

**RESOLUTION NO. 06-187 C. S.**

**Authorizing Terms for Acquisition of "Mohr Motors" Property in  
Window-on-the-Bay West Project Area Between El Estero and Park Avenue –  
Seller is The Heide Probstel Trust – 999 Del Monte Avenue (AP# -001-801-016)**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTEREY that it hereby authorizes the acquisition by City of real property at 999 Del Monte Avenue (AP#001-801-016) from The Heide Probstel Trust (hereinafter "Seller", and for contractual matters, "Seller of Record") under the following basic terms:

1. Clear title for a cash purchase price of Two Million Six Hundred Forty Thousand Dollars (\$2,640,000), at close of escrow on or before December 29, 2006.
2. Seller's Tenant (commonly referred to as Mohr Motors) to receive directly from City the amount of Sixty Thousand Dollars (\$60,000) as compensation for any and all claims now and in the future, relating to this transaction, including but not limited to claims for benefits for relocation or tenant's business and possessions, re-establishment, loss or diminishment of goodwill if any, value of furnishings, fixtures and/or equipment and relocating or repair or replacement of same.
3. Seller to assign to City the existing lease to the existing tenant at 999 Del Monte Avenue, said lease being amended to reflect a new termination and tenant vacation date of not-later than April 30, 2007.
4. Seller has the non-transferable right (excepting for transfers to other legal entities of Seller) to commercially lease and sublease for uses consistent with zoning the City-owned improved property at 1187 Del Monte (former ColorAd parcel) for a maximum period of three (3) years at the base rental rate of One Dollar (\$1.00) per month. The objective of the Seller and the City is to have a commercial tenant that will provide high tax revenues to the City. City will assist as possible in identifying those types of tenants. Premises shall not include second floor area which shall remain barricaded (by City) to prevent access (as it is now). Triple-net changers, including but not limited to items such as insurance, property tax or possessory interest tax, other taxes that may apply, and maintenance and repairs (except structural foundation and bearing walls, floors, walls and roof to be maintained by City).
5. Subject property delivered to City as-improved. City to perform demolition of improvements at its discretion and expense, excepting costs incurred for remediation of any hazardous materials encountered, as discussed herein.
6. Pursuant to two scientific environmental investigation reports – a Phase II Report of the ground and groundwater, and a Hazardous Materials Study of the building improvements – dated on or about November 7, 2006, Seller delivers and buyer accepts property as-is, being free and clear of all hazardous materials in the earth and groundwater at the site. Said report(s) do identify levels characterized as "minor" of lead base paint and asbestos in the building improvements. From the seller's proceeds of sale, the sum of Five Thousand Dollars (\$5,000) shall be retained in an interest bearing escrow account as a toxic remediation contingency fund. The real estate contract shall outline the mutually acceptable procedures for utilizing this fund. Seller shall deposit into escrow for review and acceptance by City as Buyer at least twenty (20) days prior to close of escrow, copies of the

aforementioned reports and any other reports in seller's possession pertaining to the environmental condition and matters relating to any hazardous materials, substances or conditions at the subject property.

7. Seller and Buyer to share equally the Seller's cost of a November 7, 2006 Phase II Environmental Investigation and a November 7, 2006 Hazardous Materials Investigation and report on the property and building improvements. The total cost to be shared for both reports is estimated at \$10,875, more or less.
8. Subject to seller submitting appropriate documentation, City to assist seller with letter for donative value and purchase in-lieu of condemnation for tax purposes (similar to prior transactions for City's Window-on-the-Bay Project acquisitions).

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTEREY that staff is authorized and directed to prepare the necessary documents related to the transaction in their proper form and content, and consistent with City Council direction in this transaction, and in accordance with City policy on matters of Finance, Risk Management and Lease Administration.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF MONTEREY that the Mayor is hereby authorized and directed to execute the necessary documents to effect the transaction.


PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 7th day of November 2006 by the following votes:

AYES:	5	COUNCILMEMBERS:	Albert, Della Sala, Downey, Haferman Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

  
Mayor of Said City

  
City Clerk thereof