

RESOLUTION NO. 07-08-21A

RESOLUTION AUTHORIZING THE CITY OF EDGERTON, KANSAS TO ENTER INTO A FIRST AMENDMENT TO PROJECT PLAN A1 DISPOSITION AND DEVELOPMENT AGREEMENT

WHEREAS, on August 22, 2019, the City of Edgerton, Kansas (the “City”) adopted Ordinance No. 2021 establishing a Redevelopment District referred to as the Homestead Lane Retail District Redevelopment (TIF) District (the “District”);

WHEREAS, pursuant to K.S.A. 12-1770 *et seq.*, as amended, the City prepared Redevelopment Project Plan A1 (“Project Plan A1”), consisting of the construction of a truck stop, truck parking, truck maintenance facility, truck wash, restaurants, and associated infrastructure and site work (the “Project”), which is located on approximately 12.162 acres located in the northeast corner of Interstate 35 and Homestead Lane;

WHEREAS, pursuant to Ordinance No. 2041, the City established Project Plan A1 as a redevelopment project within the District;

WHEREAS, the City and My Store III Inc., a Kansas corporation (the “Developer”), entered into the Project Plan A1 Disposition and Development Agreement dated September 1, 2020 (the “DDA”) that contains the terms for implementation of Project Plan A1, including the requirement that the Project be complete by December 31, 2021; and

WHEREAS, the Developer has requested additional time to complete the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Approval of First Amendment to Project Plan A1 Disposition and Development Agreement. The City Council hereby approves the First Amendment to the Project Plan A1 Disposition and Development Agreement (the “First Amendment”) in substantially the form attached hereto as **Exhibit A**. The First Amendment amends the Original Agreement by extending the deadline for completion of the Project to October 1, 2022.

Section 2. Execution of First Amendment. The Mayor of the City is hereby authorized to enter into the First Amendment, in substantially the form presented to and reviewed by the City Council at this meeting (a copy of which upon execution shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the Mayor, the Mayor’s signature thereon being conclusive evidence of his approval thereof. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the First Amendment.

Section 3. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with and perform the duties of the City with respect to the First Amendment.

Section 4. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

ADOPTED this 8th day of July, 2021.

CITY OF EDGERTON, KANSAS

By: _____
Mayor

[SEAL]

ATTEST:

City Clerk

EXHIBIT A

**FORM OF FIRST AMENDMENT TO
PROJECT PLAN A1 DISPOSITION AND DEVELOPMENT AGREEMENT**

**FIRST AMENDMENT TO
EDGERTON HOMESTEAD LANE RETAIL DISTRICT
REDEVELOPMENT (TIF) PROJECT PLAN A1
DISPOSITION AND DEVELOPMENT AGREEMENT**

(On the Go Travel Plaza)

THIS FIRST AMENDMENT TO EDGERTON HOMESTEAD LANE RETAIL DISTRICT REDEVELOPMENT (TIF) PROJECT PLAN A1 DISPOSITION AND DEVELOPMENT AGREEMENT (this “First Amendment”) is made this 10th day of July, 2021, between the **CITY OF EDGERTON, KANSAS**, a Kansas municipal corporation (the “City”), and **MY STORE III INC.**, a Kansas corporation (the “Developer”), and amends and restates the Edgerton Homestead Lane Retail District Redevelopment (TIF) Project Plan A1 Disposition and Development Agreement dated September 1, 2020 (the “Original Agreement”), between the City and the Developer. The City and the Developer may each be referred to herein as a “party” and collectively as the “parties”.

RECITALS:

- A.** The City and the Developer have previously entered into the Original Agreement.
- B.** The parties desire to amend the Original Agreement as set forth herein (the Original Agreement, as amended by this First Amendment, the “Agreement”).

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. Capitalized terms used in this First Amendment but not defined herein shall have the meanings given to such terms as set forth in the Original Agreement.

Section 2. Amendment to Project Schedule. **Section 3.3** of the Original Agreement is amended by deleting the date “December 31, 2021” and replacing it with the date “October 1, 2022.”

Section 3. Representations. Each party represents and warrants that it (a) has made due and diligent inquiry into the facts and matters which are the subject matter of this First Amendment; (b) fully understands the legal effect of this First Amendment; and (c) is duly authorized and empowered to execute, deliver and perform this First Amendment according to its terms and conditions.

Section 4. Entire Agreement. The Agreement is the entire agreement between the parties with respect to the subject matter hereof, the terms and provisions of the Agreement are contractual

and not mere recitals and no alterations, amendment, modification, or interpretation thereof shall be binding unless in writing and signed by all parties.

Section 5. Effectiveness of Original Agreement. Except as amended by this First Amendment, all terms and provisions of the Original Agreement shall remain in full force and effect.

Section 6. Counterparts. This First Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, this First Amendment has been executed by the parties hereto on the date first above written.

CITY OF EDGERTON, KANSAS
a Kansas municipal corporation

By: _____
Donald Roberts
Mayor

Attest:

Alexandria Clower
City Clerk

MY STORE III, INC.
a Kansas corporation

By: _____
Moussa Sobaiti
President and CEO

EXHIBIT A
LAYOUT OF PROJECT