

ORDINANCE NO. 004, 2023
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE SALE OF THE REAL PROPERTY LOCATED
AT 945 EAST PROSPECT ROAD TO KUM & GO, L.C.

WHEREAS, the City has owned the real property located at 945 East Prospect Road (the “Property”) since 1991; and

WHEREAS, the Property was purchased as part of an intersection improvement project at East Prospect Road and Lemay Avenue, which included plans to construct an eastbound right turn lane on East Prospect Road; and

WHEREAS, the right turn lane was to be constructed as part of the proposed commercial redevelopment of the southwest corner of the intersection, but the redevelopment never occurred and the right turn lane was not constructed; and

WHEREAS, since acquiring the Property the City has leased the residence located on it and the current tenant is residing on the Property under a month-to-month tenancy; and

WHEREAS, Kum & Go, L.C., an Iowa limited liability company (“Kum & Go”), intends to redevelop the gas station located at the southwest corner of East Prospect Road and Lemay Avenue, and plans to expand the footprint of the gas station to properties directly west, including a portion of the Property; and

WHEREAS, Kum & Go has submitted plans to the City for the redevelopment, which include the construction of the right turn lane on East Prospect Road, and an Administrative Hearing Officer conditionally approved the project on December 11, 2022; and

WHEREAS, because of Kum & Go’s redevelopment plans, City staff negotiated directly with Kum & Go for the sale of the Property at fair market value of \$403,000 and did not market the property for sale to the general public; and

WHEREAS, were the City to keep the Property, the City’s current or future uses of the Property would require incurring ongoing maintenance costs and some liability; and

WHEREAS, the City’s current or future identified uses of the Property are outweighed by the benefit to the community from the redevelopment of the gas station property and the construction of the right turn lane; and

WHEREAS, City staff is recommending the Property be sold and the proceeds be placed in the General Fund for use as Council sees fit; and

WHEREAS, the City Manager and Kum & Go executed a purchase and sale agreement on November 3, 2022, which remains contingent upon: (1) approval of the sale by City Council through final adoption of this Ordinance; and (2) approval of the final development plans by city staff; and

WHEREAS, upon closing of the conveyance, the month-to-month lease will be assigned to Kum & Go; and

WHEREAS, Section 23-111(a) of the City Code authorizes the City Council to sell, convey, or otherwise dispose of any interests in real property owned by the City, provided the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, under Section 23-114 of the City Code, any sale or lease of City property interests must be for an amount equal to or greater than the fair market value of such interests unless the City Council determines that such sale or lease serves a bona fide public purpose based on the five factors listed in Section 23-114; and

WHEREAS, the City Council finds that the sale is in the best interests of the City and its citizens in that it will eliminate the City's ongoing maintenance responsibilities and liability risk, generate fair market sales proceeds that can be used to advance City Council priorities, and allow the Property to be utilized in its highest and best use as determined by the marketplace.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby finds that the sale of 945 East Prospect Road to Kum & Go, L.C. as provided herein is in the best interests of the City.

Section 3. That the Mayor is hereby authorized to execute a deed and such other documents as are necessary to convey the Property to Kum & Go, L.C. on terms and conditions consistent with this Ordinance, together with such other additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance, including but not limited to any necessary changes to the legal description of the Property, as long as such changes do not materially increase the size of the parcel to be conveyed.

Introduced, considered favorably on first reading, and ordered published this 17th day of January, 2023, and to be presented for final passage on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of February, 2023.

Mayor

ATTEST:

City Clerk