20060801000369960 1/4 $21.00
Shelby Cnty Judge of Probate, AL
08/01/2006 02:17:20PM FILED/CERT

This instrument was prepared by:
Clayton T. Sweeney, Esquire
2700 Highway 280 East, Suite 160
Birmingham, Alabama 35223

Send Tax Notice to:
DAVID ACTON BUILDING CORP.

STATE OF ALABAMA)
COUNTY OF SHELBY)

STATUTORY WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that in consideration of ONE HUNDRED SEVENTY THOUSAND AND NO/100----------DOLLARS ($170,000.00) to the undersigned grantor, THE VILLAGE AT HIGHLAND LAKES, INC., an Alabama Corporation (herein referred to as "Grantor"), in hand paid by Grantee named herein, the receipt of which is hereby acknowledged, the said THE VILLAGE AT HIGHLAND LAKES, INC., an Alabama Corporation, does by these presents, grant, bargain, sell and convey unto **DAVID ACTON BUILDING CORP.** (hereinafter referred to as "Grantee", whether one or more), the following described real estate (the "property"), situated in Shelby County, Alabama, to-wit:

Lots 11 and 21, according to the Map and Survey of The Village at Highland Lakes, Sector One, an Eddleman Community, as recorded in Map Book 36, Page 95 A-E, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

Together with nonexclusive easement to use the private roadways, Common Area all as more particularly described in the Declaration of Easements and Master Protective Covenants for The Village at Highland Lakes, a Residential Subdivision, recorded as Instrument #20060421000186650 in the Probate Office of Shelby County, Alabama, and the Declaration of Covenants, Conditions and Restrictions for The Village at Highland Lakes, a Residential Subdivision, Sector One, recorded as Instrument #20060421000186670, in the Probate Office of Shelby County, Alabama (which, together with all amendments thereto, is hereinafter collectively referred to as, the "Declaration").

Mineral and mining rights excepted.

The above property is conveyed subject to:

(1) Ad Valorem taxes due and payable October 1, 2006 and all subsequent years thereafter, including any "roll-back taxes."

(2) Public utility easements as shown by recorded plat, including any storm or sewer easements as shown on recorded plat.

(3) Transmission line permit(s) to Alabama Power Company as recorded in Deed Book 247, Page 905; Deed Book 139, Page 569; and Deed Book 134, Page 411, in said Probate Office.

(3) Right of way granted to Shelby County as set forth in Deed Book 196, Pages 237, 248 and 254, in said Probate Office.

(4) Easement to Shelby County as recorded in Instrument #1992-15747 and Instrument #1992-24264, in said Probate Office.

(5) Ingress and egress easements as recorded in Real Book 321, Page 812, in said Probate Office.

(6) Right of way for roadway as set forth in Real 103, Page 844 and Map Book 3, Page 148, in the Office of the Judge of Probate of Shelby County, Alabama.

(7) Declaration of Easements and Master Protective Covenants for The Village at Highland Lakes, a Residential Subdivision, which provides, among other things, for an Association to be formed to assess and maintain the private roadways, etc. of the development; all of said covenants, restrictions and conditions being set out in instrument recorded as Instrument #20060421000186650, in said Probate Office of Shelby County, Alabama, along with Articles of Incorporation of Highland Village Residential Association, Inc. as recorded as Instrument #20060314000128830, in the Office of the Judge of Probate of Jefferson County, Alabama.

(8) Declaration of Covenants, Conditions and Restrictions for Highland Lakes, a Residential Subdivision, Sector One, as recorded as Instrument #20060421000186670, in said Probate Office.

(9) Subject to covenants, conditions and restrictions (deleting therefrom, and restrictions indicating any preference, limitation, or discrimination based on race, color, religion, sex, handicap, family status or national origin) as set forth in the document recorded in Instrument #20041202000659280, in said Probate Office.

(10) Subdivision restrictions, limitations and conditions as set out in Map Book 36, Page 95 A-E, in said Probate Office.

Request Back

(11) Title to all minerals within and underlying the premises, together with all oil and mining rights and other rights, privileges and immunities relating thereto, together with any release of liability for injury or damage to persons or property as a result of the exercise of such rights as recorded in Deed Book 81, Page 417, in said Probate Office.

(12) Subject to the provision of Sections 2.3 and 2.6 of the Declaration, the property shall be subject to the following minimum setbacks:

(a) As per plot plan which must be approved by the ARC;

(13) Notice of Final Assessment of Real Property by The Village at Highland Lakes Improvement District as recorded in Instrument # 20051213000644260.

Grantee agrees to observe and perform all obligations imposed upon said Grantees pursuant to the Declarations, including but not limited to the obligation to pay assessments levied on the property herein conveyed in accordance with the Declarations. By its acceptance of this deed, Grantee agrees as follows:

1. Grantee agrees to commence construction of a residence on the Property in accordance with Section 12 ("Construction of Residence") of the Sales Contract within six months from the date hereof. No transfer of the Property by Grantor, or Grantor's heirs, devisees, successors or assigns other than a transfer by will or intestacy or a transfer solely for the purpose of collaterally securing an indebtedness (including a mortgage, pledge or security agreement) (**"Collateral Transfer"**), may be made except in accordance with the provisions of this Section, and any attempt to make any such transfer otherwise than in accordance with the provision of this Section shall be null and void.

2. In the event that Grantee has not commenced construction of a single family residence ("Residence") within six months from the date hereof, Grantor or its assignee shall have the right and option (the **"Purchase Option"**) to purchase the Property at a purchase price equal to the $255,000.00 ("Total Sales Price") by delivery of written notice to Grantee at any time prior to commencement of construction of the Residence. In the event Grantor or its assignee shall exercise this option, the Grantee shall sell, and the Grantor or its assignee shall purchase, the Property at a closing to be held not later than thirty (30) days after the exercise of the option. At the closing, Grantor or its assignee shall pay the Grantee the purchase price in immediately available funds (unless otherwise agreed) and Grantee shall deliver a warranty deed for the Property to Grantor or its assignee conveying fee simple title to the Property free and clear of all liens, claims and encumbrances except for the Permitted Exceptions (herein defined). The purchase of the Property pursuant to this option shall be Grantor's sole and exclusive remedy for Grantee's failure to construct a Residence as herein required.

3. (a) Prior to the commencement of construction of the Residence, any transfer of the Property shall be subject to the following:

(i) The Grantee shall give a written notice of any proposed transfer to Grantor.

(ii) Within fourteen (14) days after receipt of the aforesaid notice by the Grantor, Grantor may elect to purchase, or nominate another person to purchase, the Property (the **"Right of First Refusal"**). If the Grantor does not notify the Grantee of Grantor's election to purchase, or to nominate another person to purchase, the Property within fourteen (14) days after the notice of the proposed transfer is received by Grantor, Grantee may accept any offer made by the general public.

(iii) If the Grantor shall elect to purchase or shall nominate another person to purchase the Property, the same shall be purchased by the Grantor or its nominee within 90 days after notice to the Grantee of Grantor's election to purchase or to nominate another person to purchase, at a purchase price equal to the "Total Sales Price" plus any interest which would have otherwise accrued on the amount of such Total Sales Price at the "prime rate" of (or if the "prime rate" is discontinued, the rate announced as that being charged to the most creditworthy commercial borrowers by) Compass Bank, Birmingham, Alabama or its successor as determined on the date Grantee acquired title to the Property.

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(b) In the event Grantee transfers the Property without giving such notice, the provisions of the Right of First Refusal shall be binding on the transferee of the Property (the "Transferee") and Grantor shall have the right to purchase the Property from the Transferee as provided in subparagraph 2(a)(iii) above until either (i) Transferee complies with the provisions of the Right of First Refusal under subparagraph 2(a) above or (ii) the Right of First Refusal terminates as provided in paragraph 3 below. The provisions of this Section shall not apply to a Collateral Transfer, but the Property made the subject of any Collateral Transfer shall at all times be and remain subject to the provisions of this Paragraph with respect to any transfer pursuant to the terms of the Collateral Transfer, such as any sale upon foreclosure of a mortgage.

4. All terms and conditions in paragraph 1 with respect to the Purchase Option and in paragraph 2 with respect to the Right of First Refusal, shall terminate and extinguish upon the earlier of: (i) the construction of the Residence; (ii) the written consent of Grantor; or (iii) two (2) years from the date hereof.
conveyed in accordance with the Declarations.

5. Grantee understands and agrees that Grantor has obtained from the Alabama Department of Environmental Management (ADEM) a General Permit for stormwater runoff from construction, excavation, land

clearing, other land disturbance activities and associated areas to comply with the terms and conditions of said General Permit in the design and construction of improvements on the Property which shall include, without limitation, the preparation and implementation of a Best Management Practices Plan for structural and non-structural practices to prevent/minimize the discharge of all sources of pollution (i.e., sediment, trash, garbage, debris, oil, grease, chemicals, etc.) to State waters in stormwater run-off in accordance with the requirements of the General Permit.

Grantee shall indemnify and hold Grantor harmless for any loss or damage suffered by the Grantor as a result of Grantee's violation of or failure to comply with the terms, conditions and requirements of the General Permit. Further, if Purchaser shall be in violation of the General Permit, Grantor shall have the right after 10 days notice to take such corrective action as may reasonably be necessary to cure such violation and Grantee shall indemnify and hold Grantor harmless for any costs reasonably incurred in taking any such corrective action.

6. Grantee herein agrees to commence construction of a residence on the Property in accordance with Paragraph 11 of the Home Site Sales Contract (the "Residence") within six months from the date of closing. in the event that Purchaser is not able to satisfy this condition, Grantor or its assignee shall have the right and option to purchase the Property at a purchase price equal to the "Total Sales Price reflected hereinabove by delivery of written notice to the Grantee at any time prior to commencement of construction of the Residence. In the event, Grantor or its assignee shall exercise this option, the Grantee shall sell, and the Grantor or its assignee shall purchase the Property at a closing to be held not later that thirty (30) days after the exercise of the option. At the closing, Grantee or its assignee shall pay the Grantee the purchase price in immediately available funds (unless otherwise agreed) and Grantee shall deliver a warranty deed for the Property to Grantor or its assignee conveying fee simple title to the Property free and clear of all liens, claims and encumbrances except for the Permitted Exceptions (herein defined). The purchase of the Property pursuant to this option shall be Grantor's sole and exclusive remedy for Grantee's failure to construct a Residence as herein required.

This conveyance is made with the express reservation and condition that by acceptance of this deed, the Grantees, for themselves and on behalf of their heirs, administrators, executors, successors, assigns, contractors, permitees, licensees and lessees, hereby release and forever discharge Grantor, its successors and assigns, from any and all liability, claims and causes of action whether arising at law (by contract or in tort) or in equity with respect to damage or destruction of property and injury to or death of any person located in, on, or under the surface of or over lands herein conveyed, as the case may be, which are caused by, or arise as a result of, past or future soil, subsoil or other conditions (including without limitation, sinkholes, underground mines, and limestone formations) under or on the Property, whether contiguous or non-contiguous. The Grantee(s) agree(s) that he (she) (they) is (are) acquiring the Property "AS IS", without any representation or warranty on the part of Grantor other than as to title. Further, the Grantee, its successors and assigns hereby acknowledges that the Grantor shall not be liable for and no action shall be asserted against Grantor in connection with any drainage easements, ditches or pipes or drainage problems associated therewith and that Grantee has inspected the same and accepts the property along with all drainage easements, ditches or pipes in its present "AS IS" condition. For purposes of this paragraph the term Grantor shall mean and refer to (i) the partners, agents and employees of Grantor; (ii) the officers, directors, employees and agents of general partners of Grantor or partners thereof; (iii) any successors or assigns of Grantor; and (iv) any successors and assigns of Grantor's interest in the Property. This covenant and agreement shall run with the land conveyed hereby as against Grantee, and all persons, firms, trusts, partnerships, limited partnerships, corporations, or other entities holding under or through Grantee.

TO HAVE AND TO HOLD to the said Grantee, his heirs and assigns, forever.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand by its duly authorized officer this 26 day of July, 2006.

GRANTOR:

THE VILLAGE AT HIGHLAND LAKES, INC.

By: _____
Douglas D. Eddleman,
Its President

The Village at Highland Lakes - Sector One
Lots 11 and 21 - DAVID ACTON BUILDING CORP.

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STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State hereby certify that Douglas D. Eddleman, whose name as President of The Village at Highland Lakes, Inc., an Alabama Corporation, is signed to the foregoing Deed, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Deed, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and official seal of office this the 26th day of July, 2006.

NOTARY PUBLIC
My Commission expires: 6-5-2007

The Grantee executes this deed only to acknowledge and accept all covenants and restrictions contained hereinabove and Grantee, his successors and assigns, agree and understand that the property conveyed herein is subject to the foregoing covenants and restrictions.

DAVID ACTON BUILDING CORP.

BY: _____
WILLIAM D. ACTON
ITS President

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that WILLIAM D. ACTON, whose name as President of DAVID ACTON BUILDING CORP., a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and official seal this 26th day of July, 2006.

NOTARY PUBLIC

My Commission expires: 6-5-2007

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