

**ORDINANCE NO. 2020-06**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF THE  
CASS COUNTY, INDIANA ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES  
2020 (WSP RECYCLING PROJECT), IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO  
EXCEED SIXTY MILLION DOLLARS AND APPROVING AND AUTHORIZING ACTIONS  
IN RESPECT THERETO**

WHEREAS, the Cass County, Indiana (the "Issuer"), a municipal corporation and political subdivision, duly organized and validly existing under the laws of the State of Indiana, is authorized and empowered pursuant to Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the "Act"), to issue revenue bonds to finance the costs of economic development projects, as defined in the Act, for the purpose of relieving conditions of unemployment and underemployment, and encouraging economic development in and near Cass County, Indiana to reduce the evils associated with unemployment and underemployment, each essential to the health, safety and welfare of the Issuer and its citizens; and

WHEREAS, Waelz Sustainable Products, LLC, a Delaware limited liability company (the "Borrower") has provided certain information regarding the acquisition, construction, improvement and equipping of a proposed solid waste recycling facility consisting of buildings and equipment related to recycling of metallurgical feed and production of zinc oxide and iron concentrate, together with functionally related and subordinate facilities, located at West County Road 300 South, west of the intersection of County Road 300 and South County Road 325 West in Cass County, Indiana (the "Project") and has advised the Issuer and the Cass County Economic Development Commission of its desire for the Issuer to issue revenue bonds for the Project; and

WHEREAS, the Cass County Economic Development Commission conducted a public hearing, for its own behalf and on behalf of the Cass County Council, and adopted a resolution, which resolution has been transmitted hereto, finding that the financing of the Project for the Borrower, complies with the purpose of relieving conditions of unemployment and underemployment, and encouraging economic development of the community to reduce the evils associated with unemployment and underemployment, each essential to the health, safety and welfare of the Issuer and its citizens; and

WHEREAS, the Cass County Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Cass County Council, has approved the forms of and has transmitted for approval by the Cass County Council the Loan Agreement, the Indenture of Trust, the Bond Purchase Agreement and a Preliminary Official Statement or Preliminary Limited Offering Memorandum and an Official Statement or Limited Offering Memorandum in connection with the marketing of the Bonds described below; and

WHEREAS, based solely upon the information submitted by the Borrower and other representations made, information presented and testimony given by the Borrower, and without independent verification by the Issuer, the Project will be of the character and will accomplish the purposes provided for by the Act, will promote opportunities for relieving conditions of unemployment and underemployment, and encouraging economic development of the community

to reduce the evils associated with unemployment and underemployment, each essential to the health, safety and welfare of Cass County, Indiana, its citizens and of the State of Indiana; and

WHEREAS, pursuant to an Indenture of Trust between the Issuer and the entity named as trustee (the "Trustee"), to be dated as of August 1, 2020 (or such other date as determined by the County Commissioners or the Auditor) (the "Indenture"), the Issuer proposes to issue its Economic Development Revenue Bonds, Series 2020 (WSP Recycling Project) (the "Bonds"), in an aggregate principal amount not to exceed \$70,000,000, to provide funds for a portion of the costs of the Project, by lending such funds to the Borrower pursuant to the Loan Agreement between the Issuer and the Borrower, to be dated as of August 1, 2020 (or such other date as determined by the County Commissioners or the Auditor) (the "Loan Agreement"), which prescribes the terms and conditions under which the Borrower shall repay such loan; and

WHEREAS, the Bonds will be sold pursuant to a Bond Purchase Agreement (the "Bond Purchase Agreement") among the Issuer, the Borrower and the Underwriter or Underwriters named therein (as defined below); and

WHEREAS, the Underwriter will utilize a Preliminary Official Statement or Preliminary Limited Offering Memorandum and an Official Statement or Limited Offering Memorandum in connection with the marketing of the Bonds (collectively, the "Limited Offering Memorandum," and with the Indenture, the Loan Agreement and the Bond Purchase Agreement, the "Bond Documents"); and

WHEREAS, the Issuer desires to authorize its Cass County Council President and Auditor to take certain actions in preparation of marketing, issuing and selling the Bonds.

NOW, THEREFORE, BE IT ORDAINED by the Cass County Council of Cass County, Indiana:

Section 1. In addition to the words and terms defined in this Ordinance, the words and terms used in this Ordinance shall have the meanings set forth in the Bond Documents and in the form of the Bonds unless the context or use indicates another or different meaning or intent.

Section 2. The creation and existence of the Cass County Economic Development Commission, as evidenced by Ordinance No. 07-02 adopted by the Cass County Council, on February 16, 2007, are hereby ratified and affirmed.

Section 3. It is hereby found that the financing of the Project referred to in the Loan Agreement approved by the Cass County Economic Development Commission and presented to this Cass County Council, the issuance and sale of its Economic Development Revenue Bonds, Series 2020 (WSP Recycling Project) (the "Bonds"), the loan of the proceeds of the Bonds to the Borrower, to pay a portion of the costs of the Project, complies with the purposes and provisions of Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (collectively, the "Act"), and will be of benefit to relieve conditions of unemployment and underemployment, and encouraging economic development of the community to reduce the evils associated with unemployment and underemployment, each essential to the health, safety and welfare of Cass County, Indiana and its citizens.

Section 4. At the public hearing held before the Cass County Economic Development Commission (the "Commission"), the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near Cass County, Indiana. This Cass County Council hereby confirms the findings set forth in the Commission's Resolution and the facilities will be of benefit to the health, safety and welfare of the citizens of Cass County, Indiana.

Section 5. The substantially final forms of the Loan Agreement and the Indenture (including the form of the Bonds) are approved by the Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in the Act), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Cass County Council and kept on file by the Auditor. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Auditor for public inspection.

Section 6. Cass County, Indiana shall issue its Bonds in an amount not to exceed the aggregate principal amount of Seventy Million Dollars (\$70,000,000) and maturing no later than 40 years from the date of issuance of the Bonds. Said Bonds are to be issued for the purpose of procuring funds to finance the costs of acquisition, construction, improvement and equipping of the Project as more particularly set out in the above-referenced Indenture and Loan Agreement incorporated herein by reference, which Bonds will be payable as to principal, premium, if any, and interest from payments made by the Borrower under the Loan Agreement or as otherwise provided in the above-referenced Indenture. The Bonds shall be issued in fully registered form in an Authorized Denomination (as defined in the Indenture), and be subject to certain tender and conversion rights and shall be redeemable as provided in the Indenture, but no later than 11 years following the date of issuance of the Bonds. Payments of principal, premium, if any, and interest are payable in lawful money of the United States of America through the facilities of DTC, or if no longer in book-entry-only form at the principal corporate trust office of the Trustee (as defined in the Indenture) or its successor in trust or by check mailed or delivered to the registered owners as provided in the Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the Issuer, of the State of Indiana or any other political subdivision or instrumentality thereof nor are the Bonds payable in any manner from revenues raised by taxation.

Section 7. The County Commissioners and the Auditor are authorized and directed to sell the Bonds to the original purchasers thereof at the price of no less than 98% of the principal amount thereof. The Bonds shall bear interest from time to time at a rate determined in accordance with the Indenture, but not to exceed an initial rate of twelve percent (12%) per annum. The Bonds shall bear interest initially at an interest rate as described in the Indenture.

Section 8. The County Commissioners and the Auditor are authorized and directed to execute, attest, affix or imprint by any means the Cass County seal to the documents constituting the Bond Documents approved herein on behalf of Cass County, Indiana, and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein from time to time. The County Commissioners and the Auditor are hereby expressly authorized to approve any modifications or additions to the Bond Documents which take place after the date of this Ordinance with the review

and advice of counsel to the Issuer; it being the express understanding of this Cass County Council that the Bond Documents are in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, the maximum interest rate on or maximum term of the Bonds as approved by the Cass County Council by this Ordinance without further consideration by the Cass County Council. The signatures of the Cass County Commissioners and the Auditor on the Bonds may be either manual or facsimile signatures. The Auditor is authorized to arrange for delivery of such Bonds to the Trustee named in the Indenture, and payment for the Bonds will be made to the Trustee named in the Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof as provided in the Bond Documents. The Bonds shall be originally dated the date of delivery thereof, unless changed by approval of the President of the Cass County Council and the Auditor.

Section 9. Rule 15c2-12(b)(1) of the Securities Exchange Act of 1934, as amended (the "SEC Rule"), provides that, prior to the time a participating underwriter or placement agent bids for, purchases, offers or sells municipal securities, the participating underwriter or placement agent shall obtain and review an official statement that an issuer of such securities deems a "near final" official statement. The form of Limited Offering Memorandum presented with this Ordinance is hereby approved and the Commissioners, Auditor or any other officer of the Issuer may approve any necessary changes thereto and to deem such official statement as "final" as of its date, except for the omission of no more than the following information: the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the securities depending on such matters. The Commissioners, the Auditor or any other officer of the Issuer familiar with the matters with respect to the Issuer set forth in the form of Limited Offering Memorandum presented herewith is hereby authorized to revise the Limited Offering Memorandum and to certify to the underwriter, that the information in the Limited Offering Memorandum with respect to the Issuer is deemed to be final within the meaning of the SEC Rule prior to the distribution of the Preliminary Limited Offering Memorandum.

Section 10. The provisions of this Ordinance and the Indenture securing the Bonds shall constitute a contract binding between the Issuer and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended, except in accordance with the amendment provisions of the Indenture, in any respect which would adversely affect the rights of such holders so long as any of said Bonds or the interest thereon remains unpaid.

Section 11. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Bond Ordinance, or in the Bonds, the Bond Documents, or under any judgment obtained against the Issuer or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the Issuer or the Commission, either directly or through the Issuer or the Commission, or otherwise, for the payment for or to the Issuer, the Commission or any receiver thereof, or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may be due and unpaid by the Issuer upon any of such

Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the Issuer, the Commission or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Bond Documents and the issuance of the Bonds.

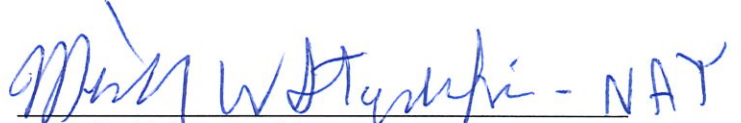
Section 12. The Bonds shall not constitute a debt or pledge of the faith and credit of the Issuer, the State or any political subdivision thereof, and the holders or owners thereof shall have no right to have taxes levied by the Issuer, the State or of any political subdivision, for the payment of the principal thereof or interest thereon. Moneys raised by taxation shall not be obligated or pledged for the payment of premium, accreted value or principal of or interest on the Bonds, and the Bonds shall be payable solely from the revenues and security interests pledged for their payment as authorized by the Indenture.

Section 13. This Ordinance shall be in full force and effect from and after its passage.

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Passed and adopted this 18<sup>th</sup> day of September, 2020.


CASS COUNTY COUNCIL


  
Mike Stajduhar, President

  
Brian Reed, Vice President

  
Grover Bishop

  
Bruce Ide

  
Tracy Williamson

  
Dave Redweik

  
George Stebbins

Attest:

  
Cheryl Acorn, Auditor