

WHEN RECORDED MAIL TO:

Dinsmore & Shohl, LLP
255 East Fifth Street, Suite 1900
Cincinnati, OH 45202

File No.: 153741-CAF

13911760 B: 11317 P: 2033 Total Pages: 11
03/15/2022 01:49 PM By: asteffensen Fees: \$40.00
AGREE- AGREEMENT
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: CSC ERECORDING
919 N 1000 WLOGAN, UT 84321

SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT

In Reference to Tax ID Number(s):

28-05-331-002, 28-05-451-013, 28-05-451-014 and 28-05-451-011

Subordination, Non-Disturbance, and Attornment Agreement

This subordination, non-disturbance, and attornment agreement (the "**Agreement**") is made and entered into as of the 15 day of MARCH, 2022 (the "**Effective Date**"), by and among Hobby Lobby Stores, Inc., an Oklahoma corporation, having a notice address of 7707 S.W. 44th Street, Oklahoma City, Oklahoma, 73179, Attn: Real Estate Department ("**Tenant**"), Boyer Quarry Bend, L.C. (the "**Landlord**"), having a notice address of 101 South 200 East, Suite 200, Salt Lake City, UT 84111, Nationwide Life Insurance Company and having a notice address of One Nationwide Plaza, 1-05-701, Columbus, OH, 43215, Attn: Real Estate Investments: Loan Servicing ("**Lender**").

RECITALS

- A. Landlord is the owner of certain real property which is more fully described in Exhibit A of this Agreement (the "**Premises**");
- B. Lender is now or will be the owner and holder of a note (the "**Note**") evidencing a loan ("**Loan**") secured by a mortgage or deed of trust (as applicable, the "**Mortgage**") securing the Loan, in each case executed by Landlord to Lender which Mortgage is to be recorded in the county in which the Premises is located;
- C. Tenant is the Lessee under a lease dated June 19, 2009, between Tenant and Landlord (the lease and all lease amendments are collectively referred to as the "**Lease**"), demising to Tenant a portion of the Premises and improvements (described in the Lease and in this Agreement as the "**Leased Premises**");
- D. The Mortgage constitutes or will constitute a first lien upon, among other things, the Premises and the current and future improvements, or a portion thereof; and
- E. The parties are entering into this Agreement as a condition precedent to Tenant's agreement to enter into the Lease and/or Lender's agreement to make the Loan to Landlord as evidenced by the Note.

TERMS AND CONDITIONS

For good and valuable consideration, the parties agree as follows:

1. **Subordination.** The Lease and all rights of Tenant in or to the Leased Premises are subordinated, and shall remain subordinate and junior, to the lien of the Mortgage and to the rights and interests of the holder of the Note and Mortgage as if the Mortgage had been

duly executed, acknowledged, recorded, and the indebtedness secured thereby had been fully disbursed prior to the execution of the Lease or possession of the Leased Premises by Tenant. Tenant warrants to Lender that there has been no assignment of Tenant's leasehold interest in the Leased Premises to any other person.

2. Attornment. If the interests of Landlord in the Premises shall be transferred to and owned by Lender or any other person or entity by reason of foreclosure or other proceedings brought by Lender in lieu of or pursuant to a foreclosure (as applicable, the "**Successor**"), or by any other manner prior to the expiration of the Lease, including any extensions and renewals of the Lease, and provided Successor assumes all of Landlord's obligations under the Lease, then:

(i) Tenant shall attorn to and accept Successor and recognize Successor as Tenant's Landlord under the Lease;

(ii) Successor shall recognize and accept Tenant as its tenant under the Lease;

(iii) the Lease shall continue, without further agreement, in full force and effect as a direct lease between Successor and Tenant for the remaining term of the Lease, together with all extensions and renewals now provided in the Lease, upon the same terms, covenants, and conditions as provided in the Lease; and

(iv) Successor shall thereafter assume and perform all of Landlord's obligations, as landlord under the Lease, and Tenant shall thereafter make all rent payments directly to Successor as set forth in the Lease.

3. Limitation of Liability. In the event of a foreclosure of or other execution on the Mortgage (by judicial process, power of sale or otherwise), or conveyance in lieu of foreclosure, Successor shall not:

(i) be liable to Tenant for any past acts, past omissions, or past defaults by prior Landlord unless such acts, omissions, or defaults are of a continuing nature or for which Successor was provided notice of such past acts, past omissions, or past defaults, and provided that nothing in this Agreement shall modify or reduce the obligation of Successor to perform all of the obligations of Landlord under the Lease once Successor succeeds to the interest of Landlord;

(ii) be liable to Tenant for any payment of rent made more than thirty (30) days in advance and not delivered to Successor; and

(iii) be bound by any amendment of the Lease entered into during the existence of Lender's lien under the Mortgage which (a) has the effect of reducing the rent payable by Tenant, reducing the term of the Lease, or materially increasing Landlord's obligation under the Lease, and (b) has not been consented to by Lender.

4. Tenant Allowance. Notwithstanding anything to the contrary in this Agreement, if

Tenant is owed any tenant improvement allowance under the Lease, Tenant shall have the continuing right to abate and retain such amounts against rent until recouped in full as set forth in the Lease.

5. Cure by Lender of Landlord Defaults. On giving notice of any default to Landlord under the provisions of the Lease, Tenant agrees to also provide a copy of such notice to Lender. If Landlord defaults under any provision of the Lease, Lender shall have the right, but not the obligation, to cure any such default in the same manner and within the same period of time as provided in the Lease, and Tenant agrees to accept such performance by Lender under the Lease as though the same had been performed by Landlord. Such cure shall not reduce or otherwise limit any rights or remedies of Tenant under the Lease.

6. Lease Assignment. Tenant acknowledges that Landlord has assigned, or may assign, Landlord's interest in the Lease to Lender as additional security for its obligations under the Mortgage, and Landlord hereby irrevocably instructs Tenant to pay to Lender all rent and other sums due under the Lease immediately upon notice from Lender, provided Landlord agrees Tenant may rely on the notice from Lender under this section regardless of Landlord's dispute of the validity of such notice.

7. Non-Disturbance. So long as Tenant is not in default under the terms of the Lease (beyond any notice and period of time given Tenant to cure such default as provided in the Lease), Lender agrees, on behalf of itself and any other Successor that:

(i) Tenant shall not be made a party to any foreclosure, conveyance in lieu of foreclosure, conveyance, power of sale, sale, or other action or proceeding regarding or relating to the Mortgage occurring prior to the expiration of the Lease, including any extensions or renewals of the Lease;

(ii) Successor shall not affect the Lease, interfere with Tenant's possession of the Leased Premises, or Tenant's leasehold rights under the Lease;

(iii) Tenant shall not be disturbed in the quiet enjoyment and peaceful possession of the Leased Premises, subject to the terms and conditions of the Lease; and

(iv) The lien of the Mortgage does not and shall not encumber any property of Tenant located in or about the Leased Premises.

8. Insurance and Condemnation Proceeds. In the event of an insured casualty, condemnation, or eminent domain, the Lease shall control with regard to the application of the proceeds from insurance, condemnation, or eminent domain.

9. Notice. All notices permitted or required to be given under this Agreement shall be in writing, shall be deemed properly given if addressed to the parties at the respective addresses set forth in the initial paragraph of this Agreement, or at such other address as is specified by notice by any party by certified mail, postage prepaid, return receipt requested,

by delivery or attempted delivery by a nationally recognized overnight courier service, or by personal delivery.

10. Successors and Assigns. This Agreement shall be binding upon the parties and their respective heirs, executors, administrators, representatives, successors and assigns including, without limitation, each and every holder of the Note and Mortgage.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be an original and all of which taken together will constitute one original single agreement.

12. Modification. This Agreement may only be modified by an agreement signed by all parties.


13. Choice of Law. This Agreement shall be governed by the law in which the Premises are located.

This Agreement shall bind the parties only upon the execution by all parties and each party's receipt of an original of this Agreement signed and acknowledged by the other parties. If any party fails to execute this Agreement and deliver an executed original to the other party within fifteen (15) days of the Effective Date, this Agreement shall be null and void.

[SIGNATURE PAGES TO FOLLOW]

Tenant:

Hobby Lobby Stores, Inc.

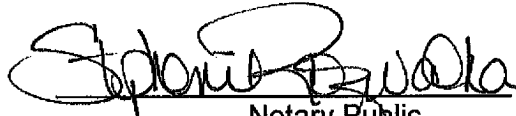
By: 
Randy Childers
Vice President, Real Estate

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, the undersigned notary public in and for said County and State, do hereby certify that Randy Childers, the Vice President of Hobby Lobby Stores, Inc., an Oklahoma corporation personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on this day in person and acknowledged that he signed and delivered the said instrument of writing as his free and voluntary act.

WITNESS MY HAND AND NOTARIAL SEAL, this 15th day of February, 2022.

(SEAL)

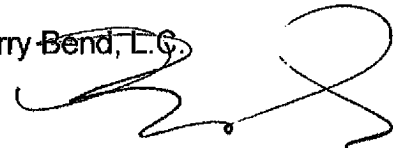

Notary Public

My Commission expires March 9, 2023



Landlord:

Boyer Quarry Bend, L.C.



By:

Signature

Brian Gochnour
Manager

Printed Name and Title

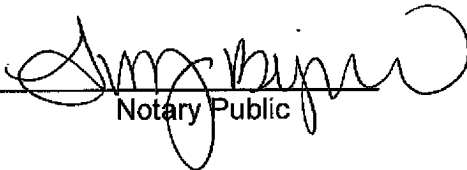
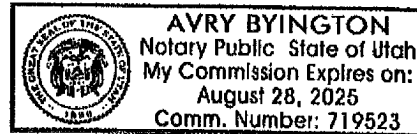
STATE OF Utah)
COUNTY OF Salt Lake) ss:

I, the undersigned Notary Public in and for said County and State, do hereby certify that Brian Gochnour, the Manager of Boyer Quarry Bend, L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me on this day in person and acknowledged that he signed and delivered the said instrument of writing as his free and voluntary act.

WITNESS MY HAND AND NOTARIAL SEAL, this 7 day of March, 2022.

(SEAL)

My Commission expires 8/28/2025


Notary Public

**EXHIBIT A
PROPERTY DESCRIPTION**

PARCEL 1:

Lot 5, QUARRY BEND SUBDIVISION, according to the official plat thereof, recorded December 7, 2005 as Entry No. 9575193 in Book 2005P at Page 392 in the office of the Salt Lake County Recorder.

LESS AND EXCEPTING THEREFROM any portion lying within the tract identified and described as "Road Dedication B" in that certain plat entitled "Road Dedication SR-209" recorded June 15, 2006 as Entry No. 9754372 in Book 2006P at Page 168 in the office of the Salt Lake County Recorder.

PARCEL 2:

All that land being part of Quarry Bend Subdivision, recorded as Entry No. 9575193 in Book 2005P at Page 392, official records in the State of Utah, County of Salt Lake, City of Sandy, being part of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point on the South line of said Subdivision located 820.81 feet South 89°06'33" East along the Section line and 91.73 feet North from the South quarter corner of said Section 5, and running thence North 00°00'03" West 91.04 feet to a point of curvature; thence Northwesterly along the arc of a 225.00 foot radius curve to the left a distance of 213.61 feet (central angle equals 54°23'46", and long chord bears North 27°11'56" West 205.68 feet) to a point of reverse curvature; thence Northwesterly along the arc of a 1500.00 foot radius curve to the right a distance of 116.54 feet (central angle equals 04°27'05", and long chord bears North 52°10'17" West 116.51 feet); thence North 39°17'17" East 30.25 feet to the Westerly line of Lot 3 of said Subdivision; thence along said Westerly lines of said Lot 3 the following two (2) courses: North 50°59'35" West 22.80 feet to the most Westerly corner thereof; and North 39°00'26" East 50.22 feet; thence South 89°45'08" East 495.31 feet along the Southerly line of Lot 1 of said Quarry Bend Subdivision; thence North 00°17'59" East 35.95 feet; thence South 89°42'01" East 119.62 feet; thence South 01°32'10" West 156.25 feet; thence South 07°27'07" West 151.14 feet; thence South 09°17'57" West 90.28 feet; thence South 15°55'37" West 47.56 feet; thence South 21°06'01" West 31.55 feet to the South line of said Subdivision; thence along said South line the following three (3) courses: North 89°06'33" West 166.01 feet; North 86°49'06" West 200.22 feet to a point of curvature; and Northwesterly along the arc of a 788.05 foot radius curve to the right a distance of 33.45 feet (center bears North 00°53'28" East, central angle equals 02°25'55", and long chord bears North 87°53'34" West 33.45 feet) to the point of beginning.

PARCEL 3:

All that land being part of Quarry Bend Subdivision, recorded as Entry No. 9575193 in Book 2005P at Page 392, official records in the State of Utah, County of Salt Lake, City of Sandy, being part of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

A part of the Southeast quarter of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Salt Lake County, Utah, described as follows:

Beginning at a point on the Northerly line of 9400 South Street located 820.81 feet South 89°06'33" East along the Section line, and 91.73 feet North from the South quarter corner of said Section 5, and running thence along said Northerly line of 9400 South Street the following five (5) courses: Northwesterly along the arc of a 788.05 foot radius curve to the right a distance of 146.61 feet (center bears North 03°19'23" East, central angle equals 10°39'34", and long chords bears North 81°20'50" West 146.40 feet; North 00°14'51" East 10.30 feet; Northwesterly along the arc of a 778.05 foot radius curve to the right a distance of 31.99 feet (center bears North 14°09'45" East, central angle equals 02°21'21", and long chord bears North 74°39'34" West 31.99 feet); North 61°40'05" West 116.01 feet; and Northwesterly along the arc of an 893.50 foot radius curve to the right a distance of 80.71 feet (center bears North 25°56'30" East, central angle equals 05°10'33", and long chord bears North 61°28'14" West 80.69 feet); thence along the Southeasterly line of a Public Road as widened the following two (2) courses: North 13°39'11" East 18.20 feet; and North 39°17'17" East 249.85 feet; thence Southeasterly along the

arc of a 1500.00 foot radius curve to the left a distance of 116.54 feet (center bears North 40°03'16" East, central angle equals 04°27'05", and long chord bears South 52°10'17" East 116.51 feet) to a point of reverse curvature; thence Southeasterly along the arc of a 225.00 foot radius curve to the right a distance of 213.61 feet (central angle equals 54°23'46", and long chord bears South 27°11'56" East 205.68 feet) to a point of tangency; thence South 00°00'03" East 91.04 feet to the point of beginning.

LESS AND EXCEPTING THEREFROM the following:

("Road Dedication West")

All that land being part of a parcel shown as "New Lot 8" in that Special Warranty Deed recorded December 2, 2009 as Entry No. 10850685 in Book 9785 at Page 1035 of the official records of the Salt Lake County Recorder, in the State of Utah, County of Salt Lake, City of Sandy, being part of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and being more particularly described as follows:

Beginning at the West corner of said parcel, said point being South 89°06'33" East 472.23 feet and North 00°00'00" East 220.69 feet from the South quarter corner of said Section 5, and running thence North 13°39'11" East 18.20 feet; thence North 39°17'17" East 4.89 feet, to the beginning of a non-tangent curve concave to the East, with a radius of 20.00 feet and a radial bearing of South 52°56'36" East; thence Southerly 33.84 feet along said curve, through a central angle of 96°55'41", to the beginning of a non-tangent curve concave to the Northeast, with a radius of 893.50 feet and a radial bearing of North 30°07'31" East; thence Northwesterly 15.47 feet along said curve, through a central angle of 00°59'32", to the point of beginning.

ALSO LESS AND EXCEPTING THEREFROM the following:

("Road Dedication East")

All that land being part of a parcel shown as "New Lot 8" in that Special Warranty Deed recorded December 2, 2009 as Entry No. 10850685 in Book 9785 at Page 1035 of the official records of the Salt Lake County Recorder, in the State of Utah, County of Salt Lake, City of Sandy, being part of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and being more particularly described as follows:

Beginning at a point on the South line of said parcel, said point being South 89°06'33" East 820.81 feet, North 00°00'00" East 91.73 feet, to the beginning of a non-tangent curve concave to the North with a radius of 788.05 feet and a radial bearing of North 03°19'23" East, and Westerly 139.11 feet along said curve, through a central angle of 10°06'52" from the South quarter corner of said Section 5, and thence continuing 7.50 feet along said curve, through a central angle of 00°32'42", to the East line of Road Dedication C per Road Dedication SR-209 Plat recorded June 15, 2006 as Entry No. 9754372 in Book 2006P of Plats at Page 168 of the official records of the Salt Lake County Recorder; thence North 00°14'51" East 2.15 feet along said East line; thence South 61°39'59" East 8.26 feet to the point of beginning.

PARCEL 4:

All that land being part of Quarry Bend Subdivision, recorded as Entry No. 9575193 in Book 2005P at Page 392, official records; in the State of Utah, County of Salt Lake, City of Sandy, being part of Section 5, Township 3 South, Range 1 East, Salt Lake Base and Meridian, being more particularly described as follows:

Beginning at a point located 1320.05 feet South 89°06'33" East along the Section line, 832.63 feet North 00°26'14" East along the Sixteenth Section line, and 17.09 feet North 89°45'09" West from the South quarter corner of said Section 5, and running thence South 15°30'00" East 34.86 feet to a point of curvature; thence Southerly along the arc of a 135.00 foot radius curve to the right a distance of 94.98 feet (central angle equals 40°18'42", and long chord bears South 04°39'21" West 93.04 feet) to a point of reverse curvature; thence Southwesterly along the arc of a 295.00 foot radius curve to the left a distance of 119.84 feet (central angle equals 23°16'32", and long chord bears South 13°10'26" West 119.02 feet); thence South 01°32'10" West 35.59 feet; thence North 89°42'01" West 119.62 feet; thence North 00°17'59" East 277.79 feet; thence South 89°45'09" East 144.48 feet to the point of beginning.

PARCEL 5:

Easements for ingress and egress as created under that certain Easements with Covenants and Restrictions Affecting Land recorded December 7, 2005 as Entry No. 9575196 in Book 9227 at Page 3154 and in that First Amendment to Easements with Covenants and Restrictions Affecting Land recorded December 2, 2009 as Entry No. 10850686 in Book 9785 at Page 1039.

Tax Id No.: 28-05-331-002, 28-05-451-013, 28-05-451-014 and 28-05-451-011