

ORDINANCE NO. 486

AN ORDINANCE APPROVING THE LEASING OF CERTAIN SURPLUS REAL PROPERTY TO THE PELHAM BOARD OF EDUCATION

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELHAM,
ALABAMA, AS FOLLOWS:**

Section 1. It is hereby established and declared that the following described real property of the City of Pelham, Alabama, is not currently needed for public or municipal purposes:

Tax parcel # 14 3 06 2 001 010.000 as described in the legal description attached as Exhibit A. The property is located at 310 Opportunity Drive, Pelham, Alabama 35124, also known as Valley Elementary School

Section 2. Pursuant to the authority granted by § 11-47-20, Code of Alabama 1975, the mayor is hereby authorized and directed to execute a commercial real estate lease agreement for the above described parcel as described in Exhibit A, with the Pelham Board of Education in accordance with the terms and conditions as set forth in the attached agreement described as Exhibit B.

Section 3. That this Ordinance shall become effective upon its passage and publication or posting as required by law on October 21, 2017.

Maurice Mercer, a member of the Pelham City Council, moved that all rules which would prevent the immediate consideration of **Ordinance No. 486**, hereupon attached, be suspended and immediate consideration given to passage of said Ordinance. Said motion was seconded by Beth McMillan, a member, and passed unanimously by roll call vote.

The vote on said motion was as follows:

Rick Hayes Council President	Yes _____
Ron Scott Council Member	Yes _____
Beth McMillan Council Member	Yes _____
Maurice Mercer Council Member	Yes _____
Mildred Lanier Council Member	Yes _____

THEREUPON Maurice Mercer, a council member moved and Mildred Lanier, a council member seconded the motion that Ordinance No. 486 be given vote. The roll call vote on said motion was as follows:

Rick Hayes Council President	Yes _____
Ron Scott Council Member	Yes _____
Beth McMillan Council Member	Yes _____

Maurice Mercer
Council Member Yes

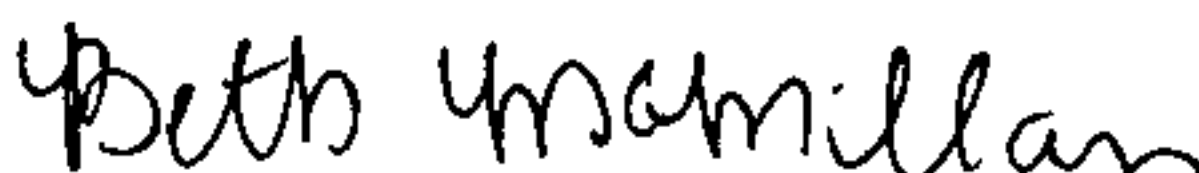
Mildred Lanier
Council Member Yes

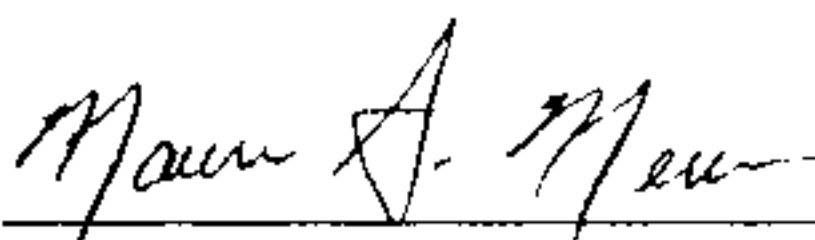
Ordinance No. 486 passed by majority vote of all members of the Council and the Council President declared the same passed.


ADOPTED this the 16th day of October 2017.


Rick Hayes, Council President


Ron Scott, Council Member


Beth McMillan, Council Member


Maurice Mercer, Council Member

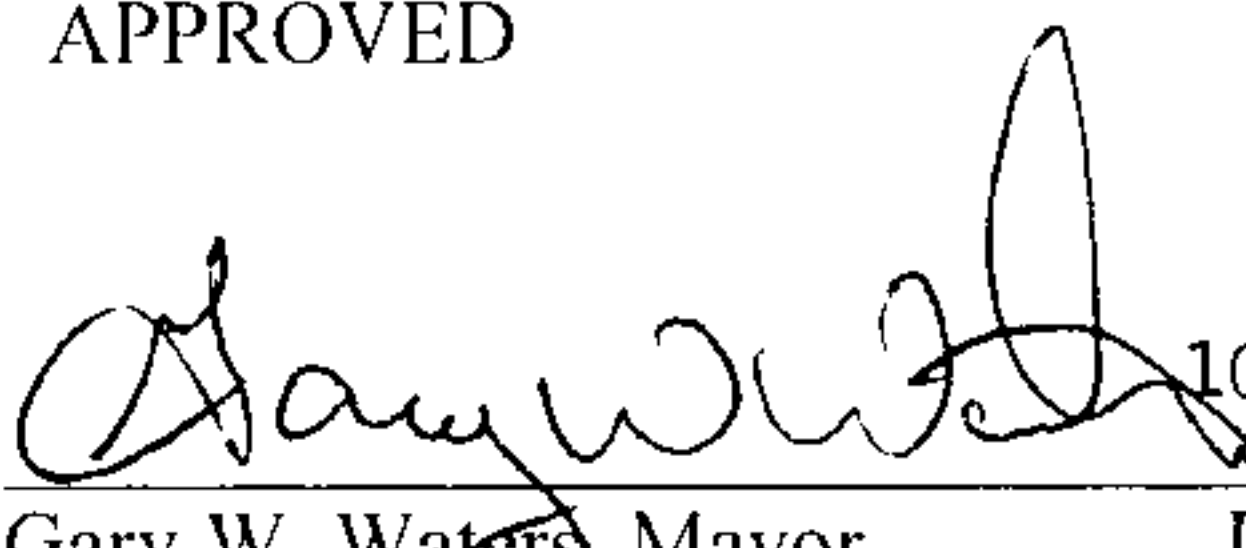

Mildred Lanier, Council Member



ATTEST


Tom Seale, MMC, City Clerk/Treasurer

APPROVED


Gary W. Waters, Mayor 10/16/2017
Date

POSTING AFFIDAVIT

I, the undersigned qualified City Clerk/Treasurer of the City of Pelham, Alabama, do hereby certify that the above and foregoing **ORDINANCE NO. 486** was duly ordained, adopted, and passed by the City Council of the City of Pelham, Alabama at a regular meeting of such Council held on the 16th day of October 2017 and duly published by posting an exact copy thereof on the 17th day of October 2017 at four public places within the City of Pelham, including the Mayor's Office at City Hall, City Park, Library, Water Works and www.pelhamalabama.gov. I further certify that said ordinance is on file in the office of the City Clerk/Treasurer and a copy of the full ordinance may be obtained from the office of the City Clerk/Treasurer during normal business hours.




Tom Seale, MMC, City Clerk/Treasurer

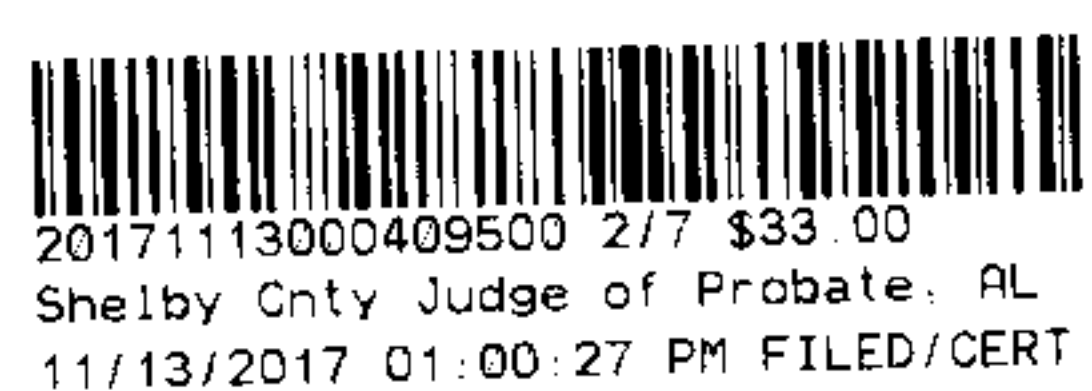


EXHIBIT A
LEGAL DESCRIPTION

Parcel I:

All that part of the W $\frac{1}{2}$ of NW $\frac{1}{4}$ of Section 6, Township 20 South, Range 2 West, which lies West of the right of way of the new four lane Birmingham-Montgomery Highway, being U.S. Highway 31, and South and East of Bishop Creek, as the same was located on January 28, 1942, being situated in Shelby County, Alabama.

Less and Except the following:

A parcel of land located in the NW $\frac{1}{4}$ of Section 6, Township 20 South, Range 2 West, more particularly described as follows:


Begin at the SW corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 6; thence in a Northerly direction along the Westerly line of said Section a distance of 85.98 feet; thence 115 deg. 48 min. 54 sec. right in a Southeasterly direction a distance of 203.09 feet; thence 154 deg. 57 min. 28 sec. right in a Westerly direction a distance of 182.85 feet to the point of beginning.

Parcel II:

A parcel of land located in the NW $\frac{1}{4}$ of Section 6, Township 20 South, Range 2 West, more particularly described as follows:

Commence at the Southwest corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 6; thence in a Northerly direction along the Westerly line of said Section 6 a distance of 85.98 feet; thence 115 deg. 48 min. 54 sec. right in a Southerly direction a distance of 203.09 feet to the point of beginning; thence continue along the last described course a distance of 82.59 feet to a point on the Northwestern right of way line of U.S. Highway No. 31; thence 88 deg. 13 min. 29 sec. left in a Northeasterly direction along said right of way line a distance of 39.17 feet; thence 116 deg. 49 min. 03 sec. left in a Westerly direction a distance of 92.49 feet to the point of beginning.

RL


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October 12, 2017

Pelham City Officials,

Per item 5 (b) of the lease agreement between the City of Pelham and the Pelham Board of Education,, we are confirming that the roof, exterior walls, foundation, sewer, plumbing, heating, wiring, air conditioning, fire alarms, plate glass, windows and window glass, parking area, driveways, and sidewalks are in good working order.

Sincerely,

A handwritten signature in cursive script that reads "Scott Coefield".

Scott Coefield, Ed.D.
Superintendent



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BOARD OF EDUCATION • DR. SCOTT COEFIELD, SUPERINTENDENT

3113 CUMMINGS STREET • PELHAM, AL 35124 • PHONE: 205.624.3700 • PELHAMCITYSCHOOLS.ORG

EXHIBIT B

COMMERCIAL REAL ESTATE LEASE AGREEMENT

THIS AGREEMENT, made and entered into this 16th day of October, 2017, by and between, the City of Pelham, Alabama ("Landlord") whose address for the purpose of this lease is: 3162 Pelham Parkway, Pelham, Alabama 35124 and the Pelham Board of Education ("Tenant"), whose address for the purpose of this lease is: 3113 Cummings Street, Pelham, Alabama 35124.

The parties agree as follows:

1. PREMISES AND TERM. Landlord leases to Tenant approximately 4,000 square feet (Exhibit A), at Valley Elementary School located at 310 Opportunity Drive, Pelham, Alabama situated in Shelby County, Alabama, together with all improvements thereon, and all rights, easements and appurtenances thereto belonging, for a term beginning on the 16th day of October 2017 and ending on the 31st day of May 2019 (or at any time premises requires repair work in excess of \$1,000 as outlined in section 5 below) upon the condition that Tenant performs as provided in this lease. The applicable premises are currently unoccupied.

2. RENT. Tenant agrees to pay Landlord as rent \$1,500.00 per month, in advance commencing on the 16th day of October 2017, with a beginning credit balance of \$25,255.98, and on the same day of each month thereafter, during the term of this lease. Rent for any partial month shall be prorated as additional rent. Tenant shall pay all sums due under this lease at the address of Landlord, or at such other place as Landlord may designate in writing. Payments that are more than ten (10) days delinquent shall draw interest at 6% per annum. Continued possession, beyond the term of this lease and the acceptance of rent by Landlord shall constitute a month-to-month extension of this lease at the same rate of \$1,500.00 per month.

3. POSSESSION. Tenant shall be entitled to possession on the first day of the lease term, and shall yield possession to Landlord at the termination of this lease. SHOULD LANDLORD BE UNABLE TO GIVE POSSESSION ON SAID DATE, TENANT'S ONLY DAMAGES SHALL BE A PRO RATA ABATEMENT OF RENT.

4. USE. Tenant shall use the premises only for an alternative school program administered and operated by the Pelham Board of Education.

5. CARE AND MAINTENANCE.


(a) Tenant takes the premises as is, except as herein provided: None.

(b) Prior to taking possession, the Tenant will confirm, by written letter to the City of Pelham, City Clerk/Treasurer, that the following are in good working order: roof, exterior walls, foundation, sewer, plumbing, heating, wiring, air conditioning, fire alarms, plate glass, windows and window glass, parking area, driveways, and sidewalks.

The Tenant understands that the property being leased is not a property that has long term lease potential and the Landlord wishes to minimize any cost associated with property upkeep. Therefore, any cumulative cost requiring repair and replacement that exceeds \$1,000 must be discussed and mutually agreed upon by both Tenant and Landlord. The Tenant understands that the Landlord may choose to not repair or replace when the cumulative cost exceeds \$1,000, and the tenant would be responsible for relocating from the premises or paying for cost of repair. The Tenant must make plans to relocate from the premises within 60 days.

Should any of these items or any combination of these items require repair/replacement such that costs exceed \$1,000 at any time during this lease agreement, Tenant understands that the Landlord will be unable to continue to make the space available for the Tenant, and the Tenant must make plans to relocate from the premises within 60 days.

(c) Tenant shall maintain the premises in a reasonable, safe, serviceable, clean and presentable condition, shall make all repairs, replacements and improvements to the premises, INCLUDING ALL CHANGES, ALTERATIONS OR ADDITIONS ORDERED BY ANY LAWFULLY CONSTITUTED GOVERNMENT AUTHORITY DIRECTLY RELATED TO TENANT'S USE OF THE PREMISES. Tenant shall make no structural changes or alterations without the prior written consent of Landlord.


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6. UTILITIES AND SERVICES. Landlord shall be responsible for all utilities and services REQUIRED FOR THE PORTION OF THE BUILDING COVERED UNDER THS CONTRACT ONLY including the operation and monitoring of a fire alarm system. Landlord shall not be liable for damages for any stoppage for needed repair or for improvements or arising from causes beyond the control of Landlord to provide such services.

7. PROHIBITION. Tenant shall not be allowed to cook or prepare food on the premises.

8. SURRENDER. Upon the termination of this lease, Tenant will surrender the premises to Landlord in good and clean condition, except for ordinary wear and tear or damage without fault or liability of Tenant.

9. ASSIGNMENT AND SUBLETTING. No assignment or subletting, either voluntary or by operation of law, shall be effective without the prior written consent of Landlord, which consent shall not unreasonably be withheld.

10. INSURANCE.

A. PROPERTY INSURANCE. Landlord and Tenant agree to insure their respective real and personal property for the full insurable value. Such insurance shall cover losses included in the Insurance Services Offer Broad Form Causes of Loss (formerly fire and extended coverage). To the extent permitted by their policies the Landlord and Tenant waive all rights of recovery against each other.

11. TERMINATION CLAUSE. If the landlord approves a sale or lease of the property located at 310 Opportunity Drive, Pelham, Alabama to a third-party, the landlord shall notify the tenant in writing within 10 days. Upon closing of the real estate sale, the landlord shall immediately give written notice to the tenant of its intent to terminate the lease and the tenant to vacate the property in 90 days. In the event of early termination pursuant to this section, all remaining utility credits will be promptly refunded to the tenant. No payment for damages for the early termination of this lease under this section shall be paid to the tenant.

12. LIABILITY FOR DAMAGE. Each party shall be liable to the other for all damage to the property of the other negligently, recklessly or intentionally caused by that party (or their agents, employees or invitees), except to the extent the loss is insured and subrogation is waived under the owner's policy.


13. DAMAGE. In the event of damage to the premises, so that Tenant is unable to conduct business on the premises, this lease may be terminated at the option of either party. Such termination shall be effected by notice of one party to the other within twenty days after such notice; and both parties shall thereafter be released from all future obligations hereunder.

14. MECHANICS' LIENS. Neither Tenant, nor anyone claiming by, through, or under Tenant, shall have the right to file any mechanic's lien against the premises. Tenant shall give notice in advance to all contractors and subcontractors who may furnish, or agree to furnish, any material, service or labor for any improvement on the premises.

15. DEFAULT, NOTICE OF DEFAULT AND REMEDIES.

EVENTS OF DEFAULT

Each of the following shall constitute an event of default by Tenant: (1) Failure to pay rent within the ten (10) days of its due date; (2) failure to observe or perform any duties, obligations, agreements, or conditions imposed on Tenant pursuant to the terms of the lease; (3) abandonment of the premises. "Abandonment" means the Tenant has failed to engage in its usual and customary business activities on the premises for more than fifteen (15) consecutive business days; (4) Institution of voluntary bankruptcy proceedings by Tenant; Institution of Involuntary bankruptcy proceedings in which the Tenant thereafter is adjudged a bankruptcy; assignment for the benefit of creditors of the interest of Tenant under this lease agreement; appointment of a receiver for the property or affairs of Tenant, where the receivership is not vacated within ten (10) days after the appointment of the receiver.


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NOTICE OF DEFAULT

Landlord shall give Tenant a written notice specifying the default and giving the Tenant ten (10) days in which to correct the default. If there is a default (other than for nonpayment of a monetary obligation of Tenant, including rent) that cannot be remedied in the (10) days by diligent efforts of the Tenant, Tenant shall propose an additional period of time in which to remedy the default. Consent to additional time shall not be unreasonably withheld by Landlord. Landlord shall not be required to give Tenant any more than three notices for the same default within any 365-day period.

REMEDIES

In the event Tenant has not remedied a default in a timely manner following a Notice of Default, Landlord may proceed with all available remedies at law or in equity, including but not limited to the following: (1) Termination. Landlord may declare this lease to be terminated and shall give Tenant a written notice of such termination. In the event of termination of this lease, Landlord shall be entitled to the balance of the rent agreed to be paid for the term herein provided, plus all expenses of Landlord in regaining possession of the premises. (2) Forfeiture. If a default is not remedied in a timely manner, Landlord may then declare this lease to be forfeited and shall give Tenant a written notice of such forfeiture, and may, at the time, give Tenant the notice to quit.

16. NOTICES AND DEMANDS. All notices shall be given to the parties hereto at the addresses designated unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such notice shall be considered given under the terms of this lease when it is deposited in the U.S. Mail, registered or certified, properly addressed, return receipt requested, and postage prepaid.

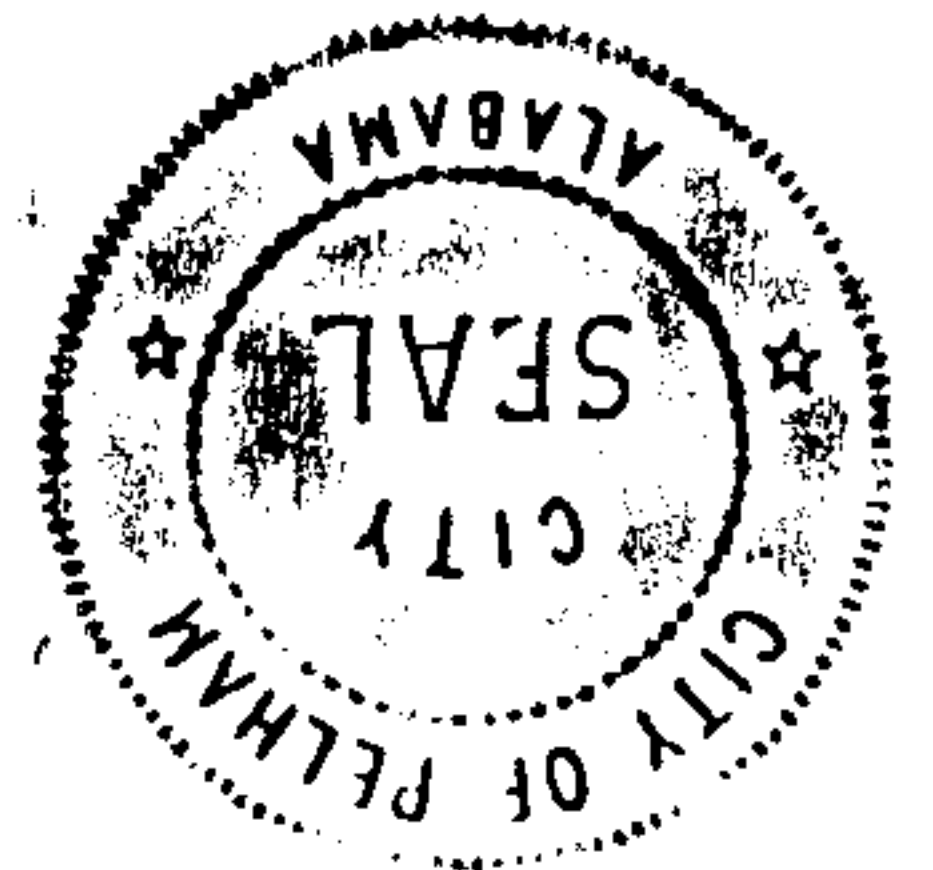
17. PROVISIONS BINDING. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

CITY OF PELHAM, ALABAMA (LANDLORD)

BY: [Signature], Mayor

DATE: October 16, 2017

ATTEST: [Signature], City Clerk/Treasurer
Tom Seale



PELHAM BOARD OF EDUCATION (TENANT)

BY: [Signature], President, Pelham Board of Education

DATE: October 30, 2017

ATTEST: [Signature], Secretary, Pelham Board of Education



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