

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

From: David C. Moe II, Redevelopment Manager

Date: February 19, 2009 (City Council Meeting of 3/4/09)

Subject: Consider Resolution Approving Leasing of Property Owned by the Redevelopment Agency of the City of Moorpark, Located at 33 High Street

BACKGROUND AND DISCUSSION

The Redevelopment Agency of the City of Moorpark ("Agency") acquired 33 High Street ("Property"), for redevelopment purposes. The Property is improved with a two-story commercial building and located within the Moorpark Redevelopment Project Area.

The Agency has negotiated leasing a portion of the Property to Robert Sichmeller for office use. The portion of the Property to be leased to Mr. Sichmeller is 820 square feet located on the second floor ("Unit"). The monthly rate is \$1.45 per square foot. The monthly rate will remain the same for the three year term of the lease. Mr. Sichmeller will have an option to extend the term of the lease up to an additional three years. The monthly rate for the additional three years will be negotiated before the term of the lease has expired. The Agency will be responsible for the monthly utility fees for sewer, water and electricity for the common areas (parking lot, restroom and break room). Mr. Sichmeller will be responsible for the electricity cost for the Unit.

The proposed lease agreement is not anticipated to produce a net cost to the Agency. It is projected that the Agency will annually receive approximately \$14,268.00 in net rent revenue. The revenue received will be used by the Agency to assist in the removing of blight within the Moorpark Redevelopment Project Area as well as promoting economic development, job creation, and affordable housing projects and programs.

California Community Redevelopment Law ("CCRL") Section 33433 requires that the legislative body approve, by resolution and after a public hearing, any agency sale or lease of property which was acquired with tax increment funds. Said resolution must also include the following three findings:

1. Leasing the Unit will assist in the elimination of blight in the Moorpark Redevelopment Project Area.
2. Leasing the Unit is consistent with the goals and objectives in the 2005-2009 Implementation Plan for the Moorpark Redevelopment Project pursuant to Section 33490 of the CCRL.
3. The Unit is leased at the fair market price at the highest and best use in accordance with the Moorpark Redevelopment Plan.

Therefore, since the Agency did acquire the Property with tax increment funds, the City Council will need to approve the leasing of the Unit. The Executive Director of the Agency will execute the lease agreement after City Council approves the leasing of the Unit and makes the three required findings.

The Section 33433 Summary Report (Exhibit A) summarizes all Agency cost associated with leasing the Unit; states that the Unit will be leased for fair market value; and describes how this activity will assist with the elimination of blight and is consistent with the 2005-2009 Five Year Implementation Plan.

STAFF RECOMMENDATION

- 1) Open public hearing, take public testimony, and close the public hearing; and
- 2) Adopt Resolution No. 2009 - _____ approving leasing of the Unit.

Exhibit "A" Section 33433 Summary Report
Exhibit "B" Resolution

EXHIBIT A

REPORT OF THE MOORPARK REDEVELOPMENT AGENCY ON THE LEASE OF REAL PROPERTY PURSUANT TO A PROPOSED LEASE AGREEMENT BETWEEN THE AGENCY AND ROBERT SICHMELLER.

This report has been prepared pursuant to Section 33433 of the California Community Redevelopment Law (Health and Safety Code Section 33000, et seq.) which requires a redevelopment agency, prior to selling or any real property acquired in whole or in part, directly or indirectly, with tax increment monies, to prepare a report which includes a copy of the proposed sale and a summary which describes and specifies: (1) the cost of the agreement to the agency; (2) the estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the redevelopment plan; (3) the estimated value of the interest to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the sale, the purchase price and, if there is a difference between the fair market value determined at its highest and best use consistent with the redevelopment plan and the purchase price, an explanation of the reasons for the difference; and (4) an explanation of why the sale of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation.

I. PROPOSED LEASE OF REAL PROPERTY

A copy of the proposed Lease Agreement (the "Agreement") between The Redevelopment Agency of the City of Moorpark (the "Agency") and Robert Sichmeller (the "Tenant") is attached as Attachment A. The proposed Agreement provides for the Lease of certain real property owned by the Agency, located within the boundaries of the Moorpark Redevelopment Project Area in the City of Moorpark, described in Attachment B (the "Unit"). Under the terms of the Agreement, the Tenant shall lease the Unit for office purposes for a period of three years.

II. FINANCIAL SUMMARY

A. Cost of the Agreement to the Agency

The Agency will not incur a net cost resulting from the Agreement. On the contrary, it is anticipated that the Agreement will produce revenue to the Agency. The Agency costs resulting from this Agreement are listed below:

1. Land Acquisition Costs. N/A
2. Land Disposition Costs. N/A
3. Administration and Staff Costs. The Agency will incur minimal administrative costs associated with the Agreement, including staff time and legal costs for the negotiation and preparation of the Agreement and other related documents, and ongoing staff costs related to the management of the obligations of the parties under the Agreement.

B. Estimated Rental Value of the Unit at Highest and Best Use

The Agency solicited the services of Craig Wiesman with Told Partners, Inc. to advertise the Unit on behalf of the Agency. Based upon the declining economy, minimal rental inquiries and the desired timeframe to lease the property, Mr. Wiesman estimated fair market value of the Unit to be \$1.45 per square foot.

C. Estimated Value of the Site with the Conditions, Covenants, and Development Costs Required by the DDA

The Agreement does not require special use, conditions, covenants or costs that change the estimated rental value of the unit from the estimated rental value at its highest and best use.

D. Rental Rate

The Tenant will lease the Unit from the Agency at a monthly rental rate of \$1.45 per square foot.

III. EXPLANATION OF WHY THE SALE OR LEASE WILL ASSIST IN ELIMINATING BLIGHT AND IS CONSISTENT WITH THE IMPLEMENTATION PLAN

The goals and objectives of the Moorpark Redevelopment Project, as stated in the Agency's Five Year Implementation Plan, include, in part, providing resources for establishing new and retaining and expanding existing commercial and industrial businesses in the Project Area. Therefore, assisting an out of town business relocate to High Street is consistent with and will further the redevelopment goals and objectives.

The Agreement will assist in the elimination of blight because the Unit is currently vacant and not contributing to the synergy of High Street. The Agreement will relocate a business owned by a Moorpark resident to High Street and bring additional jobs to the downtown. The additional economic activity generated from the Unit will assist in stimulating other new investment and building confidence in the downtown.

ATTACHMENT A

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Lease") is made and entered into as of this _____ day of _____, 2009, by and between the Redevelopment Agency of the City of Moorpark (hereinafter the "Agency"), Lessor, and Robert Sichmeller and Sichmeller Insurance and Financial Solutions, Inc., (hereinafter the "Tenant").

THE PARTIES AGREE THAT:

SECTION 1. PROPERTY LEASED

Agency, in consideration of the rents herein agreed to be paid and of the indemnifications, covenants, and agreements agreed to herein, hereby leases to Tenant, and Tenant hereby leases from the Agency, that certain real property known as Suite 200 (approximately 820 square feet), 33 High Street, Moorpark, California, (hereinafter referred to as the "Premises"). As part of this Lease, Tenant shall have access to common areas, which include a second floor break room; first floor restrooms (men's and women's); easement to rear of building; rear of building; and parking lot (hereinafter referred to as the "Common Area").

Tenant acknowledges the fact that some or all of the Common Area is shared with the tenant of the office space on the first floor and High Street Arts Center after 5:00 p.m.

SECTION 2. TERM

The term of this Lease shall commence on the 1st day of February 2009, and all terms and conditions of the Lease shall continue for a thirty-seven month term to the 31st day of March, 2012.

Agency's obligations hereunder shall be contingent upon Tenant's payment in full of any obligations described in Section 4 below, and Tenant's complying with all other provisions set forth herein.

SECTION 3. OPTION TO EXTEND

Tenant has the option to extend this Lease up to an additional 36 months. Tenant shall notify Agency in writing no later than 180 days prior, and no sooner than 270 days, to the end of the term of this Lease.

Tenant shall be subject to all of the terms, covenants and conditions of this Lease, including the obligation to pay rent during extended period, at the prevailing rate specified in Section 4, hereof, or as may be adjusted pursuant to the Lease.

SECTION 4. RENT

Tenant shall pay Agency, without abatement, deduction or offset, rent in the amount of One Thousand One Hundred and Eighty-Nine Dollars (\$1,189.00) per month ("Monthly Rent") payable in advance on or before the first day of each month. The tenant shall receive one month of free rent, which shall be apply to the first month of this Lease.

Tenant shall be liable for Monthly Rent. A late rent charge equal to ten per cent (10%) of the Monthly Rent shall be added to any payment of rent received five (5) days or more after the due date for rent payment stated herein or when a deficient check has been given for rent payment. The late rent charge shall continue at 10% for each month thereafter that the late payment has not been paid.

Tenant will pay the Agency One Thousand Dollars (\$1,000.00), as a security deposit. This security deposit shall not be considered as payment for rent for any month, including the last month of tenancy.

If the Tenant exercises its option to extend the term of this Lease, the Agency may increase the Monthly Rent. The Agency and the Tenant shall each obtain comparable rental rates from a real estate broker and negotiate in good faith to agree upon a monthly rental amount for the extended period. If the Agency and Tenant cannot agree on the monthly rental amount, the Agency and Tenant agree to select a third party real estate broker to determine the monthly rental amount. Any cost or fee associated with the third party real estate broker, shall be split equally between the Agency and Tenant.

SECTION 5. INDEMNIFICATION AND HOLD HARMLESS

Tenant shall indemnify, defend with legal counsel approved by Agency and hold harmless Agency and its officers, employees, servants and agents from and against any and all claims, actions, liabilities, losses, damages, costs, attorneys' fees and other expense of any nature for loss or damage to property, or injury to or death of persons, arising in any manner whatsoever, directly or indirectly, by reason of this Lease or the use or occupancy of the Premises by Tenant, whether any such claim be made during tenancy or thereafter, except such loss, damage, injury or death caused by the sole negligence of Agency or any of its officers, employees, servants or agents.

SECTION 6. NOTICE OF NON-ELIGIBILITY FOR RELOCATION BENEFITS

Please read this notification carefully prior to signing this agreement and moving into the property. The Redevelopment Agency of the City of Moorpark acquired the property located at 33 High Street for redevelopment purposes. As a post acquisition tenant, you will not be eligible for relocation benefits under the federal

and State Law. This notice is to inform you of the following information **before you enter into any lease agreement and occupy a unit at the above address:**

1. You may be displaced at the end of lease term.
2. You may be subject to a rent increase upon lease renewal or option to extend the lease term.
3. You will not be entitled to any relocation benefits.

If you have to move or your rent is increased, you will not be reimbursed for any such rent increase or for any costs or expenses incurred by you in connection with a move.

SECTION 7. USE

Tenant shall use the Premises for office purposes only. The Premises shall not be used for any other purpose, except with the prior written consent of the Executive Director for the particular purpose which consent Tenant agree may be withheld by the Executive Director at his sole and absolute discretion.

SECTION 8. UTILITIES

Tenant agrees to pay all monthly service charges for electric current, gas, and any other utilities which may be furnished to or used upon the Premises by Tenant during this Lease. It is further agreed that in the event Tenant shall fail to pay the above mentioned charges when due, Agency shall have the right to pay the same on demand, together with any interest thereon and any other fees that may be owed. The Agency shall be reimbursed by Tenant within five (5) days of notice from Agency for the amount of payment plus any interest or fees, with an additional 15% administrative fee. Failure to pay monthly service charges for any above-mentioned utility in a timely fashion shall be cause for termination of this Lease.

Agency agrees to pay all monthly service charges for water, (including water for all landscaping on the premises), sewer and trash removal.

SECTION 9. TAXES, ASSESSMENTS AND LIENS

Tenant shall pay directly to the tax collector, when due, all taxes and assessments which may be levied against Tenant's possessory interest in the Premises and upon all improvements and personal property which are located on the Premises. Within five (5) days after the date when any tax or assessment would become delinquent, Tenant shall serve upon Agency receipts or other appropriate evidence establishing the payment.

Tenant shall keep the Premises and improvements free from all liens and encumbrances by reason of the use or occupancy of the Premises by Tenant. If

any liens or encumbrances are filed thereon, Tenant shall remove the same at their own cost and expense and shall pay any judgment and penalties which may be entered thereon. Should Tenant fail, neglect or refuse to do so, Agency shall have the rights to pay any amount required to release any lien or encumbrance or to defend any action brought thereon, and to pay any judgment or penalty, and Tenant shall be liable to Agency for all costs, damages, and attorneys' fees, and any amounts expended in defending any proceedings, or in the payment of any lien, encumbrance, judgment or penalty. Agency may post and maintain upon the Premises notices of non responsibility as provided by laws. Upon demand by Agency, Tenant shall post the bond contemplated by Civil Code Section 3143.

SECTION 10. INSTALLATION BY TENANT

Tenant shall not make any alterations, additions, or improvements upon the Premises without the prior written consent of the Executive Director. Any alterations, or additions or improvements installed or caused to be installed to the building or site, or any fencing, floor covering, interior or exterior lighting, plumbing fixtures, shades or awnings, or any other improvements on the Premises (collectively "Installations") shall be solely at Tenant's cost and is not reimbursable by the Agency at any time, including at the time of termination of the Lease by either the Tenant or Agency. All alterations, additions and improvements shall be done in a good and workmanlike manner and diligently prosecuted to completion, and shall be performed and maintained in strict accord with all federal, state, county, and local laws, ordinances, codes, standards, and requirements relating thereto. Unless otherwise expressly agreed to by the Agency, any alterations, additions and improvements shall remain on and be surrendered with the Premises upon the expiration or termination of this Lease. Tenant agrees to and shall indemnify, defend and save Agency free and harmless against all liability, loss, damage, costs, attorneys' fees and other expenses of any nature resulting from any Tenant alterations, additions or improvements to the Premises.

SECTION 11. REMEDIES

In case of the failure or refusal of Tenant to comply with and perform each and all of the terms and covenants on their part herein contained, this Lease and all rights hereby given shall, at the option of the Agency, cease and terminate, and the Agency shall have the right forthwith to remove Tenant's personal property from the Premises at the sole cost, expense and risk of Tenant, which cost and expense Tenant agrees to pay to Agency upon demand, together with interest thereon at the maximum rate allowed by law from the date of expenditure by Agency. Such action shall be proceeded by 30 day written notice.

SECTION 12. MAINTENANCE

Tenant has examined the premises and accepts the same as being clean, in

good order, condition, and repair with the exceptions of items specifically stated in this Section. Throughout the term of this Lease Tenant shall, at Tenant's sole cost and expense, maintain the Premises and all improvements thereon in good order, condition, and repair and in accordance with all applicable statutes, ordinances, rules and regulations. The sole exceptions to this condition are the Common Area (janitorial of restrooms & break room periodic service), irrigation system, landscaping (tree trimming), water systems (potable and waste) and the air conditioning and heating system, which will be maintained by the Agency. Tenant shall immediately report any problems to the Property Manager, (805) 517-6243. Agency shall not be obligated to repair or maintain the Premises or improvements in any manner throughout the term of the Lease, except as stated above. However, Agency may elect to perform any obligation of Tenant pursuant to this Section due to Tenant's failure or refusal to do so and at Tenant's waiver of any rights or remedy for Tenant's default.

Tenant shall reimburse Agency for the cost and expense they incurred in the performance of Tenant's obligation within fifteen (15) days of Agency's request for payment, plus any interest or fees, with an additional 15% administrative fee. Should Agency perform any of the foregoing, such services shall be at the sole discretion of Agency, and the performance of such services shall not be construed as an obligation or warranty by Agency of the future or ongoing performance of such services. Failure to maintain Premises as outlined herein shall be considered grounds for termination of this Lease.

Tenant shall also indemnify, defend with legal counsel approved by Agency and hold harmless Agency and its officers, employees, servants and agents from and against all claims, actions, liabilities, losses, damages, costs, attorneys' fees and other expenses of any nature for loss or damage to property, or injury to or death of persons, arising in any manner whatsoever, directly or indirectly, from Tenant's performance pursuant to this Section. The indemnification, legal defense and hold harmless provisions of this Lease shall survive the termination of the tenancy.

SECTION 13. PESTICIDES AND HERBICIDES

Tenant shall use pesticides and herbicides on the Premises only in strict accordance with all applicable statutes, ordinances, rules and regulations. Such pesticides and herbicides shall be limited to those that are permitted for residential housing units.

SECTION 14. HAZARDOUS MATERIALS INDEMNITY

As used in this Section, Hazardous Materials means any substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated or addressed pursuant to; (1) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C.,

Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C., Section 6901, et seq.; the Substances Control Act, 15 U.S.C., Section 2601, et seq.; the Clean Water Act, 33 U.S.C. Section 1251, et seq.; the California Hazardous Waste Control Act, Health and Safety Code Section 25100, et seq.; the California Hazardous Substance Account Act, Health and Safety Code Section 25330, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code Section 25249.5 et seq.; California Health and Safety Code Section 25280, et seq. (Underground Storage of Hazardous Substances); The California Hazardous Waste Management Act, Health and safety Code Section 25170.1, et seq.; California Health and Safety Code Section 25501,et seq. (Hazardous Materials Response Plans and Inventory); or the Porter-Cologne Water Quality Control Act, Water Code Section 13000, et seq. all as amended, (2) any other federal or state law or any local law regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic: or dangerous waste, substance or material, as now is, or at any time hereafter may be, in effect, and (3) any rule or regulation adopted or promulgated under or pursuant to any of said laws.

If Tenant receives any notice, whether oral or written, of any inquiry, test, investigation, enforcement proceeding, environmental audit or the like regarding any Hazardous Material on the Premises, Tenant shall immediately serve Agency with a copy of such notice.

In no case shall Tenant cause or allow the deposit or disposal of any such substance on the Premises. However, household products necessary for routine cleaning and maintenance of the Premises may be kept on the Premises in quantities reasonable for current needs.

The provisions of this Section shall survive the termination of the tenancy and shall relate back to all periods of Tenant's possession of the Premises. The provisions of this Section are intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9707(e), and California Health and Safety Code Section 25364 to insure, protect, hold harmless and indemnify Agency from any liability pursuant to such law.

SECTION 15. NO WARRANTIES BY AGENCY

Except as contained in Section 11, the Premises are accepted by Tenant in an "as is" condition and without any representation or warranty by Agency as to the condition of the Premises or as to fitness of the Premises for Tenant's use.

SECTION 16. CASUALTY INSURANCE

Agency shall not be obligated to keep the Premises and the improvements thereon insured against any insurable risk; nor shall Agency insure Tenant for any personal injury or property damage. Tenant hereby and forever waives all right to claim or recover damages from Agency in any amount as the result of any damage to the Premises or any improvement thereon or as a result of any injury to any person upon the Premises.

SECTION 17. INSURANCE

Tenant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit A attached to and part of this Agreement. ***The policy shall name Tenant as the insured and the City of Moorpark Redevelopment Agency and the City of Moorpark as additional insured.***

SECTION 18. GOVERNING LAW

Tenant agrees that in the exercise of their rights under this Lease, Tenant shall comply with all applicable federal, state, county and local laws and regulations in connection with its use of the Premises. The existence, validity, construction, operation and effect of this Lease and all of its terms and provisions shall be determined in accordance with the laws of the State of California.

SECTION 19. ENTRY BY AGENCY

During the tenancy, Agency may enter the Premises upon not less than 24 hours advance notice and Tenant shall make the Premises available during normal business hours to the Agency's authorized agent or representative for the purpose of; (1) to show the premises to prospective or actual purchasers, mortgagee, tenants, workmen or contractors, (2) to make necessary or agreed repairs, decorations, alterations or improvements, and (3) at all reasonable times to examine the condition thereof, including its environmental condition. In an emergency, Agency's agent or authorized representative may enter the premises at any time without securing prior permission from Tenant.

SECTION 20. ASSIGNMENT AND SUBLETTING

No portion of the Premises or of Tenant's interest in this Lease shall be transferred by way of sublease, assignment or other voluntary or involuntary transfer or encumbrance, without the prior written consent of the Executive Director, which consent Tenant agree may be reasonably withheld by the Executive Director at his sole and absolute discretion. Tenant shall pay Agency the sum of One Hundred Dollars (\$100.00) to enable Agency to investigate the qualifications of a proposed assignee and the sum of One Hundred Dollars

(\$100.00) to investigate the qualifications of a proposed sublessee, occupant or user; Agency shall not be required to account for the use of said sum paid.

A consent to one transfer shall not be deemed to be a consent to any subsequent transfer. Any transfer without consent shall be void, and shall, at the option of the Agency, terminate this Lease.

SECTION 21. DEFAULT OR BREACH

Except as otherwise provided, at any time one party to this Lease is in default or breach in the performance of any of the terms and conditions of this Lease, the other party shall give written notice to remedy such default or breach. If the default or breach is remedied within 30 days following such notice, then this Lease shall continue in full force and effect. If such default or breach is not remedied within 30 days following such notice or if the nature of the default is such that it cannot reasonably be cured within 30 days, if Tenant fail to commence to cure within the 30 day period, the other party may, at its option, terminate this Lease. Such termination shall not be considered a waiver of damages or other remedies available to either party because of such default or breach. Each term and condition of this Lease shall be deemed to be both a covenant and a condition.

SECTION 22. INSOLVENCY OR BANKRUPTCY

If Tenant shall be adjudged bankrupt or insolvent, this Lease shall thereupon immediately terminate and the same shall not be assignable by any process of law, or be treated as an asset of the Tenant under such adjudication, nor shall it pass under the control of any trustee or assignee by virtue of any process in bankruptcy or insolvency, or by execution or assignment for the benefit of creditors. If any such event occurs, this Lease shall immediately become null and void and of no effect, and Agency may thereupon repossess said Premises and all rights of the Tenant thereupon shall cease and terminate.

SECTION 23. DISPOSSESSION

In the event Tenant is lawfully deprived of the possession of the Premises or any part thereof, at any time during the tenancy, by anyone other than Agency, they shall notify Agency in writing, setting forth in full the circumstances in relation thereto. Upon receipt of said notice, Agency may, at its option, either install Tenant in possession of the Premises or terminate the tenancy and refund to Tenant the pro rata amount of any pre-paid rent. No claim for damages or whatsoever kind or character incurred by Tenant by reason of such dispossession shall be chargeable against Agency.

SECTION 24. CONDEMNATION

If the whole of the Premises should be taken by a public authority under the power of eminent domain, then the term of this Lease shall cease on the day of possession by the public authority. If only a part of the Premises should be taken under eminent domain, Tenant shall have the right to either terminate this Lease or to continue in possession of the remainder of the Premises. If Tenant remain in possession, all of the terms hereof shall continue in effect, the rental payable being reduced proportionately for the balance of the Lease term. If a taking under the power of eminent domain occurs, those payments attributable to the leasehold interest of the Tenant shall belong to the Tenant, and those payments attributable to the reversionary interest of the Agency shall belong to the Agency.

SECTION 25. WAIVER

A waiver by either party of any default or breach by the other party of any provision of this Lease shall not constitute or be deemed to be a waiver of any subsequent or other default or breach. No waiver shall be binding, unless executed in writing by the party making the waiver. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other party any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to the Lease shall not constitute a waiver of any preceding default or breach by Tenant other than default in the payment of the particular rental payment so accepted, regardless of Agency's knowledge of the preceding default or breach at the time of accepting the rent; nor shall acceptance of rent or any other payment after termination of the tenancy constitute a reinstatement, extension, or renewal of the Lease or revocation of any notice or other act by Agency.

SECTION 26. ACQUIESCENCE

No acquiescence, failure or neglect of any party hereto to insist on strict performance of any or all of the terms hereof in one instance shall be considered or constitute a waiver of the rights to insist upon strict performance of the terms hereof in any subsequent instance.

SECTION 27. PARTIES BOUND AND BENEFITTED

The covenants and conditions herein contained shall apply to and bind the heirs, successors, executors, administrators, and assigns of all the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

SECTION 28. CONDITION UPON TERMINATION

Upon termination of the tenancy, Tenant shall surrender the Premises to Agency including all improvements, clean and in good condition, except for ordinary wear and tear which Tenant was otherwise obligated to remedy under Section 11

above. Any installation which Tenant install during occupancy with in accordance with Section 9 of this Lease, and has not removed at the termination of the Lease, shall become the possession of the Agency. Tenant shall repair at Tenant's expense, any damage to the Premises caused by the removal of any improvement made by Tenant from such installation. Any installations, improvements, or additions to the Premises prior to the execution of this Lease shall be deemed as part of the Premises and shall be the possession of the Agency.

SECTION 29. TENANT'S FAILURE TO REMOVE PERSONAL PROPERTY

Upon termination of the tenancy, Agency may reenter and retake possession of the Premises and store Tenant's personal property for a period of thirty (30) days at Tenant's cost and expense. If Tenant fails to pick up said personal property and pay said cost and expenses during said 30 day period, Agency may dispose of any or all of such personal property in any manner that Agency, in its sole and absolute discretion, deems appropriate.

If any of Tenant's personal property remains on the Premises after the termination of the tenancy, Agency may use, dispose of, or sell any of said property, in its sole and absolute discretion, without compensating Tenant for the same and without the Agency having any liability whatsoever therefore.

SECTION 30. NO RECORDATION

Neither this Lease Agreement nor a memorandum thereof shall be recorded by Tenant.

SECTION 31. ATTORNEY'S FEES

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of, any right or obligation pursuant to, this Lease or as a result of any alleged breach of any provision of this Lease, or for an unlawful detainer action, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

SECTION 32. NOTICES AND PAYMENTS

All notices required under this Lease, including notices of change of address, shall be in writing, and all notices and payments shall be addressed as follows:

Agency: Redevelopment Agency of the City of Moorpark
799 Moorpark Avenue
Moorpark, California 93021
Attn: Executive Director

Tenant: Robert Sichmeller
33 High Street
Suite 200
Moorpark, CA 93021

Either party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one specified above. Except as otherwise provided by statute, notice shall be deemed served and received upon receipt by personal delivery or upon the second (2nd) day after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid.

SECTION 33. PARTIAL INVALIDITY

If any provision of this Lease is found by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Lease shall nonetheless remain in full force and effect to the full extent allowed by law.

SECTION 34. GENDER AND NUMBER

For the purpose of this Lease wherever the masculine or neuter form is used, the same shall include the masculine or feminine, and the singular number shall include the plural and the plural number shall include the singular, wherever the context so requires.

SECTION 35. SECTION HEADINGS

Section headings in this Lease are for convenience only, and they are not intended to be used in interpreting or construing the terms, covenants and conditions of this Lease.

SECTION 36. INTEGRATION AND MODIFICATION

This Lease constitutes the entire agreement of the parties concerning the subject matter hereof and all prior agreements and understandings, oral or written, are hereby merged herein. This Lease may not be modified or amended except; (1) in a writing signed by all of the parties hereto; or (2) upon expiration of thirty (30) days service in accordance with Civil Code Section 1946, or any successor statute in effect on the date the written notice is served, by Agency on Tenant of a written notice setting forth the modification or amendment.

The parties agree that no estoppel argument can be raised during legal proceedings in order to avoid the provisions of this Section.

SECTION 37. INTERPRETATION

Should interpretation of this Lease, or any portion thereof, be necessary, it is deemed that the Lease was prepared by the parties jointly and equally, and the Lease shall not be interpreted against either party on the ground that the party prepared it or caused it to be prepared.

SECTION 38. VENUE

This Lease is made, entered into, and executed in Ventura County, California, and any action filed in any court for the interpretation, enforcement or other action arising from any term, covenant or condition herein shall be filed in the applicable court in Ventura County, California.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their duly authorized representatives as of the date first written above.

AGENCY OF MOORPARK

By: _____
Steven Kueny, Executive Director

Date: _____

TENANT:

By: _____
Robert Sichmeller

Date: _____

ATTEST:

By: _____
Deborah S. Traffenstedt, City Clerk

ATTACHMENT B

General description of Unit to be leased:

820' square feet of office space located on the second floor of the building located at 33 High Street.

Exhibit B

RESOLUTION NO. 2009- _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING LEASING OF PROPERTY OWNED BY THE REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK LOCATED AT 33 HIGH STREET, CONSISTENT WITH CALIFORNIA REDEVELOPMENT LAW SECTION 33433

WHEREAS, the City Council of the City of Moorpark, adopted the Redevelopment Plan for the Moorpark Redevelopment Project on July 5, 1989, by Ordinance No. 110, in accordance with the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*); and

WHEREAS, the Moorpark Redevelopment Agency ("Agency") purchased the property located at 33 High Street ("Property") with tax increment funds; and

WHEREAS, California Community Redevelopment Law ("CCRL") Section 33433 requires that the City Council approve, by resolution and after a public hearing, any Agency sale or lease of property which was acquired with tax increment funds; and

WHEREAS, The Agency desires to lease a portion ("Unit") of the Property to Robert Sichmeller for office purposes; and

WHEREAS, Section 33433 of CCRL requires that the City Council include the following findings in the resolution approving the sale or lease of Agency property purchased with tax increment:

1. The sale or lease will assist in the elimination of blight in the Moorpark Redevelopment Project Area.
2. The sale or lease is consistent with the goals and objectives in the 2005-2009 Implementation Plan for the Moorpark Redevelopment Project pursuant to Section 33490 of the CCRL.
3. The property is being sold or leased at the fair market price at the highest and best use in accordance with the Moorpark Redevelopment Plan; and

WHEREAS, notice was published in the Ventura Star once a week for two weeks prior to the public hearing; and

WHEREAS, on March 4, 2009, the City Council conducted a public hearing to take public comment on the proposed leasing of Agency owned Property; and

WHEREAS, the proposed leasing of the Unit will assist with the elimination of blight in the Moorpark Redevelopment Project Area; and

WHEREAS, the proposed leasing of the Unit is consistent with the adopted 2005-2009 Implementation Plan for the Moorpark Redevelopment Project pursuant to Section 33490 of the CCRL; and

WHEREAS, the proposed leasing of the Unit is at a fair market price, at its highest and best use in accordance with the Moorpark Redevelopment Plan, has been established; and

WHEREAS, on March 4, 2009, the City Council reviewed the Section 33433 Summary Report and determined that it is consistent with Section 33433 of the CCRL.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council approves the leasing of the Unit subject to final language approval by the City Manager and City Attorney.

SECTION 2. The City Council determines the proposed leasing of the Unit is consistent with Section 33433 of the CCRL and the following findings are made:

1. The leasing of Property will assist in the elimination of blight in the Moorpark Redevelopment Project Area.
2. The leasing of Property is consistent with the goals and objectives in the 2005-2009 Implementation Plan for the Moorpark Redevelopment Project Areas pursuant to Section 33490 of the CCRL.
3. The Property is being leased at the fair market price at the highest and best use in accordance with the Moorpark Redevelopment Plan.

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SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 4th day of March, 2009.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, Assistant City Clerk