

STATE OF ALABAMA
COUNTY OF SHELBY

NEGATIVE PLEDGE AGREEMENT

THIS NEGATIVE PLEDGE AGREEMENT (hereinafter "Agreement") is made this 25 day of August, 1998, between **PELHAM BAPTIST CHURCH** (now known as **THE FIRST BAPTIST CHURCH OF PELHAM**), an Alabama Religious Corporation, whose address is 3174 Church Street, Pelham, Alabama 35124 (hereinafter jointly severally and collectively referred to as "Owner") and **SOUTHTRUST BANK, National Association**, whose address is P.O. Box 2554, Birmingham, Alabama 35290 (hereinafter "Lender").

WHEREAS, Owner is the owner of the land described on Exhibit "A" attached hereto, along with all buildings, structure, fixtures, equipment, personal property, improvements, easements, right-of-ways, interests, privileges, liberties, tenements, hereditaments, appurtenances, reversions and remainders pertaining thereto or pertaining thereto in the future (hereafter collectively the "Real Estate")

WHEREAS, Lender is making a loan to Owner, one of the conditions of which requires Owner to agree not to encumber the Real Estate while this loan, any part thereof, or any other obligation of Owner is still owed by Owner to Lender.

NOW THEREFORE for and in consideration of the premises, Ten Dollars and other good and valuable consideration in hand paid, and to induce Lender to make the loan to Owner, the Owner represents and warrants to the Lender, and covenants and agrees with the Lender, that it **WILL NOT** grant bargain, sell, alien, convey, mortgage, encumber, grant a security interest or lien in, or otherwise restrict or assign in any way, to or in favor of any person or entity, any interest in or to the Real Estate.

PROVIDED HOWEVER, if the loan made by Lender to Owner and all other obligations of Owner to Lender is paid, then this agreement shall be null and void; otherwise it shall remain in full force and effect.

AND the Owner covenants and agrees with the Lender a follows;

1. **Performance of Note and Loan Documents.** Owner shall perform and comply with all provisions hereof, of the Promissory Note dated this date from Owner to Lender and of the documents executed in connection herewith (hereinafter "Loan Documents"), and shall duly and punctually pay all indebtedness secured hereby, whether presently existing or hereafter incurred, with interest thereon, and any and every extension, renewal and modification thereof, or of any part thereof, and all interest on all such extensions, renewals, and modifications.

2. **Warranties of Title.** Owner covenants with Lender that it is lawfully seized in

fee simple of the Real Estate and has full power and right to enter into this agreement, that the Real Estate is free of all encumbrances except as set out in Exhibit "A", that the Owner quietly enjoys and possesses the same; and Owner will warrant and forever defend the title to said Real Estate against lawful claims of all persons.

3. **Covenant Against Sale, Lease or Transfer.** In the event of any change in the present ownership of all or any part of the Real Estate or any interest therein, either by affirmative action, by operation of law or otherwise, or in the event any encumbrance of the Real Estate is created without Lender's prior written approval, Lender may, at its option, declare the indebtedness due and payable in full.

4. **Taxes, Utilities, and Liens.** The Owner shall pay promptly, when and as due, and, if requested, will exhibit promptly to the Lender receipts for the payment of all taxes, assessments, water rates, utility charges, dues, charges, fines, penalties, costs and other expenses incurred, and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Real Estate or any part thereof, or upon the revenues, rents, issues and profits of the Real Estate or arising in respect to the occupancy, use or possession thereof, or upon the interest of the Owner in the Real Estate, or any charge which, if unpaid, would become a lien or charge upon the Real Estate. Such taxes, assessments and other charges shall not be permitted to become delinquent.

5. **Hazard Insurance.** Owner will constantly keep in force fire and extended coverage insurance policies with respect to any and all buildings or equipment on said Real Estate. Such insurance will be provided in such a manner by such companies and for such amounts as may be required by Lender. Owner covenants to pay the premium on such policy or policies when due, to deliver to the Lender upon its request the official receipts for such premium payments.

6. **Covenant Against Waste; Care of the Property.** The Real Estate and the improvements thereon shall be kept in good condition and no waste committed or permitted thereon, reasonable natural wear and tear excepted. No building or other improvement on the Real Estate shall be structurally altered, removed or demolished, without the Lender's prior written consent, nor shall any fixture or chattel adapted to the proper use and enjoyment of the Real Estate be removed at any time without like consent. In the event of any breach of this covenant the Lender may, in addition to any other rights or remedies, at any time thereafter, declare the whole of the indebtedness secured by the Loan Documents immediately due and payable. Lender is hereby authorized to enter upon and inspect the Real Estate and to inspect the Owner's or Owner's agent's records with respect to the ownership, use, management and operation of the Real Estate, at any time during normal business hours.

7. **Mechanics' and Materialmen's Liens Prohibited.** Any lien which may be filed under the provisions of the statutes of Alabama, relating to the liens of mechanics and materialmen, shall be promptly paid and discharged by Owner and shall not be permitted to attach to the Real Estate.

8. **Governmental Compliance.** Owner shall comply with all laws, governmental standards, and regulations applicable to Owner or the Real Estate with regards to occupational safety, hazardous waste and materials, and environmental matters. Owner shall promptly notify Lender of its receipt of any nature of a violation by Owner or the Real Estate of any such law, standard, or regulation. Owner represent and warrant to Lender that there is not now, or will there be in the future, any asbestos or other harmful or regulated substances in the Real Estate or on the Real Estate or pending claims relating thereto. Owner shall indemnify and hold Lender harmless for any and all loss incurred by Lender as a result of Owner's breach of this warranty and representation. This indemnification shall survive the payment of the Promissory Note, the exercise of any right or remedy under the Promissory Note or any Loan Document, and all similar or related events or occurrences.

9. **Events of Default.** Owner shall be deemed in default hereunder upon the occurrence of any of the following events ("Events of Default"): (a) if Owner defaults in the payment of any mechanic's lien, materialmen's lien, insurance premiums, taxes, or assessments now, or which may hereafter be levied against, or which may become a lien on the Real Estate, (b) if the Owner defaults in any of the covenants, conditions, and agreements herein contained; (c) if a receiver of Owner or of the Real Estate be appointed; (d) if Owner intentionally damages or attempts to remove any improvement from said Real Estate; (e) if all or any part of the Real Estate is condemned; or (f) if Owner sells, aliens, conveys, mortgages, encumbers, grants a security interest in, or disposes of the Real Estate

10. **Acceleration of Debt.** Upon the occurrence of an Event of Default or at any time thereafter, the Lender, or other holder or holders of the indebtedness evidenced by the Promissory Note and Loan Documents, shall have the option or right, without notice or demand, to declare all of said indebtedness then remaining unpaid immediately due and payable. Upon such acceleration, the Owner covenants to pay, in addition to all other amounts due, interest on the obligations unpaid until paid at the rate set forth in said Promissory Note.

11. **Waiver and Election.** No failure or delay of Lender to exercise any option herein given, shall be taken or construed as a waiver of its right to exercise such option. The procurement of insurance or the payment of taxes or other liens, debts, or charges by Lender shall not be taken or construed as a waiver of its right to declare the maturity of the indebtedness referred to herein, by reason of the failure of Owner to procure such insurance or to pay such taxes, debts, liens, or charges.

12. **Modifications or Extensions Not Affecting Agreement.** The parties expressly agree that: (a) any indebtedness at any time referred to herein may be extended, rearranged or renewed, and that any part of the terms hereof or in the Loan Documents may be waived or released without in any way altering, varying, or diminishing the force and effect of this instrument; (b) this instrument shall continue as a agreement pertaining to the Real Estate and will not be expressly released until all sums with interest and charges described in the Loan Documents, or renewals, modifications and extensions thereof, are fully paid; (c) no other security now existing or hereafter taken to secure the payment of said indebtedness or any part

thereof shall in any manner be impaired or affected by the execution of this instrument; (d) no security subsequently taken by Lender or other holder or holders of said indebtedness shall in any manner impair or affect the rights given by this instrument; and (e) all security for the payment of said indebtedness or any part thereof shall be taken, considered and held as cumulative.

13. **Notices.** Wherever and whenever in this agreement it shall be required or permitted that notice or demand be given or served by any party, such notice or demand shall be given or served, and shall not be deemed to have been given or served unless in writing and forwarded by registered or certified mail, return receipt requested, or by overnight professional courier, addressed to the addresses of the parties indicated at the beginning of this agreement, or to such other address as either party may have given to the other by notice as hereinabove provided. Such notice shall be deemed given and shall be effective upon deposit in the United States Mail postage prepaid or into the hands of an overnight professional courier, all charges prepaid, addressed to the above addresses or to such other address as either party may have given to the other by notice as hereinabove provided. Actual notice to Owner or Lender shall always be effective no matter how given or received.

14. **Meaning of Particular Terms.** Singular or plural words used herein to designate the Owner shall be construed to refer to the maker or makers of this agreement, whether one or more persons or a corporation, and all covenants and agreements herein contained shall bind the successors and assigns of the Owner, and every option, right, and privilege herein reserved or secured to Lender shall inure to the benefit of its successors and assigns. The headings of the sections hereof are for convenience or reference only, and are not to be considered a part hereof, and shall not limit or affect any of the terms hereof.

15. **Enforceability; Remedies Cumulative.** The unenforceability or invalidity of any provision or provisions of this agreement shall not render any other provision or provisions herein contained unenforceable or invalid. All rights or remedies of Lender hereunder are cumulative and not alternative, and are in addition to those provided by law.

IN WITNESS WHEREOF, the party constituting Owner has hereto set his hand and seal hereto effective as of the date first above written.

PELHAM BAPTIST CHURCH (now known as THE FIRST BAPTIST CHURCH OF PELHAM), an Alabama Religious Corporation

BY: *Kevin Mae Dennis*
(Its Authorized Agent)

BY: *Edgar L. Measham*
(Its Authorized Agent)

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Willie Mae Dennis and Edgar L. Marchan, whose name as Authorized Agents of PELHAM BAPTIST CHURCH (now known as THE FIRST BAPTIST CHURCH OF PELHAM), an Alabama Religious Corporation are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such authorized agents, and with full authority, executed the same voluntarily, as an act of said corporation, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 25 day of August, 1998.


NOTARY PUBLIC

My Commission Expires: 8/17/99

THIS INSTRUMENT PREPARED BY AND AFTER
RECORDATION SHOULD BE RETURNED TO:

William B. Hairston, III
ENGEL, HAIRSTON & JOHANSON, P.C.
109 North 20th Street, Fourth Floor
P.O. Box 370027
Birmingham, Alabama 35237
(205) 328-4600

EXHIBIT "A"
TO
NEGATIVE PLEDGE AGREEMENT
AFFIDAVIT AND INDEMNITY
CONSTRUCTION LOAN AGREEMENT
AFFIDAVIT AND SUBORDINATION AGREEMENT
HAZARDOUS SUBSTANCES INDEMNIFICATION AND WARRANTY AGREEMENT

Borrower: PELHAM BAPTIST CHURCH (now known as THE FIRST BAPTIST CHURCH OF PELHAM), an Alabama Religious Corporation
Lender: SOUTHTRUST BANK, National Association

PARCEL - 'A'

A PART OF THE S.E. $\frac{1}{4}$ OF THE S.W. $\frac{1}{4}$, SECTION 12, T.S. 20 S, R3W, SHELBY COUNTY, ALABAMA more particularly described as follows:

Commence at the Northeast corner of the Southeast quarter of the Southwest quarter of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama and run thence S 0°-52'-40" E along the East line of said quarter-quarter a distance of 439.57' to the point of beginning of the property, Parcel 'A', being described, Thence continue along last described course a distance of 478.98' to a point marked by a steel pin, Thence run N 62°-54'-15" W a distance of 649.47' to a point on the Easterly right of way line of U.S. Highway No. 31 South, Thence run N 27°-05'-45" E along said right of way line a distance of 431.50' to an existing steel bolt corner, Thence run S 61°-45'-39" E a distance of 424.88' to the point of beginning, containing 5.257 acres

PARCEL - 'B'

A PART OF THE S.E. $\frac{1}{4}$ OF THE S.W. $\frac{1}{4}$, SECTION 12 AND THE N.E. $\frac{1}{4}$ OF THE N.W. $\frac{1}{4}$, SECTION 13, T.S. 20 S, R3 W, SHELBY COUNTY, ALABAMA more particularly described as follows:

BEGIN at the Northeast corner of the Northeast quarter of the Northwest quarter of Section 13, Township 20 South, Range 3 West, Shelby County, Alabama and run thence S 0°-46'-49" E along the East line of said $\frac{1}{4}$ - $\frac{1}{4}$ a distance of 669.48' to a existing steel corner that represents the Southeast corner of the North One Half of the N.E. $\frac{1}{4}$ -N.W. $\frac{1}{4}$, Thence run N 88°-23'-46" W along the said South line of the North half of said quarter-quarter a distance of 1,277.09' to a point on the Easterly right of way line of U.S. Highway No. 31 South, marked by a steel pin, Thence run N 27°-05'-45" E along the said right of way line a distance of 505.08' to a point, Thence run S 62°-56'-22" E a distance of 299.62' to a point, Thence run N 27°-29'-26" E a distance of 228.73' to a point, Thence run N 62°-42'-40" W a distance of 140.0' to a point, Thence run S 27°-26'-18" W a distance of 199.28' to a point, Thence run N 62°-56'-22" W a distance of 160.0' to a point on the same said Easterly right of way line of U.S. Highway No. 31, South, Thence run N 27°-05'-45" E along said right of way line a distance of 964.59' to a point, Thence run S 62°-54'-15" E a distance of 649.47' to a point on the East line of the S.E. $\frac{1}{4}$ -S.W. $\frac{1}{4}$, Section 12, Thence run S 0°-52'-40" E a distance of 405.62' to the point of beginning, containing 26.085 acres

CERTIFICATE OF RESOLUTIONS

OF

PELHAM BAPTIST CHURCH (now known as THE FIRST BAPTIST CHURCH OF PELHAM) an Alabama Religious Corporation

I, the undersigned, do hereby certify that I am the Church Clerk or Secretary of PELHAM BAPTIST CHURCH (now known as THE FIRST BAPTIST CHURCH OF PELHAM), an Alabama Religious Corporation (hereinafter the "Church") and that the following is a true copy of resolutions duly adopted by the Church and a majority of the trustees of said Church at a meeting thereof duly called after ten days notice and held on the ____ day of _____, 1998.

RESOLVED: that it is to the best interests of this Church to enter into arrangements with SOUTHTRUST BANK, National Association herein designated as "Secured Party", providing for \$5,400,000.00 of financing accommodation to be extended to this Church by said Secured Party and for the creation of security interests in favor of Secured Party upon this Church's present and future tangible or intangible property; and further

RESOLVED: That the trustees or any two of them, (hereinafter "Authorized Agents") is hereby authorized and empowered to make, execute, and deliver in the name of this Church a note, negative pledge agreement, construction loan agreement, mortgage, or agreements with Secured Party, and any renewals, amendments or modifications thereof or of the prior obligations of the Church to Secured Party, and that the Authorized Agent of this Church, and any person whom this Church may from time to time designate, is hereby authorized and empowered to make, execute, and deliver to Secured Party in the name of this Church any and all such assignments, pledges, endorsements, transfers, and other documents and instruments, and to do all such acts, as may be appropriate to consummate transactions between this Church and Secured Party pursuant to such note, negative pledge agreement, construction loan agreement, mortgage, or agreements; and further

RESOLVED: That all acts and transactions of the Authorized Agents of this Church and of any such mortgagee, designees, done in execution or performance of any such note, negative pledge agreement, construction loan agreement, mortgage, agreements and of transactions thereunder, are hereby ratified and approved.

I further certify that the Certificate of Incorporation, By-Laws, and the rules and regulation of said Church and all amendments thereto are attached to this certificate, and that they contain no provisions requiring a vote or consent of any person other than the trustees of

the Church to authorize the action set forth in the foregoing resolutions, and that said resolutions are and remain in full force and effect.

I do further certify that the following persons are those of trustees of the Church authorized and empowered by the foregoing resolution to act for the Church as its Authorized Agents:

Willie Mae Dennis
Willie Mae Dennis

Lewis C. Leverett
Lewis Leverett

Ed Meacham
Ed Meacham

Eugene Evans
Eugene Evans

Willard Payne
Willard Payne

IN WITNESS WHEREOF, I have hereunto set my hand as the Secretary or Church Clerk of said Church, this 25 day of July, 1998.

Willie Mae Dennis
Secretary or Church Clerk

The foregoing is hereby approved and confirmed:

Michael E. Shaw
Pastor

Willard Payne
Chairperson of Deacon Board

Willie Mae Dennis
Chairperson of the Trustee Board

Inst # 1998-35841