

200500013161
Filed for Record in
KOSCIUSKO COUNTY INDIANA
LASHAWN BRUNFIELD
09-02-2005 At 01:52 PM.
ORDINANCE 19.00

ORDINANCE NO. 05-04-05

AN ORDINANCE OF THE KOSCIUSKO COUNTY COMMISSIONERS AND COUNTY COUNCIL AUTHORIZING THE COUNTY TO APPLY FOR AND ACCEPT A LOAN FROM THE ENVIRONMENTAL REMEDIATION REVOLVING LOAN FUND ADMINISTERED BY THE INDIANA DEVELOPMENT FINANCE AUTHORITY AND TO LOAN THE PROCEEDS THEREOF TO GRACE SCHOOLS, INC. FOR THE PURPOSE OF REMEDIATING THE LANDFILL AT THE FORMER GATKE PROPERTY WHICH GRACE INTENDS TO DEVELOP AS PARKING FACILITIES FOR AN EVENT CENTER IN COOPERATION WITH LOCAL ORTHOPEDIC COMPANIES.

WHEREAS, the State of Indiana has established an Environmental Loan Program ("ERLP") through I.C. 13-19-5 as amended (the "Authority Act"), for the purposes of providing funding for the assessment and remediation of "brownfields sites" in Indiana communities which sites contain environmental contamination; and

WHEREAS, the ERLP contemplates "pass through" loans from the State of Indiana to private entities through local governmental entities such as Kosciusko County; and

WHEREAS, Kosciusko County expects to soon acquire a "brownfields site" in Kosciusko County commonly known as Former Gatke Property, which site is in part a former dump site used by the Gatke Corporation and which site is in need of environmental assessment and remediation; and

WHEREAS, Grace Schools, Inc. has requested the County to obtain a loan not to exceed One Million Dollars (\$1,000,000) from the Indiana Development Finance Authority ("IDFA") pursuant to the ERLP for the purpose of re-lending those funds to Grace Schools, Inc. (the "Authority Loan"); and

WHEREAS, the funds will be used by Grace Schools, Inc. for the purpose of funding the remediation of the Property; and

WHEREAS, the Authority Loan may consist of a nonforgivable loan (the "Authority Nonforgivable Loan") in an amount not less than eighty percent (80%) of the principal amount of the Authority Loan and a

forgivable loan (the "Authority Forgivable Loan") in an amount not more than twenty percent (20%) of the principal amount of the Authority Loan; and

WHEREAS, The Authority Forgivable Loan will be forgiven if the County achieves certain economic development goals in accordance with those goals set forth at EXHIBIT A; and

WHEREAS, it will be beneficial to the health, safety and general welfare of the County and its citizens if the environmental contamination of the Property is remediated; and

WHEREAS, the ERLP and the IDFA require that the governmental entity adopt an ordinance confirming the ultimate source of repayment of the ERLP loan by the County to IDFA; and

WHEREAS, Grace Schools, Inc. has agreed to secure a letter of credit on the loan in the full amount of the ERLP loan which will run in favor of Kosciusko County; and

WHEREAS, the IDFA further requires assurance of the obligations of the governmental entity to repay the ERLP loan from the entity's own funds in the unlikely event that the primary source of repayment (being based by the letter of credit) should fail.

NOW, THEREFORE, BE IT ORDAINED BY THE KOSCIUSKO COUNTY COMMISSIONERS AND THE KOSCIUSKO COUNTY COUNCIL, that the following ordinance be adopted:

1. The Commissioners and Council hereby find and determine that Kosciusko County expects to soon become owner of the former Gatke Property located in Kosciusko County, Indiana (the "Project") and that the Property is in need of environmental assessment and remediation.
2. The County is authorized and will request from the State of Indiana, through the Environmental Remediation Loan Program administered by the IDFA, to lend the County, the sum not to exceed One Million Dollars (\$1,000,000). The Loan will be a partially forgivable loan and up to twenty percent

(20%) of the One Million Dollars (\$1,000,000) may be forgiven subject to the Borrower attaining the economic development goals in *Exhibit A*.

3. The Commissioners and Council hereby authorize and approve the loan of the proceeds of the Authority Loan to Grace Schools, Inc. on the condition that the money be used for the environmental remediation of the Property and on the further condition that Grace Schools, Inc. provide the County with a full letter of credit in the amount of One Million Dollars (\$1,000,000).

4. In the unlikely event that the primary source of repayment (being the promise of Grace Schools, Inc., backed by the Letter of Credit) are unable to repay the loan, the Commissioners and County Council hereby recommend and approve the repayment of the loan to the IDFA with funds from the County general funds and/or CEDIT funds as may be necessary or appropriate.

5. The Commissioners and County Council hereby authorize the President of the Council or his designee to execute such documents as may be necessary to carry out the purpose of this Ordinance, including without limitation, a Loan, Servicing and Disbursement Agreement between the County and IDFA, a Promissory Note in favor of IDFA and/or such other documents as shall constitute the financial assistance agreement under IC 13-19-5-9, and a Loan Agreement and related documents between the County and Grace Schools, Inc.

6. This Ordinance shall become immediately effective upon its adoption and enrollment in the Book of Ordinances. Any ordinance in conflict with this Ordinance is hereby repealed.

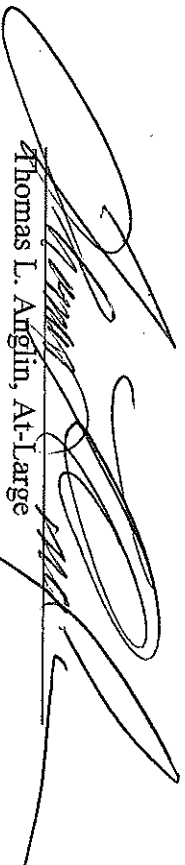
The foregoing Ordinance was passed and adopted by the Kosciusko County Commissioners at a regular meeting held on April 5, 2005, and, by the Kosciusko County Council at a meeting held on April 14, 2005.

COMMISSIONERS

COUNCIL

ABSENT

Bradford Jackson, Commissioner


Thomas L. Arglin, At-Large

Avis B. Gunter

Avis B. Gunter, Commissioner

Harold O. Jones
Harold Jones, Second District

Ronald Truex

Ronald Truex, Commissioner

John A. Kinsey
John A. Kinsey, Fourth District

Charlene A. Knispel
Charlene A. Knispel, First District

Robert Sanders, At-Large

Bradley J. Tandy
Bradley J. Tandy, Third District

Larry Teglmeyer
Larry Teglmeyer, At-Large

ATTEST:

Sue Ann Mitchell
Sue Ann Mitchell, Auditor

EXHIBIT A
PROJECT ECONOMIC DEVELOPMENT GOAL AND SCHEDULE
FORMER GATKE PROPERTY
KOSCIUSKO COUNTY, INDIANA

Pursuant to requirement in IC 13-19-5-15 and in the Brownsfield Low Interest Loan Guidelines, as administered by the Indiana Development Finance Authority, an "economic goal and schedule" must be created for a portion of a Brownsfield Loan to be forgiven. The Kosciusko County Commissioners identify the following activities as appropriate and attainable goals, whereby following their achievement, up to 20% of the loan will be forgiven. The project goals contemplate full or partial participation by Kosciusko County and Grace Schools, Inc., as appropriate.

Kosciusko County Commissioners identifies the economic development goals to be achieved over the next two (2) years from the date of closing on the Loan:

- ✓ Completion of IDEM-approved plans for the capping and containment of hazardous and contaminated materials at the Gatke Dump Brownsfield site pursuant to a closure permit to be issued by IDEM. Evidence of the completion of this goal will consist of the written approval or certification of successful final closure under the permit and the completion certification for the parking facilities construction.
- ✓ Facilitation of the creation of the Orthopaedic Capitol Center in coordination with local orthopaedic firms, Grace Schools, Inc., and the Town of Winona Lake. Kosciusko County facilitation will recognize that the construction of the Center and the adjacent parking facilities on the Gatke Dump Brownsfield site are integrated and vital to the successful completion of the Center.

The Kosciusko County Commissioners generally consider the creation of the parking facilities and remediation and closure of the former Gatke Property to a desirable economic objective for the following reasons:

- ✓ The neglect of the Gatke Dump Brownsfield site will continue to depress local land values in the immediate vicinity of the site.
- ✓ The containment and capping of hazardous materials at the site, and the provision of parking facilities will facilitate the development of the Orthopaedic Capitol Center, a \$7,000,000 project that will stimulate increased tourism in the County and generate additional revenues for the County and City of Warsaw.
- ✓ The creation of the Orthopaedic Capitol Center and adjacent parking facilities will allow the community an additional asset for community needs for meeting and programs to enhance the quality of life of citizens of the County.