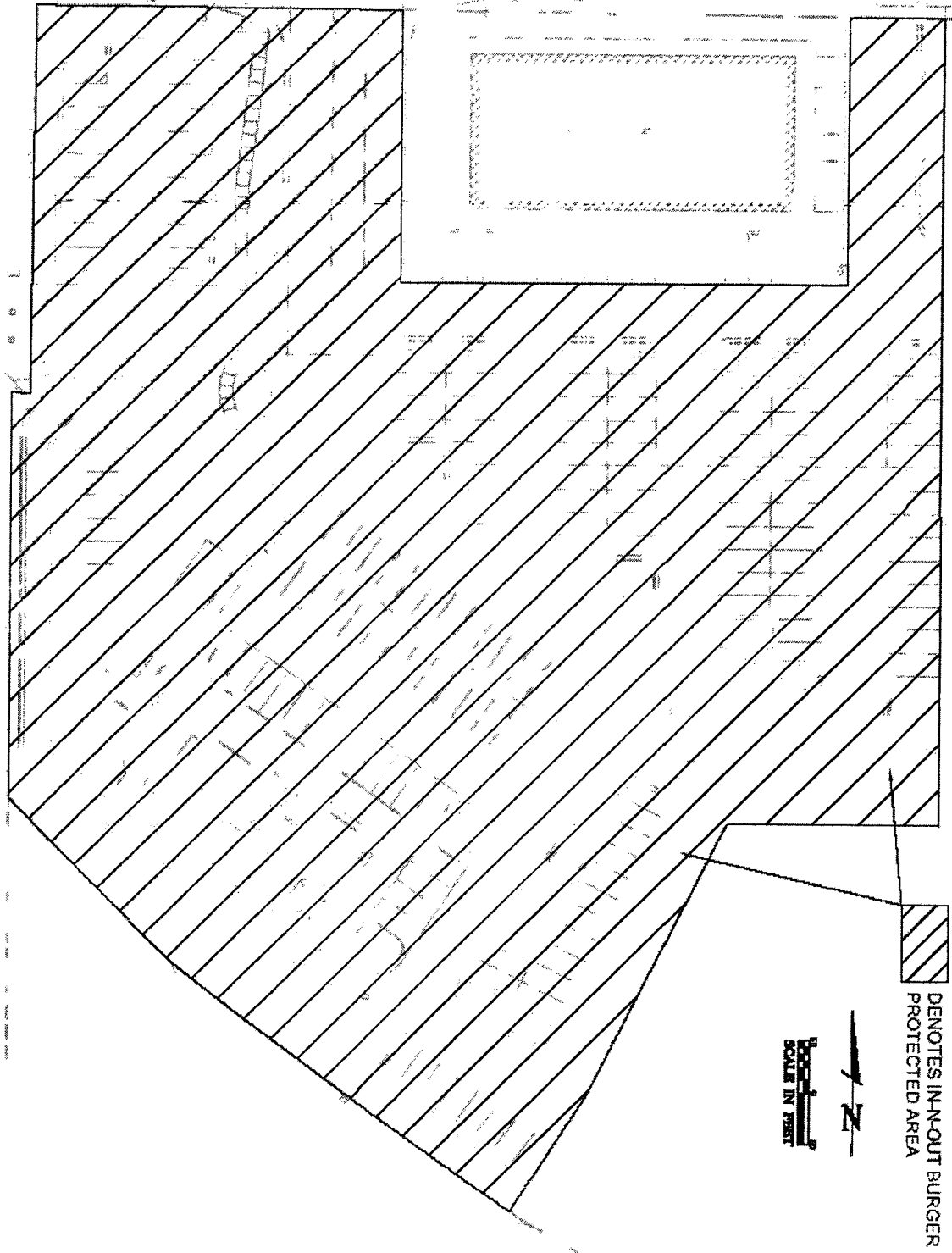
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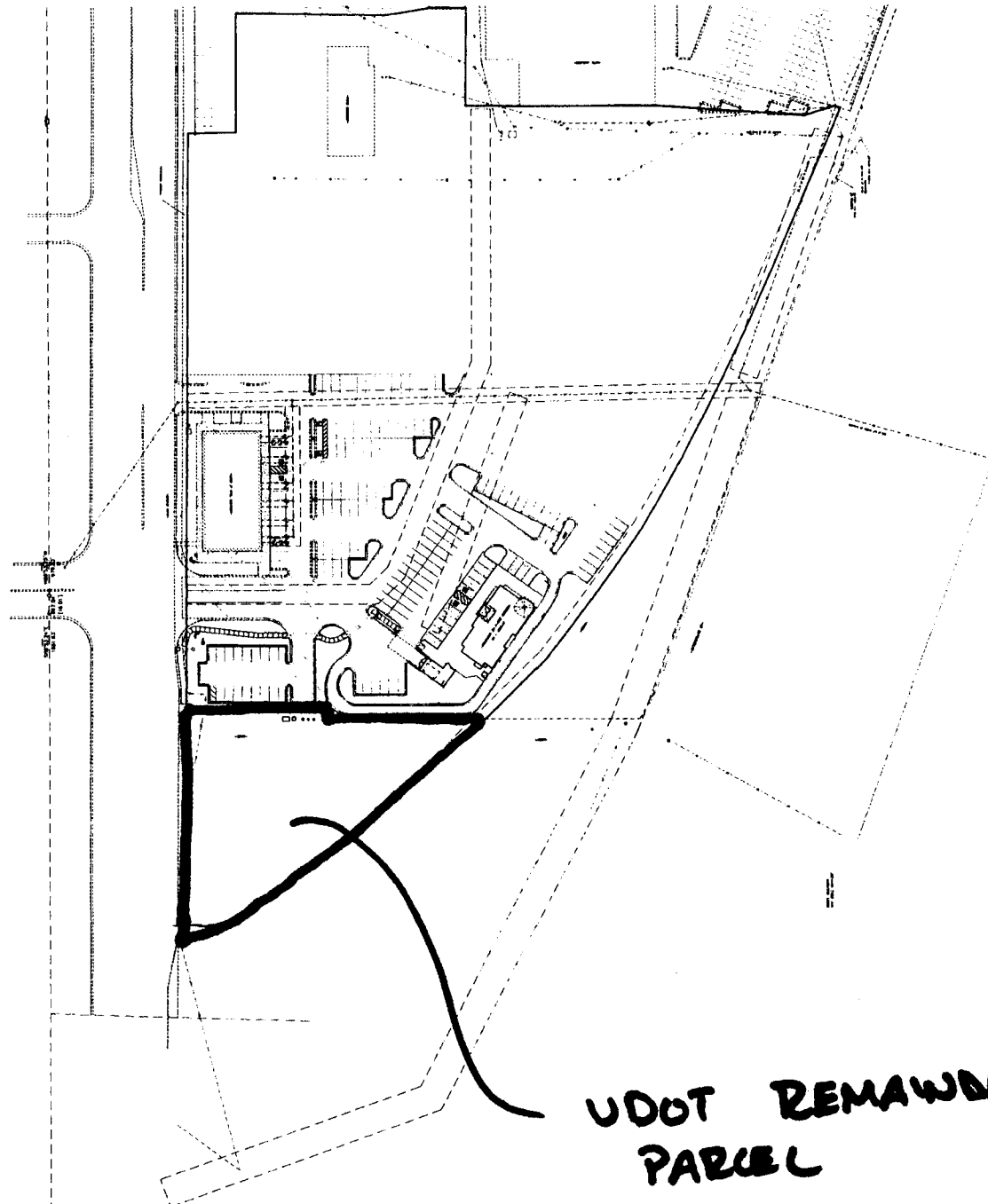
Less and Excepting:**UDOT TAKING OF ORIGINAL PARCEL**

A PARCEL OF LAND IN FEE, BEING PART OF AN ENTIRE TRACT OF PROPERTY, SITUATE IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, TO FACILITATE CONSTRUCTION OF A STATE ROAD KNOWN AS PROJECT NO. S-I15-6(175)245, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1107.54 FEET WEST AND 446.62 FEET SOUTH OF THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 5 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 44°35'46" EAST 89.20 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2,500.86 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°52'22" WHICH CHORD BEARS SOUTH 53°50'43" EAST 169.01 FEET; THENCE ALONG SAID CURVE 169.04 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 2,469.08 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°53'23" WHICH CHORD BEARS SOUTH 61°34'32" EAST 167.59 FEET; THENCE ALONG SAID CURVE 167.62 FEET; THENCE SOUTH 00°53'34" EAST 46.33 FEET; THENCE NORTH 69°57'50" WEST 344.28 FEET; THENCE NORTH 62°12'58" WEST 27.09 FEET; THENCE NORTH 00°04'37" EAST 158.74 FEET TO THE POINT OF BEGINNING.

SCHEDULE 1





**UDOT REMAINDER
PARCEL**

**(NOT TO SCALE;
APPROXIMATE LAYOUT)**