

**BOARD OF DIRECTORS MEETING AGENDA
COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION
TUESDAY, FEBRUARY 28TH, 2023**

Call to order – Chairman Ann Marie Vannoster

1. Minutes – December 22, 2020
2. Approve Environmental Use Control with the Kansas Department of Health and Environment for the Brownfields Bike Trail.
3. Adjournment

**BOARD OF DIRECTORS MEETING AGENDA
COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION
TUESDAY, DECEMBER 22, 2020**

The Board of Directors met in Regular Session at 7:00 p.m. in the Commission Room. The meeting was called to order by Chairman Bauer.

Present:

DIRECTOR PAUL BAUER
DIRECTOR TRACY MAXSON
DIRECTOR ANN MARIE VANNOSTER
DIRECTOR ROBERT YORK

Absent:

DIRECTOR JUSTIN DOANE

City Staff in attendance:

CITY MANAGER MARK HALL
SECRETARY MELISSA CARTER
CITY ATTORNEY PAUL KRITZ
FINANCE DIRECTOR STEPHANIE RICHARDSON
DIRECTOR OF ENGINEERING THOMAS OSBORN
IT DIRECTOR CHRIS FELIX
DIRECTOR OF ELECTRIC UTILITY MIKE SHOOK

Call to order – Chairman Paul Bauer

1. Minutes – December 20, 2018

MOTION: Move to approve the minutes of the December 20, 2018 meeting.

ACTION: MOTION: BAUER SECOND: VANNOSTER
ROLL CALL VOTE: ALL PRESENT AYE

2. Foundation Resolution No. R-20-01 – A Resolution to Authorize signatures of all bank accounts owned by the Coffeyville Community Enhancement Foundation as either depository or to facilitate cash management of the Foundation's cash resources. Director of Finance Stephanie Richardson stated this resolution was to change the signers on the bank accounts for the Coffeyville Community Enhancement Foundation as some of those on the account are no longer employed with the city.

MOTION: Move to approve Foundation Resolution No. R-18-03 for adoption.

ACTION: MOTION: MAXSON SECOND: BAUER
ROLL CALL VOTE: ALL PRESENT AYE

3. Adjournment

MOTION: Move to adjourn.

ACTION: MOTION: BAUER SECOND: VANNOSTER
ROLL CALL VOTE: ALL PRESENT AYE

Time the meeting was adjourned: 7:05 p.m.

Date the minutes were approved: _____

Melissa Carter, City Clerk



**CITY OF COFFEYVILLE
COMMUNITY ENHANCEMENT FOUNDATION
AGENDA ITEM**

MEETING DATE	02/28/2023	
RESOLUTION OR ORDINANCE NUMBER		
AGENDA TITLE	Approve Environmental Use Control (EUC) with Kansas Department of Health and Environment (KDHE)	
REQUESTING DEPARTMENT	Engineering	
PRESENTER	Thomas Osborn – Director of Engineering Services	
FISCAL INFORMATION	Cost as recommended:	\$10,000.00
	Budget Line Item:	520-5-220-478
	Balance Available	
	New Appropriation Required:	☒ Yes ☐ No
PURPOSE	To Approve and EUC with KDHE for the brownfields bike trail.	

BACKGROUND	In 2014 the Coffeyville Community Enhancement Foundation was awarded a EPA brownfields grant for a bike trail starting at 4th street and heading north 1,720ft. In 2018 the plans were approved and as part of the EPA grant an application was submitted and approved to enter into the KDHE Voluntary Cleanup Program (VCP). Construction was completed in late 2018. Since then we have been working with KDHE on finalizing out the conditions of the VCP program. KDHE has reviewed the cleanup site and as a part of closing out the VCP documents a EUC agreement must be put in place. The agreement is attached. As the property owner ship was transferred to the Community Enhancement Foundation as part of the grant application process and appendix to the agreement is needed stating the City is making the application and agreement on behalf of the Community Enhancement Foundation.
SPECIAL NOTES	As the property owner ship was transferred to the Community Enhancement Foundation as part of the grant application process and appendix to the agreement is needed stating the City is making the application and agreement on behalf of the Community Enhancement Foundation.
ANALYSIS	
PUBLIC INFORMATION PROCESS	
BOARD OR COMMISSION RECOMMENDATION	
STAFF RECOMMENDATION	Staff recommends approval the EUC agreement with KDHE for the brownfields trail.
REFERENCE DOCUMENTS ATTACHED	Coffeyville Rails EUCA.pdf

DOCUMENT NUMBER:
PROJECT NUMBER: C3-063-73070
PROPERTY CATEGORY: 2

ENVIRONMENTAL USE CONTROL AGREEMENT

Coffeyville Community Enhancement Foundation, Inc., having a mailing address of 102 W 7th Street, Coffeyville, Kansas 67337, hereinafter referred to as the “Owner”, is the owner of real property known as the Coffeyville Rails to Trails Site, located at the 1700 block of West 4th Street between Lewark Street and Poplar Place, Coffeyville, Montgomery County, Kansas, as shown on the map attached hereto and incorporated herein as Exhibit A, hereinafter referred to as the “Property”, and more particularly described by the following legal description:

A tract of land located in a portion of the Northeast Quarter of Section 34, Township 34 South, Range 16 East of the Sixth Principal Meridian, Montgomery County, Kansas as recorded in Book 80, Page 365:

A strip of land commencing at a point fifty feet (50’) East of the Southwest corner of the Southeast Quarter of the Northeast Quarter of Section 34, extending thence North thirty-five (35) rods; thence East two (2) rods; thence South thirty-five (35) rods; thence West two (2) rods to the point of beginning as recorded in Book 80, Page 365 of the Montgomery County, Kansas Register of Deeds office.

And

A tract of land located in a portion of the Southeast Quarter of Section 34, Township 34 South, Range 16 East of the Sixth Principal Meridian, Montgomery County, Kansas as recorded in Book 80, Page 365:

A strip of land thirty-three feet (33’) wide off of the East side of the West half of the Southeast Quarter of Section 34.

And which shall likewise include any and all parcels contained therein.

WHEREAS the Owner has requested, by application to the Kansas Department of Health and Environment, hereinafter referred to as “KDHE”, to restrict, prohibit and/or limit certain uses of the Property in accordance with Kansas Statutes Annotated (K.S.A.) 65-1,221 *et seq.*

KDHE has approved the Owner’s application to restrict, prohibit, and/or limit certain uses of the Property since residual contamination, which exceeds department standards for unrestricted residential use, remains on the Property.

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The conditions at the Property as of the date of KDHE's approval of the application are as follows:

The Property was a historic rail line, which has been abandoned. The City of Coffeyville requested a Brownfields Targeted Assessment (BTA) in order to apply for a US EPA cleanup grant. Kansas Brownfields Program conducted a Phase 2 BTA on the Property, which indicated elevated levels of Arsenic, Lead, and Cadmium in the surficial fill material. Following receipt of the cleanup grant, the Property was enrolled in VCPRP in 2017. Cleanup consisted of placement of an engineered concrete cap in the center of the railbed and a vegetative cap on the sides. The Property will be used a bike and recreation trail.

KDHE has determined, based on conditions at the Property, the application and other information pertaining to the Property, that environmental use controls are appropriate to ensure future protection of public health and the environment, subject to the conditions herein. Therefore, in accordance with K.S.A. 65-1,226 and the rules and regulations promulgated thereunder, the Property is hereby designated by KDHE as a Category 2 property.

The Owner acknowledges that this Agreement runs with the land and is binding on all successors in interest in the Property pursuant to K.S.A. 65-1,227(b); and is enforceable by KDHE pursuant to K.S.A. 65-1,229, unless and/or until such requirements are mutually terminated in writing by KDHE and Owner or Owner's successor in interest. For purposes of the obligations set forth in this document, "Owner" shall be deemed to include the applying Owner and any and all successors in interest.

This Agreement shall be recorded, by the Owner, with the Montgomery County Register of Deeds for the purposes of providing notice of the environmental use controls, protecting public health and the environment, and to prevent interference with the operation, performance, and/or maintenance of any remedial actions on the Property.

RESTRICTIONS, PROHIBITIONS AND LIMITATIONS:

Due to the environmental conditions described above, it is the desire and intention of the Owner to restrict, prohibit, and/or limit the following uses of the Property:

- A. The Property shall not be used for residential purposes of any type including, but not limited to, a residence or dwelling, including a house, apartment, mobile home, nursing home, or condominium; or public use area, including a school, educational center, day care center, playground or similar structure, unrestricted outdoor recreational area, or park unless approved in writing by KDHE.
- B. The Owner shall allow no operations or uses on the Property that will or likely will penetrate the surface cover or jeopardize the protective structure's functional integrity, including without limitation, excavation, drilling, scraping, or erosion.

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- C. The Owner shall not allow soils at the Property to be excavated or otherwise disturbed in any manner unless prior authorization is granted in writing by KDHE.
- D. The Owner shall inform contractors, lessees, easement holders, and/or other workers performing any excavation activities on the Property, prior to such activities, of the potential hazards associated with the direct contact and/or transport of any potentially contaminated and/or hazardous soil or other material from the Property. Contractors, lessees, easement holders, and/or other workers shall also be informed by the Owner of any potential hazards associated with releases from contaminated media located on the Property.

LOCAL ORDINANCES AND ZONING:

The Owner and KDHE acknowledge that the following local ordinances and zoning requirements in place at the time of recording this Agreement shall be used in addition to the restrictions, prohibitions and limitations set forth in this Agreement.

The Property is not zoned by the City of Coffeyville.

The Owner shall provide notification to KDHE fifteen (15) calendar days prior to initiating re-zoning of the Property.

ACCESS:

The Owner hereby agrees and conveys to KDHE, its agents, contractors, and employees, access to the Property for the term of this Agreement to enter or come upon the Property to inspect the Property and perform any required action (i.e., monitoring, sampling, etc.) KDHE deems necessary for any one or more of the following purposes:

1. Ensuring that use, occupancy, and activities of and at the Property are consistent with this Agreement;
2. Inspecting protective structures and any other remedial systems to ensure their designed operation, performance and structural integrity;
3. Documenting environmental conditions of and at the Property;
4. Ensuring implementation and enforcement of the requirements, restrictions, prohibitions, and other limitations described in this Agreement; and/or
5. Performing any additional investigations or remediation deemed necessary by KDHE to

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protect public health and the environment.

DURATION:

The Owner hereby agrees that this Agreement extends in perpetuity unless and/or until removal following approval by KDHE pursuant to K.S.A. 65-1,227.

INSPECTION REQUIREMENTS:

KDHE shall visually inspect the integrity of the protective structure and/or Property every five years basis. KDHE shall submit on a written report including information on the condition and current uses of the Property, inspection findings, photo documentation and any other information required to verify if the restrictions and terms of this Agreement are being fulfilled.

The Owner may submit and KDHE shall consider modifications of the frequency of inspection and reporting if warranted by technical data. Written approval from KDHE must be obtained for modification of frequency of inspection, reporting requirements or analytical methods throughout the duration of this Agreement.

MAINTENANCE REQUIREMENTS:

The Owner hereby agrees to provide post-construction maintenance of the protective structures and correct deficiencies as outlined by KDHE to prevent exposure to human health and the environment. Maintenance includes, but is not limited to, monitoring, inspection, mowing, fertilization, watering, weed control, and repairs to the protective structures. Repairs may include addition of soil and vegetation planting or asphalt/concrete replacement. Such repairs may be necessary to correct the effects of settlement, subsidence, erosion, or other events including widening of cracks or other openings, which may provide potential exposure to contaminated subsurface soils.

FUNDING:

The Owner hereby agrees to submit to KDHE a one-time payment of \$10,000 to compensate KDHE for costs incurred to perform inspections, monitoring, and tracking of the terms and requirements of this Agreement. The Owner acknowledges that the funding requirement for this Agreement is based on the size of the Property, physical properties of residual contamination, types of protective structures at the Property, frequency of KDHE's anticipated inspections and anticipated inspection costs.

OTHER TERMS AND CONDITIONS:

The Owner hereby agrees to provide KDHE written notification no less than fifteen (15) calendar days prior to any sale, lease, conveyance or other transfer of the Property. The notice shall include

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the name and business address (if applicable) of the transferee and the expected date of transfer.

The Owner shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee or transferee to comply with the terms of this Agreement. The failure to include such a provision shall not affect the validity or applicability to the Property of this Agreement.

The Owner hereby agrees to provide KDHE a copy of the recorded deed with legal description and corresponding survey map for which this Agreement applies within thirty (30) calendar days of real property conveyance.

The Owner hereby agrees to provide KDHE written notification no less than fifteen (15) calendar days prior to any land use changes at the Property.

The Owner acknowledges that the requirements in this Agreement may not be extinguished, limited or impaired through adverse possession, abandonment, waiver, lack of enforcement, or other common law principles, pursuant to K.S.A. 65-1,227(e).

This Agreement may be modified by mutual written agreement by the Owner and KDHE. The Owner shall record such amendment, modification, or termination with the Montgomery County Register of Deeds, and within thirty (30) calendar days thereafter, shall provide a copy of the recorded amendment, modification, or termination to KDHE that bears the seal and/or notarized signature of the Register of Deeds.

ENFORCEABILITY:

If the terms of this Agreement are not being implemented by the Owner or contamination at the Property presents a hazard to public health or the environment, KDHE may take such action as authorized by K.S.A. 65-1,229, including:

- A. Issue an order directing the Owner to correct any deficiencies and fully implement the terms of this Agreement.
- B. Issue an order retracting this Agreement and any remedial action at the Property and requiring the Owner to implement a remedial action at the Property to attain a cleanup standard that will allow for unrestricted use of the Property.

EFFECTIVE DATE OF AGREEMENT:

The Owner shall provide to KDHE a copy of this fully executed Agreement bearing the seal or notarization of the Register of Deeds in **Montgomery County** and funding as determined by KDHE in accordance with K.S.A. 65-1,226.

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Proper recording of all necessary documents and submission of required funding shall be conditions precedent to the effectiveness of this Agreement.

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IN WITNESS WHEREOF, KDHE and the Owner have entered into and executed this Environmental Use Control Agreement through their duly authorized representatives as of this _____ day of _____, 2022.

Kansas Department of Health and Environment

By: _____
Janet Stanek
Secretary
Kansas Department of Health and Environment

ACKNOWLEDGMENT:

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

BE IT REMEMBERED, on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the State aforesaid, came _____, an authorized representative of KDHE, who is personally known to be such person who executed the above document on behalf of KDHE, and such person duly acknowledged the execution of the same to be his/her act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Shawnee County, Kansas, the day and year last written above.

Notary Public in and for said State

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Owner: **Coffeyville Community Enhancement Foundation, Inc.**

By: _____

Date: _____

Print Name: _____

Title: _____

ACKNOWLEDGMENT:

STATE OF _____)
) ss:
COUNTY OF _____)

BE IT REMEMBERED, on this _____ day of _____, 2022, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, authorized representative of _____, who is personally known to be such person who executed the above document on behalf of said corporation, and such person duly acknowledged the execution of the same to be his/her act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in _____ County, _____, the day and year last written above.

Notary Public in and for said County and State



Engineering Department
102 W 7th
COFFEYVILLE, KS 67337
VOICE: 620-252-6100
FAX: 620-252-6175
www.coffeyville.com

GIS System By: Midland GIS

1" = 1,500'

Sidewalk and trail Grant projects

Projects

Sidewalks and trails

Source of Funding

- AARP 2019
- CDBG 2018
- CDBG 2020
- City Funded Project
- KDOT SRTS 2019
- KDOT STP
- KDOT TA 2021
- KDOT TA 2023 *was not awarded*
- Roosevelt Trail
- EPA Brownfields 2014
- Future Trail

