

STORMWATER DETENTION AGREEMENT

THIS AGREEMENT, made and entered into this 26th day of February, 1996, by and between **HSW RIVERCHASE ASSOCIATES, L.P.**, a Tennessee Limited Partnership, (hereinafter called the "Landowner") and the City of Hoover:

W I T N E S S E T H:

WHEREAS, the City of Hoover Subdivision Regulations were adopted December 15, 1980, by the City of Hoover and amended by Ordinance No. 87-606, May 18, 1987, which Regulations provide for the regulation of Stormwater Detention Facilities; and

WHEREAS, under said Regulations the Building Official (as defined by said Regulations) shall have the authority to inspect private drainage systems within the City of Hoover, and to order such corrective actions to said private drainage systems as are necessary to maintain properly the major and minor drainage systems within the City of Hoover; and

WHEREAS, the Hoover Planning Commission has adopted and approved certain technical guidelines relating to policy on detention of stormwater in the City of Hoover; and

WHEREAS, in Article IX of the Hoover Subdivision Regulations, it is provided that detention facilities must be maintained by the property owner, and a maintenance agreement must be executed and recorded; and

WHEREAS, the Landowner is the Owner of certain real property, more particularly known as The Grove at Riverchase apartment development, which development is located on real property described in instrument dated April 7, 1994, filed April 7, 1994, recorded in Document No. 1994-11458, in the Probate Office of Shelby County, Alabama (hereinafter called the "Property"); and

WHEREAS, the Landowner is proceeding to build on and develop the property; and

WHEREAS, Site Plan/Subdivision Plan The Grove at Riverchase¹ (hereinafter called the "Plan"), which is expressly made a part hereof, as approved or to be approved by the City of Hoover, provides for detention of stormwater within the confines of the Property; and

¹ Plan The Grove at Riverchase refers to site plan prepared by Carr and Associates, dated August 14, 1995, on file at the City of Hoover Department of Building Inspections.

WHEREAS, the Landowner and its engineers have determined that the health, safety and general welfare of the residents of the City of Hoover require that on-site stormwater detention facilities be constructed and maintained on the Property; and

WHEREAS, the City of Hoover requires that on-site storm water facilities as shown on the Plan be constructed and adequately maintained by the Landowner;

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The on-site stormwater detention facilities shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.
2. The Landowner shall maintain the stormwater detention facilities as shown on the plan in good working order acceptable to the City of Hoover.
3. The Landowner hereby grants permission to the City of Hoover, its authorized agents and employees, to enter the Property and to inspect the stormwater detention facilities whenever it deems necessary. Whenever possible, the City of Hoover shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to maintain stormwater detention facilities as shown on the plan in good working order reasonably acceptable to the City of Hoover, the City of Hoover may enter the Property and take whatever steps it deems necessary to maintain said stormwater detention facilities. This provision shall not be construed to allow the City of Hoover to erect any structure of a permanent nature on the land of the Landowner without first obtaining written approval of the Landowner. It is expressly understood and agreed that the City of Hoover is under no obligation to maintain or repair said facilities and in no event shall this Agreement be construed to impose any such obligations on the City of Hoover.
5. In the event the City of Hoover, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials and like, Landowner shall reimburse the City of Hoover, upon demand, within ten (10) days of receipt thereof, for all costs incurred by the City of Hoover hereunder.
6. It is the intent of this Agreement to ensure the proper maintenance of on-site stormwater detention facilities by the Landowner; provided, however, that this Agreement shall not be deemed to create of effect any additional liability of any party for damage alleged to result from or be caused by stormwater drainage.

7. The Landowner, its executors, administrators, assigns and any other successors in interest, shall indemnify and hold the City of Hoover and its agents and employees harmless for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City of Hoover from the construction, presence, existence, or maintenance of the stormwater detention facilities by the Landowner or the City of Hoover.

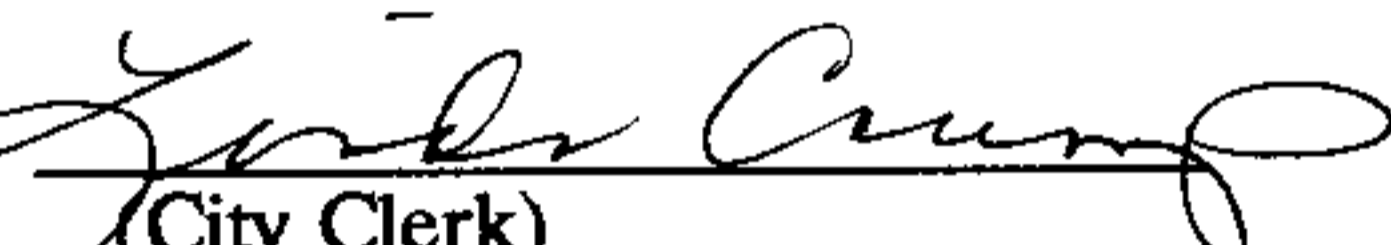
In the event a claim is asserted against the City of Hoover, its agents or employees, the City of Hoover shall notify the Landowner, and the Landowner shall defend, at his own expense, any suit based on such claim. If any Judgment of claims against the City of Hoover, its agents or employees, shall be allowed, the Landowner shall pay all costs and expenses in connection therewith.

This Agreement shall be recorded among the land records of Shelby County and shall constitute a covenant running with the land and shall be binding on the Landowner, its administrators, executors, assigns, heirs and any other successors in interest.

WITNESS the following signatures and seals:

THE CITY OF HOOVER:

By: 
(Mayor)



By: 
(City Clerk)

By: 
(City Attorney)

LANDOWNER:

HSW RIVERCHASE ASSOCIATES, L.P.,
a Tennessee limited partnership

By: HSW Riverchase, Inc.,
a Tennessee corporation
Its: sole general partner

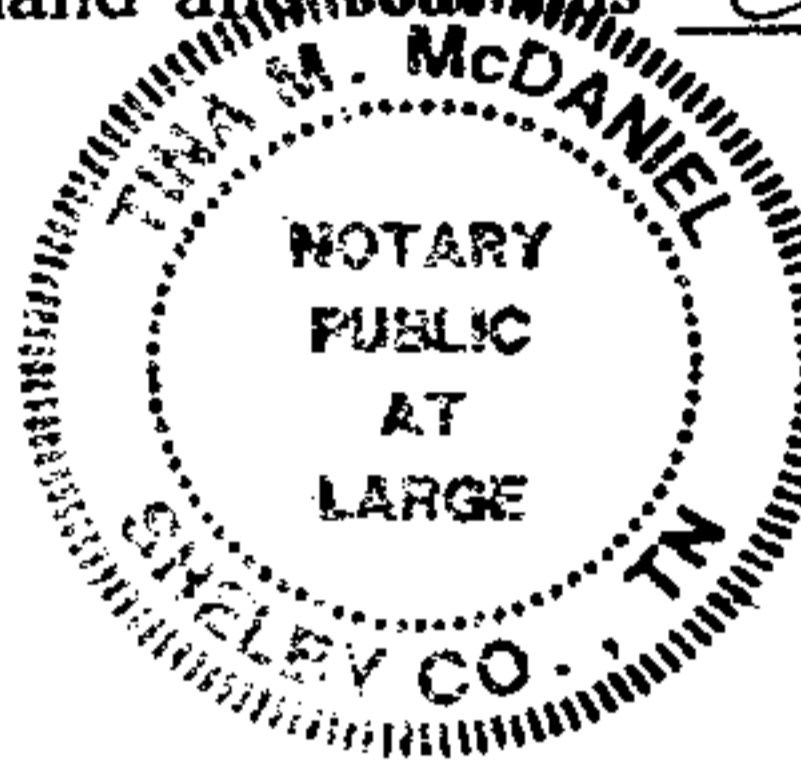
By: 
Its: 

Prepared By: Matthew T. Harris, Esq.
Baker, Donelson, Bearman & Caldwell, P.C.
511 Union Street, Suite 1700
Nashville, Tennessee 37219

STATE OF TENNESSEE)
)
COUNTY OF SHELBY) ss.

I, the undersigned, a Notary Public, in and for said County and State, hereby certify that John H. Pontius whose name as Vice President of HSW Riverchase, Inc., a Tennessee corporation, sole general partner of HSW Riverchase Associates, L.P. is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this 26th day of February, 1996.



Tina M. McDaniel
NOTARY PUBLIC
My Commission Expires: _____

My Commission Expires Sept. 01, 1997

STATE OF ALABAMA)
)
COUNTY OF SHELBY) ss.

I, the undersigned, a Notary Public, in and for said County and State, hereby certify that Frank S. Skinner, Jr. whose name as Mayer is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, in his/her capacity as such Mayer, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 13th day of February, 1996.

Vali M. Nutt
NOTARY PUBLIC
My Commission Expires: 9-11-99

STATE OF ALABAMA)

COUNTY OF SHELBY)

SS.

I, the undersigned, a Notary Public, in and for said County and State, hereby certify that Linda Crump whose name as City Clerk is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, in his/her capacity as such City Clerk, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 13th day of February, 1996.

Valerie McKeith

NOTARY PUBLIC

My Commission Expires: 9-11-99

~~STATE OF ALABAMA~~
~~STATE OF TENNESSEE~~

~~JEFFERSON~~
~~COUNTY OF SHELBY~~

SS.

I, the undersigned, a Notary Public, in and for said County and State, hereby certify that JACK H. HARRISON whose name as City Attorney is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, in his/her capacity as such City Attorney, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 26th day of February, 1996.

B. Lynn McLaughlin

NOTARY PUBLIC

My Commission Expires: 7-15-99

Inst # 1996-36977

N MTH174303 V2

11/07/1996-36977
08:09 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

005 MCD 18.50