

RESOLUTION 2016-041

Resolution providing initial approval of Development Agreement with the Elite Octane, LLC

WHEREAS, Cass County, Iowa (the "County"), pursuant to and in strict compliance with all laws applicable to the County, and in particular the provisions of Chapter 403 of the Code of Iowa, has previously adopted an Urban Renewal Plan for the Amazing Energy Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, this Board has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the "Urban Renewal Tax Revenue Fund"), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the County for the payment of the principal and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, an agreement (the "Agreement") between the County and Elite Octane, LLC (the "Developer") has been prepared pursuant to which the Developer would agree to undertake the planning, design and construction of an ethanol plant in the Urban Renewal Area (the "Project"), and the County would agree to provide (a) incremental tax increment payments (the "Payments") to the Developer in a total amount not exceeding \$8,500,000, and (b) the installation of certain public infrastructure improvements; and

WHEREAS, Chapter 15A of the Code of Iowa ("Chapter 15A") declares that economic development is a public purpose for which a County may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a Board of Supervisors must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a Board of Supervisors must consider any or all of a series of factors; and

NOW, THEREFORE, It Is Resolved by the Board of Supervisors of Cass County, Iowa, as follows:

Pursuant to the factors listed in Chapter 15A, the Board hereby finds that:

The Project will add diversity and generate new opportunities for the Cass County and Iowa economies;

The Project will generate public gains and benefits, particularly in the creation of new jobs, which are warranted in comparison to the amount of the proposed property tax incentives.

The Board further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax Payments to the Developer.

The Agreement is hereby given its initial approval and the Chairperson and County Auditor are hereby authorized and directed to execute and deliver the Agreement on behalf of the County, in substantially the form and content in which the Agreement has been presented to this Board of Supervisors, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement. As set forth in Section 11.12 of the Agreement, such Agreement will not be binding on the parties thereto until the Board completes the statutory processes set forth Chapter 403 of the Code of Iowa required for the amendment to the urban renewal plan for the Urban Renewal Area and the pledging of the Urban Renewal Tax Fund to the funding of the Payments.

Section 4. All resolutions or parts thereof in conflict herewith are hereby repealed.

Passed and approved this 19th day of December, 2016.

/s/-Gaylord Schelling, Chair Attest: /s/-Dale Sunderman, Auditor