CALL TO ORDER: Mayor McDaniel at 7:00 p.m.
LOCATION: City Council Chamber, 1827 N. Squirrel Road, Auburn Hills, MI 48326
Present: Mayor McDaniel, Mayor Pro Tem Mitchell, Council Members Burmeister, Hammond, Kittle, Knight, Verbeke
Absent: None
Also Present: City Manager Tanghe, Assistant City Manager Grice, Police Chief Olko, Fire Chief Manning, City Clerk Kowal, DPW Director Melchert, Community Development Director Cohen, City Engineer Juidici, City Attorney Beckerleg
10 Guests

4. APPROVAL OF MINUTES
4a. Regular City Council – March 28, 2016
Moved by Mitchell; Seconded by Verbeke.
RESOLVED: To approve the March 28, 2016 City Council meeting minutes.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.049 Motion Carried (7–0)

4b. Executive Session – March 28, 2016
Moved by Hammond; Seconded by Mitchell.
RESOLVED: To approve the March 28, 2016 Executive Session meeting minutes.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.050 Motion Carried (7–0)

4c. Executive Session – March 7, 2016
Moved by Kittle; Seconded by Burmeister.
RESOLVED: To approve the March 7, 2016 Executive Session meeting minutes.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.051 Motion Carried (7–0)

4d. Executive Session – February 22, 2016
Moved by Verbeke; Seconded by Mitchell.
RESOLVED: To approve the February 22, 2016 Executive Session meeting minutes.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.052 Motion Carried (7–0)

5. APPOINTMENTS AND PRESENTATIONS
5a. Motion – Confirm Appointment of Jay Boelter to the Zoning Board of Appeals
Mayor McDaniel noted Mr. Boelter was not able to attend this evening’s meeting, though Council should be familiar with Mr. Boelter, he currently serves on the Public Safety Committee.
Moved by Knight; Seconded by Verbeke.
RESOLVED: To confirm the appointment of Jay Boelter to the Zoning Board of Appeals, for a term ending May 31, 2019.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.053 Motion Carried (7–0)

6. PUBLIC COMMENT - none

7. CONSENT AGENDA
Mr. Kittle requested Item 7a.1. Board of Review Minutes be pulled from the Consent Agenda.
7a. Board and Commission Minutes
7a.2. Brownfield Redevelopment Authority – March 31, 2016
7b. Motion – Approve Purchase of Submersible Pump for the Lake Angelus Lift Station
RESOLVED: To approve the purchase of a Flygt Submersible Sewage Pump model NP3171.095-453, for the Lake Angelus lift station from Kennedy Industries for the price of $23,480.00. Funding is provided from the Sewer Fund (592-535-971.000).

Moved by Verbeke: Seconded by Hammond.

RESOLVED: To approve the Consent Agenda items 7a.2 and 7b.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Resolution No. 16.04.054

7a.1. Board of Review, March 2016

Mr. Kittle asked for clarification, noting page 8 of the Board of Review minutes reflects a change in Taxable Value of approximately $48,485,000. Asking if he understood correctly, the approximate $48,000,000 will be taken from the approximate $1.6 billion of taxable value for this upcoming year.

Mr. Beckerleg stated that is correct. It appears many of the changes are IFEC's and personal property.

Mayor McDaniel confirmed City Council is only receiving these minutes.

Ms. Verbeke was curious if these results of the Board of Review is typical or an exception. She asked Mr. Tanghe to have the Assessing Department gather the supporting information and forward to Council.

Moved by Kittle: Seconded by Mitchell.

RESOLVED: To accept the Consent Agenda item 7a.1. Board of Review – March 2016 minutes.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke

No: None

Resolution No. 16.04.055

8. OLD BUSINESS

8a. Motion – Approve Descriptive Language for Ballot Question

Mr. Tanghe read the proposed ballot language explanation –

*Increasing residential population, business expansion, tourism and job growth in the City have created significant growing demands on the Fire Department. The original 2.5 mills designated for fire services (Fire and Life Support activities) in the City Charter would be sufficient to expand services with additional staff and equipment. However, the 1978 Headlee Amendment to the Michigan Constitution of 1963 rolled that millage back to 1.7604 mills. The City is requesting to restore the millage rate back to the original voter-authorized 2.5 mills as provided for in the City Charter. If approved by the voters, a property valued at $200,000, with a taxable value of $100,000, will pay about an additional $74.00 per year in property taxes to adequately fund the Fire Department.*

This language would appear just above the actual ballot question.

Ms. Mitchell understood from the last meeting that the explanation must only be factual, with no specific perspective. She suggested the last sentence of the explanation use a property value of $140,000, the Auburn Hills average property value.

Mr. Tanghe explained in some of the educational pieces, there are three different property values used as well as the average property value. He agreed the explanation can be modified to use the $141,900 average, which more residents can relate to. The $141,900 average used for Auburn Hills’ property value was found on the Zillow website.

Mr. Knight reiterated his concern most residents will not understand the reasoning for this increase. As he mentioned before, he would like the comparison, using, as an example, the taxable value of a home in 2008 compared to the same home’s value today. This would demonstrate the loss of tax revenue. He doesn’t believe the explanation gives enough detail of why this millage increase is necessary.

Mr. Tanghe stated Mr. Knight’s suggestion has been heard, and several examples have been included in the educational pieces that will be available to the Auburn Hills residents. There are a few methods of getting the message out to the residents, including a link to the website where there will be a lengthier explanation, comparisons and examples. Mr. Tanghe noted the example Mr. Knight is suggesting does not demonstrate a great disparity between years. It would also take quite a lot of verbiage explaining that logic on a ballot with limited space.

Responding to Mr. Knight’s concern of not all residents’ access to computers, Mayor McDaniel noted there will also be a notice included in the water billing.

Mr. Knight is concerned about the uninformed voter and believes there should be a better explanation on the ballot.

Ms. Hammond is satisfied with the explanation language, but asked what the actual ballot question will state.

Fire Chief Manning stated open houses at all the fire stations are being planned, reaching out to the senior groups living in the City, meetings at the Senior Center, reaching out to church groups and neighborhood groups either personally or with literature, to better inform residents.

Mr. Burmeister read the ballot wording:

*Headlee Override Millage Proposal*
Shall a “Headlee Override” be adopted so that the current limitation on the amount of City taxes that may be levied for fire purposes against all taxable property in the City of Auburn Hills, Oakland County, Michigan, be increased as follows:

- Up to 2.5 mills from approximately 1.7604 mills ($2.50 from approximately $1.7604 per $1,000 of taxable value) for fire purposes.

If approved and levied in its entirety, this millage would raise an estimated maximum amount of $3,637,092 for fire purposes for the City in 2017 by allowing the City to levy the maximum mills for fire purposes previously approved by the voters and authorized by the City Charter and State law which have been reduced as required by the Michigan Constitution of 1963.

Mr. Knight stated he will not vote to approve this descriptive language, it stinks.

Mr. Beckerleg explained the ballot language has been used favorably in other communities, the descriptive language was created by Ms. Kowal, Mr. Tanghe, Fire Chief Manning and himself. Ms. Kowal will create a template of the descriptive language first, followed by the ballot language and send to the County for approval.

Mr. Kittle would like to see better ballot question language, possibly indicating the maximum amount up from whatever the current amount is.

Mr. Tanghe noted all the concerns and questions being raised are covered in the educational information that will be available to all residents, including the difference between what 1.7604 mills generates versus what 2.5 mills will generate.

Ms. Verbeke is pleased with the explanation, noting if the explanation gets too lengthy, it will get too confusing.

Mayor McDaniel agrees with Ms. Verbeke.

Ms. Mitchell asked if including a table may be better able to clarify comparisons.

Mr. Beckerleg stated the description is limitless, providing it isn’t advocating a position, but then again if it get too lengthy people are more apt to not read all of it. It’s also worth noting relating to Mr. Knight’s suggestion, the taxable value of a property will not be significantly more in 2016 than in 2008, providing there wasn’t a transfer of ownership. The number the taxes are based on, the taxable value, can only increase at the rate of inflation.

Mr. Tanghe explained after the last Council meeting, City Assessor Lohmeier looked at general values to see what the difference would be. What was found, as suggested by Mr. Knight, that a resident may be paying less now at 2.5 mills than in 1.76 mills in 2008 is not generally true. Taking a house with a taxable value of $100,000, and just looking at the difference with the tax rate increase of approximately .74 mill, the requested difference, would be a $74 increase. On average, taxable value did go down but has been creeping back up, at the rate of inflation. So rather than a $74 increase, you would get maybe a $74 increase over what your rate is today but if you go back to 2008 then you look at it today you might be paying $10 or $15 more than you were in 2008. This would be very difficult to explain on a ballot, but will be included with the educational information packet that will be available for the residents.

Mr. Knight stated his property taxes have dropped significantly since 2008 and have been creeping back up, but he still is not paying anywhere near the 2008 amount.

Ms. Kowal stated there is no limit on the size of the descriptive paragraph or ballot language, however, the more language included on the ballot could force the need for two ballots. If two ballots are required, due to the City ballot language, the City will be responsible for cost of the ballots. Voter also have a tendency of not looking at the second page of the ballot and leaving it unvoted.

Mr. Kittle restated his position on believing the ballot language should be made easier to understand, than what was approved.

Mr. Tanghe stated the change will be made for the descriptive language, using the $141,900 as the average property value. He also noted the education material will include a table referencing properties valued at $300,000; $200,000; $100,000 and the average priced property in Auburn Hills at $141,900.

Mayor McDaniel stated he understands Mr. Knight’s points and concerns, but the explanation would be quite lengthy. He believes the important sentence, is the last, referencing the average priced property in the City and the cost of the increased taxes. He is sure that the residents will be well informed of the issue through the efforts of staff.

Mr. Knight stated a simple sentence, ‘a house valued at $200,000 in 2008 paid so much fire tax, based on the average change in values, that house would be evaluated today at $160,000 and with this proposal it would pay so much, the difference being ___.’ He doesn’t believe this would be a difficult explanation to include on the ballot.

Mr. Burmeister stated he is pleased with the explanation, it is very clean, clear, and concise knowing the current value of his own home. He believes the voters will be well informed when they reach the polls to vote.

Moved by Burmeister; Seconded by Verbeke.

RESOLVED: To approve the descriptive language, amended to utilize the average housing value, to appear above the fire millage ballot question on the August 2, 2016 ballot.

Mr. Kittle stated well deserved ballot initiatives get defeated because of ballot language or poor education/communication.

Ms. Hammond stated she was absent at the previous Council meeting when the ballot language was approved, and is confirming a yes vote means yes and no, means no.
9a. Motion – Approve Discharge of Mortgage for Parcel No. 14-35-202-005

Mr. Grice explained the City received a letter from Kelly and Tim Rabideau requesting records on a property sale transaction dating back to January 14, 1993. According to Mr. & Mrs. Rabideau, the City agreed to sell a property on Auburn Road for $30,000. The agreement was for one third down and the remaining two thirds to be paid in two installments, twelve months apart of $10,000 each plus 8% interest. Mr. Rabideau stated at the conclusion of the payments, the City neglected to discharge the mortgage preventing them from receiving clear title for the property. Unfortunately, neither the Rabideau's nor the City could locate any record of the final payments. There is a copy of a mortgage confirming the City entered into a purchase agreement with the Rabideaus' for the property, as well as the conditions of the payment terms.

The tax records also show that the Rabideau's have been paying property taxes for the parcel in questions since 1995. Based on all the available information, it was concluded all of the conditions of the agreement were met, and discharge of the mortgage is recommended.

Ms. Verbeke was quite surprised there weren't records available to substantiate this item, that records would have been destroyed.

Mr. Grice explained he understood most records only need to be retained for seven years, so this is not all that uncommon.

Mr. Tanghe assured City Council that all real estate transactions are being kept, filed both electronically and physically. He can’t speak to what happened in the past.

Mr. Knight stated he has no history for this transaction, this was six months prior to him being elected. In absence in finding no records, but seeing the taxes have been paid, he believes the City can error in favor of approving the discharge of the mortgage. Nothing can be done with the property until the discharge of mortgage is done.

Mr. Kittle asked if this is the only mortgage that the City has entered into.

Mr. Beckerleg stated yes, noting it was an odd way to structure this deal. He too looked for a file, and couldn’t find anything.

Ms. Mitchell asked if there was a deed for the property, noting she see’s indicators that this debt was settled, but she doesn’t see evidence. She bases her decisions on evidence.

Mr. Grice stated there is a deed stating the conditions of the agreement. What is missing from the files are the two receipts of the final payments.

Mr. Tanghe assured Ms. Mitchell every avenue possible was searched for information confirming the two final payments were made. The conclusion is the Rabideau’s have been paying taxes on the property all these years.

Moved by Kittle; Seconded by Burmeister.

RESOLVED: To approve that The City of Auburn Hills, a Michigan municipal corporation, whose address is 1827 North Squirrel Road, Auburn Hills, Michigan 48326, does hereby certify and confirm that the mortgage executed by Timothy Rabideau and Kelly Rabideau to the City of Auburn Hills, dated January 14, 1993, recorded January 29, 1993, in Liber 13302, Page 703, Oakland County Michigan, encumbering the attached premises: (Exhibit A), has been fully paid and satisfied, and is hereby discharged and terminated and the City Council authorizes the City Manager to execute all necessary paperwork discharging the mortgage encumbering said property.

Mr. Beckerleg confirmed for Mr. Knight this is not a conflict of interest even though he helped the Rabideau’s research this issue.

Mayor McDaniel noted the City has exhausted all avenues and resources trying to find evidence of the final payments.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None

Resolution No. 16.04.057

9b. Motion – Ordinance to Amend City Ordinance Chapter 70, Article VII, Division 2 - Parking Violations Bureau

Police Chief Olko stated this is an update to a very old ordinance, to allow parking enforcement on the City ramp and any other City owned lot. The City would like to lease parking spaces to apartment residents and in order to do that, parking would need to be enforced. Also, update the ordinance to include parking in a marked handicap parking space as a violation.

Confirming for Mr. Kittle, Police Chief Olko stated the fees are set in the fee schedule so the ordinance doesn’t need to be amended each time the fees change.

Ms. Mitchell agrees with updating fees annually in the fee schedule. She asked if it had always been the intention of leasing some of the parking spaces in the downtown parking structure to the apartment residents.

Mr. Grice believed the management company understood at some point in the future that the TIFA, planned on charging for the option of reserved parking spaces in the parking structure.

Ms. Mitchell asked if those collected funds will be used for maintenance of the structure or go to the general fund.
Mr. Tanghe explained there would likely become a sinking fund, for future ongoing maintenance. There was always the intention of charging for reserved parking spaces for the apartment residents once more development came in or the downtown became busier. Now there are more developments moving in and those developers are also talking about reserving spaces.

Ms. Mitchell asked if the fees from the reserved parking can be used for anything other than the parking structure maintenance.

Mr. Tanghe explained the parking structure is a TIF owned property, so any fees collected will go to TIFA and they would use the money as they see fit, however, the intent has been to earmark those funds for ongoing structure maintenance.

Mr. Knight asked if police will patrol and ticket any vehicle parked in a reserved spot who has no permit.

Mr. Tanghe stated the police will not be patrolling the parking daily, but most likely when a complaint is received. Numbers will be assigned to the reserved parking spaces that will require a permit.

Mr. Knight believes anyone wishing to park overnight in the structure should purchase a permit to do so. With that, he believes the structure should be patrolled and violators issued a ticket if they do not have a parking permit.

Mr. Tanghe stated the parking fee is $30 per month, per space.

Ms. Hammond disagrees that the overnight parking should be limited to only those that reside in the apartments. There may be instances of apartment residents having overnight guests, or someone visiting one of the bars or restaurants wishing to leave their vehicle parked overnight.

Moved by Kittle; Seconded by Knight.

RESOLVED: To approve an ordinance to amend City Ordinance Chapter 70, Article VII, Division 2 – Parking Violations Bureau, of the City of Auburn Hills Code of Ordinances, as amended, to Amend Section 70-361 – Parking Offenses; Fines on first reading and set it for a second reading and public hearing at the regular meeting of the City Council on May 9, 2016.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None

Resolution No. 16.04.058

Motion Carried (7–0)

Motion – Adopt Special Assessment District Assignment Policy

Mr. Melchert explained there have been recent discussions regarding assigning special assessment districts to industrial type roads, to help fund road reconstruction when needed. The proposed Policy is straightforward and flexible. There are three types of roads that would be the major focus of the special assessment districts. The PASER rating determines the condition of a road, with a 10 being a brand new road to one and/or two being a road that needs to be reconstructed. Any road rated a four or below would typically be a major reconstruction; there are very few options available when a road has deteriorated to four or below. Since 1996 the City has had a maintenance program to maintain the road, avoiding great deterioration. It will be at City Council’s discretion of when to move forward with a special assessment for road repair.

From a legal standpoint, the Policy has been reviewed by City Attorney Beckerleg, who finds it satisfactory, finding no conflict with the City’s existing SAD ordinance.

Mr. Knight noted this isn’t necessarily going to be implemented, but is available if needed. The previous ordinance limited the amount the City could pay out of pocket, 20%, and this raises that amount to 50%.

Moved by Kittle; Seconded by Mitchell.

RESOLVED: To approve the Special Assessment District Assignment Policy consistent with Chapter X of the Auburn Hills City Charter and Chapter 58 of the Auburn Hills Code of Ordinances.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None

Resolution No. 16.04.059

Motion Carried (7–0)

Motion – Introduce and Schedule a Public Hearing to Amend Auburn Hills Code of Ordinances, Chapter 58 - Special Assessments

Mr. Melchert noted this is a very minor amendment to the existing policy; “that no more than 20 percent of the cost of local road construction or improvement shall be borne by the city at large”. The proposed language would read, “that no more than 50 percent of the cost of local road construction or improvement shall be borne by the city at large”.

Mr. Melchert confirmed City Council would have the option of 0% to 50%.

Moved by Verbeke; Seconded by Burmeister.

RESOLVED: To approve to introduce and schedule a Public Hearing for May 9, 2016 for the second reading and adoption of an ordinance amendment to the Auburn Hills Code of Ordinances, Chapter 58 - Special Assessments.

VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None

Resolution No. 16.04.060

Motion Carried (7–0)

10. COMMENTS AND MOTIONS FROM COUNCIL
Mr. Kittle:
- Would like a short presentation regarding the marketing plan for Fieldstone Golf Club; the objectives of the golf operation this year – number of golf rounds, revenue, any significant changes for service or customer satisfaction.

Ms. Verbeke:
- The Boys and Girls Club Steak and Burger Dinner is April 27, 2016.
- When will the trees on Squirrel Road be planted.
  Mr. Melchert stated the bid will be going out soon. Some trees will be planted early summer and more in the fall.

Ms. Hammond:
- Apologized for missing the last City Council meeting, she was ill.
- Asked if the Fieldstone caterer will be offering brunch for Mother’s day and other holidays.
  Mr. Grice stated there will be a Mother’s day brunch. With the caterer being new to the facility, there wasn’t ample time to get organized and offer an Easter brunch this year.
  She hopes to see the Mother’s day brunch advertised on the cable channel as well as the City’s website.
- Noted Auburn Road near Churchill has several large holes that need attention.

Mr. Knight:
- Is looking forward to the new striping being done downtown.
- Presented the City with a donation from him and his wife for the amphitheater project.
- Received and completed a questionnaire survey from the City, and has returned it.

Ms. Mitchell:
- Has heard from residents that have received the survey. She thanked the residents for taking the time to complete the survey.
- Extended her appreciation to Mr. Darge and Mr. Keenan, Community Development employees who quickly responded to a code enforcement issue that was brought to her attention by a resident.
- Thanked those that attended her coffee chat last Friday.
- Was pleasantly surprised by the number of people visiting the DEN, last Friday, April 8th. She asked if there is any tracking for the number of people visiting the DEN. If so, she would like the information sent to Council.

Mayor McDaniel:
- Apologized in advance for not being able to attend the next City Council meeting; he will be out of town.

11. CITY ATTORNEY’S REPORT – none
12. CITY MANAGER’S REPORT – none
13. EXECUTIVE SESSION – Land Sale

Moved by Burmeister; Seconded by Mitchell
RESOLVED: To adjourn to Executive Session.
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Verbeke
No: None
Resolution No. 16.04.061 Motion Carried (7–0)

Adjourned to Executive Session at 8:22 p.m. Resumed regular session at 8:59 pm.

Moved by Mitchell; Seconded by Hammond.
RESOLVED: To approve the sale of and authorize the City Manager to execute the same on behalf of the City
VOTE: Yes: Burmeister, Hammond, Kittle, Knight, McDaniel, Mitchell, Verbeke
No: None
Resolution No. 16.04.058 Motion Carried (7–0)

14. ADJOURNMENT

Hearing no objections, the meeting adjourned at 9:01 p.m.

___________________________________  ______________________________________
Kevin R. McDaniel, Mayor                     Terri Kowal, City Clerk
MORTGAGE

THIS MORTGAGE is made on the 14th day of January, 1993, between Timothy Rabideau and Kelly Rabideau, whose address is 5824 Oak Hill Road, P.O. Box 80, Ortonville, Michigan 48462, as Mortgagors, and The City of Auburn Hills, whose address is 1827 N. Squirrel Road, Auburn Hills, Michigan 48326-2753, as Mortgagee.

FOR VALUE RECEIVED, Mortgagors mortgage and warrant to Mortgagee lands located in the City of Auburn Hills, County of Oakland, State of Michigan, described as follows:

Part of the Northeast 1/4 of Section 35, Town 3 North, Range 10 East, Pontiac Township, now known as City of Auburn Hills, Oakland County, Michigan, described more particularly as:

Beginning at a point on the now Southerly line of Auburn Avenue, distant South 1 degree 39 minutes 40 seconds East 107.73 feet and North 77 degrees 00 minutes 20 seconds West 100 feet from the Southeast corner of Lot 3 "Supervisor's Plat No. 11"; thence South 1 degree 39 minutes 40 seconds East 374.83 feet; thence North 76 degrees 26 minutes 40 seconds West 200.50 feet; thence North 1 degree 39 minutes 40 seconds West 372.81 feet; thence South 77 degrees 00 minutes 20 seconds East 200 feet to the place of beginning.

14-35-20a-005

together with the easements, improvements, hereditaments, and appurtenances now or hereafter belonging thereto and the rents, income, and profits therefrom and all fixtures now or hereafter attached to or used in connection therewith, and all machinery, engines, boilers, elevators, and plumbing, heating, air-conditioning, and ventilating equipment now or hereafter located thereon, which shall be deemed to be fixtures and a part of the realty, all of the foregoing being collectively referred to herein as the "Premises".

Mortgagors are indebted to Mortgagee in the principal amount of Twenty Thousand ($20,000) Dollars, which indebtedness is evidenced by Mortgagor's Promissory Note of even date herewith (hereinafter "Note"), providing for two (2) yearly payments of Ten Thousand ($10,000) Dollars plus accrued interest at eight (8%) percent pursuant to the terms of a Purchase Agreement for real property dated November 9, 1992. This mortgage is given to secure (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Mortgagors herein contained; and (b) all indebtedness and obligations now and hereafter owing by Mortgagors to Mortgagee.

OK - G.K.
Mortgagors further warrant, represent, and agree as follows:

1. Payment of Indebtedness. Mortgagors agree to pay or perform all of the Indebtedness, including all interest thereon, in accordance with the terms of the instruments, documents, or agreements evidencing the same ("Instruments"), and to keep and perform all the covenants, promises, and agreements in the Note and this Mortgage.

2. Warranties. Mortgagors warrant and represent to Mortgagee that all financial statements and other information concerning Mortgagors, the premises, and any guarantor of the Indebtedness, heretofore or hereafter furnished to Mortgagee, are and shall be true and correct in all material respects; that the execution, delivery, and performance of this Mortgage by Mortgagors will not violate any law, rule, judgment, order, agreement, or instrument binding upon Mortgagors nor require the approval of any public authority or any third party; and that this Mortgage constitutes the valid and binding obligation of Mortgagors, enforceable in accordance with its terms.

3. Assignment of Leases and Contracts. Mortgagors, to the extent permitted by law, hereby assign and mortgage to Mortgagee, and grant to Mortgagee a security interest in, as additional security for the Indebtedness, all of Mortgagors' right, title, and interest in and to all existing and future oral or written leases of all or any part of the Premises or of any interest therein and any and all existing and future land contracts or other agreements by which the Premises or any interest therein is being or shall be sold, together with all rents and profits arising from, and all other proceeds of, any such leases, land contracts, or other agreements. Without the written consent of Mortgagee, Mortgagors will not cancel, accept a surrender of, modify, consent to an assignment of the lessee's interest under, or make any other assignment or other disposition of any such lease, land contract, or other agreement or of any interest of Mortgagors therein, and will not collect or accept any payment of rent or of principal or interest or any other amount thereunder more than one month prior to the time when the same shall become due and payable under the terms thereof. Mortgagors will pay and perform all obligations and covenants required of it by the terms of any such lease, land contract, or other agreement. If Mortgagors shall default in the payment or performance of any such obligation or covenant, then Mortgagee shall have the right, but
and will deliver to Mortgagee satisfactory evidence of the payment thereof.

5. **Insurance.** Mortgagors will cause all buildings, improvements, and other insurable parts of the Premises to be insured against loss or damage by fire, windstorm, and such other hazards as Mortgagee from time to time may require, in such amounts and with such insurers as shall be acceptable to Mortgagee, and Mortgagors shall cause all premiums on such insurance to be paid when due. Each policy evidencing such insurance shall provide that loss shall be payable to Mortgagee as its interest shall appear at the time of the loss, shall be in form and substance acceptable to Mortgagee, and shall be delivered to Mortgagee. Each such policy shall provide that at least ten days’ prior written notice of any cancellation of, or any material change in, such insurance shall be given to Mortgagee by the insurer. Each renewal of each such policy shall be delivered to Mortgagee at least ten days prior to the expiration date of such policy. Upon foreclosure of this Mortgage or other transfer of the Premises in satisfaction of the Indebtedness, all right, title, and interest of Mortgagors in and to any insurance policies then in force, including the right to any premium refund thereon, shall vest in the purchaser or grantee.

In the event of any loss of or damage to the Premises, Mortgagors will give immediate notice thereof to Mortgagee, and Mortgagee shall have the right to make proof of such loss or damage, if Mortgagors do not promptly do so. All proceeds payable under any such insurance policy, whether or not endorsed payable to Mortgagee, shall be payable directly to Mortgagee, and Mortgagee is authorized to settle, adjust, or compromise any claims for loss or damage under any such policy.

6. **Maintenance and Repair.** Mortgagors will maintain the Premises in good condition and repair; will not commit or suffer any waste thereof; will not remove, demolish, or substantially alter any building or fixture on the Premises without the prior written consent of Mortgagee; will cause to be complied with all laws, ordinances, regulations, or requirements of any governmental authority applicable to the Premises; will promptly repair, restore, replace, or rebuild any part of the Premises which is damaged or destroyed by any casualty; and will promptly pay when due all charges for utilities and other services to the Premises.

7. **Mortgagee’s Right to Perform; Receiver.** If Mortgagors shall default in the payment of the aforesaid taxes, assessments, or other similar charges or in procuring and maintaining the aforesaid insurance or in the performance of any other obligation of Mortgagors hereunder, including its obligation to keep the Premises in good condition and repair, then Mortgagee shall have the right, but shall have no obligation, to pay such taxes, assessments, or other similar charges, or procure and maintain such insurance, or cause such other obligation to be performed, and all sums expended by Mortgagee in connection therewith shall become part of the Indebtedness, payable by Mortgagors to Mortgagee upon demand, together with interest at the Default
Rate. Mortgagor and any persons authorized by Mortgagor shall have the right to enter upon the Premises at all reasonable times for the purpose of inspecting the Premises or effecting maintenance or repairs or taking any other action pursuant to the preceding sentence. The failure of Mortgagors to pay any of such taxes, assessments, or similar charges when due or to procure and maintain any such insurance shall constitute waste and shall entitle Mortgagor to the appointment by a court of competent jurisdiction of a receiver of the Premises for the purpose of preventing such waste, which receiver, subject to the order of the court, may collect the rents and income from the Premises and exercise such control over the Premises as the court shall order.

8. Eminent Domain. Notwithstanding any taking under the power of eminent domain or condemnation, alteration of the grade of any street, or other injury to or decrease in value of the Mortgaged Premises by any public or quasi-public authority or corporation, the Mortgagors shall continue to pay the Mortgage Indebtedness in accordance with the terms of the Note and this Mortgage and any reduction in the principal sum resulting from the application by the Mortgagor of such award or payment as hereinafter set forth shall be deemed to take effect only upon the receipt by the Mortgagor of such award. The Mortgagors hereby assign the entire proceeds in an amount equal to satisfy the Mortgage Indebtedness and all costs provided for herein. Such proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgage in collecting said proceeds and then toward payment of the Mortgage Indebtedness or any portion thereof, whether or not then due or payable, or the Mortgage at its option may apply said proceeds, or any part thereof, to the alteration, restoration, or rebuilding of the Mortgaged Premises. Mortgagor and Mortgagors hereby agree that Mortgagors may seek to establish the fair and reasonable value of the Mortgaged Premises.

9. Vendee. In the event of the sale or transfer, by operation of law or otherwise, of all or any part of the Premises, Mortgagor may deal with the vendee or transferee with respect to this Mortgage and the Indebtedness as fully and to the same extent as it might with Mortgagors without in any way releasing, discharging, or affecting the liability of Mortgagors hereunder and upon the Indebtedness.

10. Events of Default and Acceleration. Upon the occurrence of any of the following events of default, all or any part of the Indebtedness shall, at the option of Mortgagor, become immediately due and payable without notice or demand.

(a) If Mortgagors shall default in the payment when due (whether by acceleration or otherwise) of the principal of or interest on, or any penalty or late charge with respect to, any indebtedness now or hereafter owing by Mortgagors to Mortgagor, or if Mortgagors shall default in the due performance or observance of any other obligation of Mortgagors to Mortgagor, including, without limitation, any obligation under this Mortgage or under any other mortgage, note, security agreement, loan agreement lease, pledge agreement, assignment, guaranty, or other agreement,
instrument, or document heretofore or hereafter executed by Mortgagor ("Loan Documents").

(b) If Mortgagors shall default in payment of the principal or interest on any indebtedness for borrowed money owed to any person other than Mortgagee.

(c) If any warranty or representation made by Mortgagor to Mortgagee in this Mortgage or in any financial statement, loan document, or any other document given in connection with the Indebtedness, or any warranty or representation made by any guarantor of the Indebtedness in any guaranty or in any financial statement or other document given in connection therewith, shall be false or inaccurate in any material respect when made.

(d) If Mortgagors (or any one of them) or any guarantor of any of the Indebtedness shall die or become insolvent, or make an assignment for the benefit of its creditors.

(e) If Mortgagors, without the written consent of Mortgagee, shall sell, convey, or transfer the Premises or any interest therein or any rents or profits therefrom or shall cause or suffer any mortgage, lien, or other encumbrance or any writ of attachment, garnishment, execution, or other legal process to be placed upon the Premises or any interest therein or any rents or profits therefrom, except in favor of Mortgagee, or if any part of the Premises or any interest therein shall be transferred by operation of law.

(f) If all or any material part of the Premises shall be damaged or destroyed by fire or other casualty, regardless of insurance coverage therefore, or shall be taken by condemnation or power of eminent domain.

(g) If any law or government regulation shall hereafter impose any tax or assessment upon mortgages or debts secured by mortgages.

(h) If any guaranty that now or hereafter secures payment or performance of all or any part of the Indebtedness shall be terminated or limited, for any reason, without the written consent or agreement of Mortgagee.

(i) If at any time Mortgagee in good faith believes that the prospect of payment or performance of any part or all of the Indebtedness is impaired.

(j) If any lease, land contract, or other agreement by which Mortgagor is leasing or purchasing any interest in the Premises shall be declared by the lessor or seller thereunder to be forfeited or terminated or if any suit or other action shall be commenced to foreclose any such land contract or to recover possession of all or any part of the Premises by reason of any default or alleged default under any such lease, land contract, or agreement.
If a voluntary or involuntary case in Bankruptcy or receivership shall be commenced by or against Mortgagors (or any one of them) or any guarantor of any of the Indebtedness, then the entire Indebtedness shall automatically become immediately due and payable, without notice or demand. All or any part of the Indebtedness also may become, or may be declared to be, immediately due and payable under the terms and conditions contained in any Loan Document.

11. Remedies. Mortgagee shall have all rights and remedies provided for in this Mortgage or otherwise permitted by law. In addition, if the Indebtedness shall not be paid upon maturity, Mortgagee shall have the right, and is hereby authorized:

(a) To the extent permitted by law, to collect and receive all rents, profits, and other amounts that are due or shall hereafter become due under the terms of any leases, land contracts, or other agreements, now or hereafter in effect, by which Mortgagors are or shall be leasing or selling the Premises or any interest therein, and to exercise any other right or remedy of Mortgagors under any such lease, land contract, or other agreement, provided, that Mortgagee shall have no obligation to make any demand or inquiry as to the nature or sufficiency of any payment received or to present or file any claim or take any other action to collect or enforce the payment of any amounts to which Mortgagee may become entitled hereunder, nor shall Mortgagee be liable for any of Mortgagors' obligations under any such lease, land contract, or other agreement.

(b) To obtain or update abstracts of title, title searches, and title insurance with respect to the Premises and all sums expended therefor shall be part of the Indebtedness and shall bear interest at the Default Rate.

(c) To foreclose this Mortgage by action pursuant to applicable law, including foreclosure by way of advertisement as provided by law.

(d) To sell, release, and convey the Premises at public sale, and to execute and deliver to the purchasers at such sale good and sufficient deeds of conveyance, rendering any surplus funds, after payment of the Indebtedness in full and the expenses of such sale, including attorneys' fees as provided by law, to Mortgagors, all in accordance with Chapter 32 of the Michigan Revised Judicature Act, as the same may be amended from time to time, and any similar statutory provisions which may hereafter be enacted in addition thereto or in substitution therefor. In the event of public sale, the Premises, at the option of Mortgagee, may be sold in one parcel.

WARNING: THIS MORTGAGE CONTAINS A POWER OF SALE AND MAY BE FORECLOSED BY ADVERTISEMENT. IN FORECLOSURE BY ADVERTISEMENT, AND THE SALE AT THE MORTGAGED PROPERTY IN CONNECTION THEREWITH, NO HEARING IS REQUIRED AND THE ONLY NOTICE REQUIRED IS THE PUBLICATION OF NOTICE IN A LOCAL NEWSPAPER AND THE POSTING OF A COPY OF THE NOTICE ON THE PREMISES.
(e) To exercise any and all rights and options of Mortgagors under any lease, land contract, or other agreement by which Mortgagors are leasing or purchasing any part or all of the Premises, including any option to purchase the Premises or to renew or extend the term of any such lease, and contract, or other agreement, but Mortgagee shall have no obligation to exercise any such right or option.

All rights and remedies of Mortgagee under this Mortgage, whether or not exercisable only on default, shall be cumulative and may be exercised from time to time, and no delay by Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy, except to the extent otherwise provided by law. In this Mortgage, "maturity" means such time as the Indebtedness shall be or shall become due and payable, whether by the terms of the instruments or pursuant to Paragraph 10 hereof or otherwise.

12. Security Interest in Fixtures. Mortgagors grant to Mortgagee a security interest in any fixtures now or hereafter located on the Premises. If the Indebtedness shall not be paid upon maturity, Mortgagee, at its option, may enforce this security interest in fixtures under the Michigan Uniform Commercial Code or other applicable law or may include the fixtures in any foreclosure of this Mortgage under Paragraph 11 hereof. Any requirement of reasonable notice with respect to any sale or other disposition of fixtures shall be met if Mortgagee sends the notice at least five (5) days prior to the date of sale or other disposition.

13. Waivers.

(a) Mortgagors and any other person hereafter obtaining any mortgage or lien upon, or any other interest in, the Premises waive, with respect to any foreclosure of this Mortgage, (1) any right to marshaling of the Premises and any right to require a minimum bid or "upset" price, and (2) the benefit of any stay, extension, exemption, or moratorium law, now existing or hereafter enacted.

(b) Mortgagee may at any time release all or any part of the Premises from the lien of this Mortgage or release the personal liability of any person for the Indebtedness, with or without consideration and without giving notice to, or obtaining the consent of, the holder of any Mortgage or lien upon, or other interest in, the Premises. Any such release shall not impair or affect the validity or priority of this Mortgage, regardless of the effect of such release upon any such mortgage, lien, or other interest or the holder thereof. Nothing in this subparagraph constitutes consent by Mortgagee to the placing of a mortgage, lien or other encumbrance on the Premises.

(c) Mortgagors (1) waive notice of any advances or other extensions of credit included in the Indebtedness, (2) waive any
right to require Mortgagee to sue upon or otherwise enforce payment of the Indebtedness or to enforce any security therefore before exercising its rights and remedies under this Mortgage, and (3) agree that the validity and enforceability of this Mortgage shall not be impaired or affected by any failure of Mortgagee to obtain or perfect, or secure priority of, any other security at any time given, or agreed to be given, by any person for the Indebtedness.

14. Expenses. Mortgagors shall pay to Mortgagee on demand any and all expenses, including attorneys' fees and legal expenses, paid or incurred by Mortgagee in collecting or attempting to collect the Indebtedness or in protecting and enforcing the rights of and obligations to Mortgagee under any provision of this Mortgage, including, without limitation, taking any action in any bankruptcy, insolvency, or reorganization proceedings concerning Mortgagors or foreclosing this Mortgage by advertisement or by action, and all expenses shall be part of the Indebtedness and shall bear interest, from the date paid or incurred by Mortgagee, at the Default Rate.

15. Application of Proceeds. In the event of the payment to Mortgagee, pursuant to the provisions hereof, of any rents or profits or any proceeds of insurance or proceeds of any condemnation or eminent domain award or proceeds from any sale of the Premises at foreclosure, Mortgagee shall have the right to apply such rents or profits or proceeds, in such amounts and proportions as Mortgagee shall in its sole discretion determine, to the full or partial satisfaction of any or all of the indebtedness and obligations of Mortgagors secured hereby, including any contingent or secondary obligations, whether or not the same shall then be due and payable by the primary obligor.

16. Notices. All notices to Mortgagors and to Mortgagee shall be deemed to be duly given if and when mailed, with postage prepaid, to the respective addresses of Mortgagors and Mortgagee appearing on the first page hereof, or if and when delivered personally.

17. Binding Effect. The provisions of this Mortgage shall be binding upon and inure to the benefit of Mortgagors and Mortgagee and their respective successors, assigns, heirs, executors, administrators, and personal representatives.

17. Waiver of Notice and Hearing on Foreclosure. THE MORTGAGOR HEREBY WAIVES ALL RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES AND UNDER THE CONSTITUTION AND LAWS OF THE STATE OF MICHIGAN WITH RESPECT TO A HEARING PRIOR TO SALE IN CONNECTION WITH ANY PREVIOUSLY MENTIONED FORECLOSURE AND ALL NOTICE REQUIREMENTS EXCEPT AS SET FORTH IN ANY STATUTE PROVIDING FOR FORECLOSURE BY ADVERTISEMENT.

18. Severability. If any provision of this Mortgage shall be prohibited or unenforceable by any applicable law, the provision shall be ineffective only to the extent and for the duration of such prohibition or unenforceability, and the unenforceability or
prohibition thereof shall not invalidate any of the remaining provisions hereof.

IN WITNESS WHEREOF, Mortgagors and Mortgagee have executed this Mortgage as of the day and year first above written.

WITNESSES: 

<table>
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<tr>
<th>Jewell M. Russ</th>
<th>Timothy J. Rabideau</th>
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<tbody>
<tr>
<td>Thomas R. Schultz</td>
<td>KELLY RABIDEAU</td>
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INDIVIDUAL MORTGAGOR(S):

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<tr>
<th>TIMOTHY RABIDEAU</th>
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Mortgagors

STATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 14th day of January, 1993, by Timothy Rabideau and Kelly Rabideau.

Notary Public

OAkLAND County, Michigan

My Commission Expires: 11/31/94

Prepared by:

Thomas R. Schultz (P 42111)
KOHL, SECREST, WARDLE, LYNCH, CLARK AND HAMPTON
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Farmington Hills, MI 48333-3040
(313) 851-9500