

784 6199

STATE OF ALABAMA

SHELBY COUNTY

Know All Men by These Presents, that whereas the undersigned

J. B. Holmes and wife Essie Mae Holmes

justly indebted to DIAMOND CONSTRUCTION COMPANY OF ALABAMA

in the sum of One Thousand, Two Hundred and No/100 Dollars (\$1,200.00)

evidenced by one promissory note of even date herewith, payable to the order of the mortgagee together with interest thereon from the date thereof according to the terms of the note secured hereby; said interest and principal sum being payable according to the terms of said note, commencing September 1, 1984

and whereas it is desired by the undersigned to secure the prompt payment of said indebtedness with interest when the same falls due,

Now Therefore, in consideration of the said indebtedness, and to secure the prompt payment of the same

at maturity, the undersigned, J. B. Holmes and wife Essie Mae Holmes

do, or does, hereby grant, bargain, sell and convey unto the said

DIAMOND CONSTRUCTION COMPANY OF ALABAMA (hereinafter called Mortgagee)

the following described real property situated in Shelby County, Alabama, to-wit:

Commence at the NE corner of the SW 1/4 of NE 1/4 Section 35, Township 18 South, Range 2 East, run thence west along north line of said quarter quarter section for a distance of 179.0 feet to the Westerly boundary of US Highway No. 231; thence turn an angle to the left of 104 deg. 29 min. in a SE'ly direction and along said boundary of said highway for a distance of 19.2 feet to point of beginning; thence continue along same line for a distance of 125.0 feet; thence turn an angle to the right of 97 deg 44 min in a SW'ly direction for a dist. of 175.0 feet, thence turn an angle to the right of 82 deg 16 min. in a NW'ly direction for a distance of 125.0 feet; thence turn an angle to the right of 97 deg. 44 min. in a NE'ly direction for a distance of 175.0 feet to point of beginning.

This mortgage is a second mortgage and is subordinate to a first mortgage on the same property which was executed on this date. If default is made on the first mortgage, or a petition in bankruptcy is filed by or against the mortgagors or their assigns, or an application is filed in any court for a receiver for any of the mortgagors herein, or their assigns, all principal and interest on the debt for which this instrument is given as security shall be immediately due and payable without notice, and this mortgage shall be subject to foreclosure.

DIAMOND CONSTRUCTION COMPANY OF ALABAMA

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together with all rents and other revenues thereof and all the rights, privileges, tenements, interests, improvements, and appurtenances thereunto belonging or in any wise appertaining, including any after-acquired title and easements and all rights, title and interest now or hereafter owned by the Mortgagors in and to all buildings and improvements, storm and screen windows and doors, gas, steam, electric and other heating, lighting, ventilating, air conditioning, refrigerating and cooking apparatus, elevators, plumbing and other equipment and fixtures now or hereafter attached or appertaining to said premises, all of which (hereinafter designated as the mortgaged property) shall be deemed realty and conveyed by this mortgage.

TO HAVE AND TO HOLD the same and every part thereof unto the Mortgagee, its successors and assigns forever.

And for the purpose of further securing the payment of said indebtedness including all subsequent loans or advances the Mortgagors covenant and agree as follows:

1. That they are lawfully seized in fee and possessed of said mortgaged property and have a good right to convey the same as aforesaid that they will warrant and forever defend the title thereto against the lawful claims of all persons whomsoever, and that said property is free and clear of all encumbrances; that any subsequent loans or advances made by the Mortgagee to the Mortgagors shall be a part of the indebtedness hereby secured.

2. That they will upon the request of the Mortgagee carry insurance upon their lives in the sum of \$ \_\_\_\_\_, making the Mortgagee the beneficiary thereof, and that the Mortgagee may pay the premiums thereon (should the Mortgagors fail so to do) and add each such payment when made to the unpaid balance of the loan.

3. That, unless excused in writing by the Mortgagee, they will pay each month to the Mortgagee an amount sufficient to anticipate the payment of taxes, insurance premiums, assessments and such other items as shall accrue against or in connection with the mortgaged premises and hereby authorize the Mortgagee to pay such items from the funds so accumulated or to reimburse itself therefrom for any such items paid for by it, but that the Mortgagee shall in no event incur any liability whatsoever for its failure so to do.

4. That they will keep the buildings and improvements now existing or hereafter to be erected or placed on said mortgaged premises in good repair and constantly insured, in companies acceptable to the Mortgagee, up to their full insurable value, against loss by fire, windstorm and such other causes as the Mortgagee may hereafter require, and will deliver to said Mortgagee the policies of insurance and their renewals when due, in such form as the Mortgagee may elect, such policies to be made payable to the Mortgagee as its interest may appear by mortgage clause approved by it; will suffer and permit no nuisance to exist upon said premises, and no unlawful use thereof, and no other act upon said premises (or omission to act) that may impair or diminish the value of the mortgaged property or the security intended to be effected by virtue of this instrument; will pay all taxes, special assessments, bills for repairs, and any and all expenses incident to the ownership of the mortgaged property when due and payable, in order that no lien superior to that of the Mortgagee may be created against the property during the term of this mortgage, and will exhibit, upon demand, at the office of the Mortgagee, all receipts for said taxes and assessments. In case of failure of the Mortgagors so to do, the Mortgagee may insure said property, pay such taxes or special assessments or redeem said premises from any tax sale, or purchase any tax title obtained or that shall be obtained thereon; and the Mortgagee may, at any time, pay or settle any and all suits or claims for liens of mechanics or material men or any other claims that may be against said premises, or make repairs and improvements to said premises; and all moneys paid for any such purpose, and any other moneys disbursed by the Mortgagee to protect the lien of the mortgage shall be added to the unpaid balance of the aforesaid obligation as of the first day of the then current month and become so much additional indebtedness secured by this mortgage and be included in any decree foreclosing this mortgage and be paid out of the rents or proceeds of sale of the lands and premises aforesaid, if not otherwise paid by said Mortgagors; and it shall not be obligatory to inquire into the validity of such tax deed, taxes or special assessments, or of sales therefor, or of liens of mechanics or material men, or into the necessity of such repairs and improvements in advancing moneys in that behalf as above authorized, but nothing herein contained shall be construed as requiring the Mortgagee to advance or expend money for taxes or special assessments, or for other purposes aforesaid, including repairs and improvements.

5. That no delay or failure of the Mortgagee to exercise any option to declare the maturity of any debt secured by this mortgage shall be taken or deemed as a waiver of the right to exercise such option or to declare such forfeiture either as to past or present default on the part of said Mortgagors, and that the procurement of insurance or payment of taxes by the Mortgagee shall not be taken or deemed as a waiver of the right to declare the maturity of the indebtedness hereby secured by reason of the failure of the Mortgagors to procure such insurance or to pay such taxes, it being agreed that no terms or conditions contained in this mortgage can be waived, altered, or changed except as evidenced in writing signed by the Mortgagors and by the Mortgagee, and that any payments made may at the option of Mortgagee be applied in reduction of the original indebtedness hereby secured, or in reduction of any subsequent indebtedness hereby secured.

6. That they will well and truly pay and discharge the indebtedness hereby secured as it shall become due and payable; that they may without penalty make prepayments on the loan secured hereby in addition to and at the time of making their regular monthly payments, provided however, that when the amount prepaid equals or exceeds 20% of the original principal amount of said loan 90 days interest may be charged by the Mortgagee. Any deficiency in the amount of the aggregate monthly payment shall, unless made good by the Mortgagor prior to the due date of the next such payment, constitute an event of default under this mortgage. The Mortgagee may collect a "late charge" not to exceed an amount equal to four per centum (4%) of the installment which is not paid within twenty (20) days from the due date thereof to cover the extra expense involved in handling delinquent payments.

7. That after any default on the part of the Mortgagors the Mortgagee shall, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this mortgage, be entitled as a matter of right to the appointment, by any competent court or tribunal without notice to any party, of a receiver of the rents, issues, and profits of said premises with power to lease and control the said premises and with such other powers as may be deemed necessary, and that a reasonable attorney's fee shall, among other expenses and cost, be fixed, allowed and paid out of such rents, issues and profits or out of the proceeds of the sale of said mortgaged property.

8. That, in the event the ownership of the mortgaged property, or any part thereof, becomes vested in a person or persons, other than the Mortgagor, the debt hereby secured shall, at the option of the Mortgagee, become at once due and payable and this mortgage subject to foreclosure as herein provided, unless the Mortgagor shall have executed an assumption agreement in a form satisfactory to Mortgagee whereby the successor, or successors, in interest of the Mortgagor assume and agree to pay said mortgage indebtedness and the Mortgagor agrees to remain liable therefor. After any such vesting of ownership, the Mortgagee may without notice to the Mortgagor, deal with such successor, or successors, in interest with reference to this mortgage and the debt hereby secured in the same manner as with the Mortgagor and may forbear to sue or may extend time for payment of the debt secured hereby, without discharging or in any way affecting the liability of the Mortgagor hereunder or upon the debt hereby secured.

9. That the debt hereby secured shall at once become due and payable and this mortgage subject to foreclosure as herein provided at the option of the Mortgagee when and if any statement of lien is filed under the statutes of Alabama relating to the liens of mechanics and material-men, ( ) out regard to the form and contents of such ( ) lement and without regard to the existence or non-existence of the debt or any part thereof, or of the lien on which such statement is based.

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10. That all the covenants and agreements of the Mortgagors herein contained shall extend to and bind their heirs, executors, administrator, successors and assigns, and that such covenants and agreements and all options, rights, privileges and powers herein given, granted or secured to the Mortgagee shall inure to the benefit of the successors or assigns of the Mortgagee.

11. That plural or singular words used herein to designate the undersigned Mortgagors shall be construed to refer to the maker or makers of this mortgage, whether one or more persons or a corporation.

UPON CONDITION, HOWEVER, that if the Mortgagors shall well and truly pay and discharge any indebtedness hereby secured as it shall become due and payable and shall in all things do and perform all acts and agreements by them herein agreed to be done according to the tenor and effect hereof, then and in that event only this conveyance shall be and become null and void; but should default be made in the payment of any indebtedness hereby secured or any renewals or extensions thereof or any part thereof or should any interest thereon remain unpaid at maturity or should default be made in the repayment of any sum expended by said Mortgagee under the authority of any of the provisions of this mortgage or should the interest of said Mortgagee in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon so as to endanger the debt hereby secured, or should any law, either federal or state, be passed imposing or authorizing the imposition of a specific tax upon this mortgage or the debt hereby secured, or permitting or authorizing the deduction of any such tax from the principal or interest secured by this mortgage or by virtue of which any tax or assessment upon the mortgaged premises shall be charged against the owner of this mortgage or should at any time any of the stipulations contained in this mortgage be declared invalid or inoperative by any court of competent jurisdiction or should the Mortgagors fail to do and perform any other act or thing herein required or agreed to be done, then in any of said events the whole of the indebtedness hereby secured, or any portion or part of same that may not at said date have been paid, with interest thereon, shall at once become due and payable and this mortgage subject to foreclosure at the option of the Mortgagee, notice of the exercise of such option being hereby expressly waived; and the Mortgagee shall have the right to enter upon and take possession of the property hereby conveyed and appropriate the rents, issues and profits therefrom to the payment of any sum secured by this mortgage, and after or without taking such possession to sell the same before the County Court House Door in ~~Shelby~~ Columbiana

Shelby ~~DeKalb~~ County, Alabama, at public outcry for cash, after first giving notice of the time, place and terms of such sale by publication once a week for three consecutive weeks prior to said sale in some newspaper published in said City, and upon the payment of the purchase money the Mortgagee, or owner of the debt and mortgage, or auctioneer, shall execute to the purchaser for and in the name of Mortgagors a good and sufficient deed to the property sold; the Mortgagee shall apply the proceeds of said sale: First, to the expense of advertising, selling and conveying, including a reasonable attorney's fee; Second, to the payment of any amounts that may have been expended or that may then be necessary to expend in paying insurance, taxes and other incumbrances, with interest thereon; Third, to the payment in full of the principal indebtedness and interest thereon, whether the same shall or shall not have fully matured at the date of said sale, but no interest shall be collected beyond the date of sale; and Fourth, the balance, if any, to be paid over to the said Mortgagors or to whomsoever then appears of record to be the owner of said property. And the Mortgagee is hereby authorized and empowered to bid for and become the purchaser of the property covered by this mortgage or any portion thereof, whether said sale be made under the power contained in this mortgage or under decree of a court of competent jurisdiction.

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IN WITNESS WHEREOF, the said Mortgagors have hereunto set their hands and seals, this 31st day of July 19 64.

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J. B. Holmes (Seal)  
J. B. Holmes  
Essie Mae Holmes (Seal)  
Essie Mae Holmes

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

I, Eula V. Martin, a Notary Public in and for said County, in said State,  
hereby certify that J. B. Holmes and wife Essie Mae Holmes  
whose name is are signed to the foregoing conveyance and who are known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.  
Given under my hand and official seal, this 31st day of July, 1964.

Eula V. Martin  
Notary Public.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS INSTRUMENT  
WAS FILED ON  
8/26 1964  
RECORDED  
& S.  
PD. C.

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

I, \_\_\_\_\_, a Notary Public in and for said County, in said State,  
hereby certify that \_\_\_\_\_  
whose name \_\_\_\_\_ signed to the foregoing conveyance and who \_\_\_\_\_ known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.  
Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public.

THE STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY.

I, \_\_\_\_\_, a Notary Public in and for said County, in said State,  
hereby certify that \_\_\_\_\_  
whose name \_\_\_\_\_ signed to the foregoing conveyance and who \_\_\_\_\_ known to me, acknowledged before me on this day  
that, being informed of the contents of the conveyance, \_\_\_\_\_ executed the same voluntarily on the day the same bears date.  
Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public.

THE STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY.

I, \_\_\_\_\_, a Notary Public in and for said County, in said State,  
hereby certify that \_\_\_\_\_ whose name as President  
of the \_\_\_\_\_ a corporation, is signed to the fore-  
going 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 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public.

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
1965 AUG 14 AM 8:19  
Re-Recorded  
Thomas A. [Signature]  
JUDGE OF PROBATE

12/18  
1964

DIAMOND CONSTRUCTION COMPANY  
OF ALABAMA  
#227-1st AVENUE NORTH / 330 CITY FEDERAL  
BIRMINGHAM, ALABAMA 35203

TO  
DIAMOND CONSTRUCTION  
COMPANY OF ALABAMA

**MORTGAGE DEED**

RECORDING FEES	
Recording Fee	\$ 10.00
Index Fee	1.00
<b>TOTAL</b>	<b>\$ 11.00</b>