

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN CHARLESTON COUNTY, SOUTH CAROLINA AND CUMMINS, INC. D/B/A HOLSET ENGINEERING COMPANY AND MDG CHARLESTON, LP GRANTING CERTAIN SPECIAL SOURCE CREDITS.

WHEREAS, Charleston County (the "County") is authorized by Sections 4-29-68 and 4-1-175 of the Code of Laws of South Carolina, 1976, as amended (the "Code") to provide infrastructure tax credits (the "Infrastructure Credits"), secured by and payable solely from revenues of the County from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-12-30 of the Code, for the purpose of defraying a portion of the cost of designing, acquiring, constructing, improving or expanding the infrastructure serving the County in order to enhance the economic development of the County; and

WHEREAS, in accordance with the provisions of an Inducement Agreement dated as of August 23, 2005, among Cummins, Inc., a corporation organized and existing under the laws of the State of Indiana, D/B/A Holset Engineering Company and MDG Charleston, LP, a limited partnership organized and existing under the laws of the State of Texas or its assignee (together, the "Company") and the County, the Company has determined that it desires to construct a facility for the purpose of manufacturing turbochargers, which facility will consist of certain land, buildings and equipment associated with the infrastructure (the "Infrastructure") to be owned, leased or used by the Company and to be located on the real property described in Exhibit A attached hereto (the "Project"); and

WHEREAS, pursuant to the provisions of the fee-in-lieu of tax agreement (the "Fee Agreement") to be entered into between the Company and the County pursuant to Title 12, Chapter 44 of the Code, the Company is obligated (i) to make or cause to be made payments in lieu of taxes ("Fee Payments") with respect to the Project, (ii) to maintain the Project in good repair at its own expense and (iii) to carry all proper insurance with respect thereto; and

WHEREAS, having determined that the Project will provide public benefits incident to conducting industrial operations, and in order to implement the public purposes enumerated in Title 12, Chapter 44 of the Code and in furtherance thereof to assist the Company, its sublessee, assignee or transferee in expanding and maintaining an industrial facility within the State of South Carolina, the County has agreed to assist in financing a portion of the costs of the Infrastructure through the granting of special source revenue credits (the

“Special Source Credits”) in an amount equal to twenty-one percent (21%) of the total Fee Payments expected to be paid by the Company pursuant to the Fee Agreement, provided that the total value of the Special Source Credits may not exceed \$600,000; and

NOW, THEREFORE, BE IT ORDAINED by Charleston County, South Carolina, as follows:

Section 1. In order to promote industry, develop trade and utilize and employ the manpower, agricultural products and natural resources of the State of South Carolina by assisting the Company to locate an industrial facility in the State of South Carolina, the financing of the Infrastructure by the County through the granting of the Special Source Credits is hereby authorized, ratified and approved.

Section 2. Pursuant to the authority of Title 4, Chapters 1 and 29 of the Code, there is hereby authorized to be provided, and shall be provided, Special Source Credits of the County in the amount of twenty-one percent (21%) of the total Fee Payments expected to be made during the duration of the Fee Agreement. The Special Source Credits will be received by the Company during the first three tax years following certification by the Department of Revenue that the Company has invested at least \$15,000,000 (including at least \$6,000,000 of real property investment) in the Project and that the Company’s most recent annual payroll for the new employees was at least \$5,000,000. If the Company’s total investment is at least \$14,000,000 (including at least \$6,000,000 of real property investment) but less than \$15,000,000 and the Company’s annual payroll for the new employees is at least \$5,000,000, the amount of the Special Source Credits shall be equal to 19.5% of the expected total payments in lieu of taxes to be made by the Company, provided that the total amount of Special Source Credits may not exceed \$543,000. If the Company’s total investment is at least \$13,000,000 (including at least \$6,000,000 of real property investment) but less than \$14,000,000 and the Company’s annual payroll for the new employees is at least \$5,000,000, the amount of the Special Source Credits shall be equal to 18% of the expected total payments in lieu of taxes to be made by the Company, provided that the total amount of Special Source Credits may not exceed \$485,000. If the Company’s total investment is at least \$10,000,000 (including at least \$6,000,000 of real property investment) but less than \$13,000,000 and the Company’s annual payroll for the new employees is at least \$5,000,000, the amount of the Special Source Credits shall be equal to 15% of the expected total payments in lieu of taxes to be made by the Company, provided that the total amount of Special Source Credits may not exceed \$394,000. If the Company’s total investment is not at least \$10,000,000 and if the Company’s annual payroll for the new employees is not at least \$5,000,000, the County will not provide any Special Source Credits to the Company. By the conclusion of the second year following the time that the Company completes the full capital investment, and prior to the second year the Company receives

Special Source Credits, if the annual payroll has not reached \$5,000,000, the Special Source Credits will be reduced to 15% of the expected total payments in lieu of taxes to be made by the Company, not to exceed \$394,000. The County's Special Source Credits in the second and third years will be recalculated to equal the net amount due following subtraction of the amount of Special Source Credits received by the Company during the first year.

Nothing in this Ordinance shall be construed as an obligation or commitment by the County to expend any of its funds other than the portion of Fee Payments represented by the Special Source Credits derived by the County which shall be payable solely as a credit against Fee Payments due by the Company, its sublessee, assignee or transferee to the County.

The County has determined that the purposes to be accomplished by the Project are proper governmental and public purposes and that the inducement of the location of the Project within the State of South Carolina is of paramount importance and the benefits of the Project are greater than the cost, and that the Project is anticipated to benefit the general public welfare of the County in that the proposed Project will provide services, employment, and other public benefits not otherwise provided locally; and that the Project will give rise to no pecuniary liability of the County, or a change against its general credit or taxing power.

Section 3. The Chairman of the County Council and the Clerk to the County Council and any other proper officer of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and to cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this ordinance.

Section 4. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 5. All orders, resolutions, ordinances and parts thereof in conflict herewith are, to the extent of such conflict herewith are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

CHARLESTON COUNTY COUNCIL
Leon E. Stavrinakis, Chairman

ATTEST:
Beverly T. Craven, Clerk

EXHIBIT "A"

DESCRIPTION OF LAND

All that certain piece, parcel or tract of land, situate, lying and being in Charleston County, South Carolina, as shown and designated on a plat entitled "Plat of the Subdivision and Combination of Two Tracts (TMS #393-00-00-006 & 010) Owned by Spring Grove Associates To Create Tract A (28.91) Acres" by Thomas & Hutton Engineering Co. dated June 6, 2005.

Commencing at a point at the approximate intersection of Ladson Road (S-10-76) and Palmetto Parkway; said point being the Point of Commencement; thence S 23°47'00" E, a distance of 4,585.24 feet to a point; said point being the Point of Beginning; being the point of curvature of a curve to the right having a radius of 5,654.58 feet, a central angle of 5°26'58", and a chord length of 537.62 feet being S 31°32'25" E; thence proceeding along the arc of said curve 537.82 feet to a point; thence S 28°48'56" E, a distance of 257.16 feet to a point; being the point of curvature of a curve to the left having a radius of 791.50 feet, a central angle of 27°1'55", and a chord length of 369.97 feet bearing S 42°19'54" E; thence proceeding along the arc of said curve 373.43 feet to a point; thence S 34°09'09" W, a distance of 550.00 feet to a point; thence S 78°45'46" W, a distance of 561.22 feet to a point; thence N 41°40'28" W, a distance of 874.18 feet to a point; thence N 30°15'53" E, a distance of 628.75 feet to a point; thence N 55°15'02" E, a distance of 571.12 feet to a point; said point being the true Point

of Beginning; said tract or parcel of land containing 28.91 acres (18.51 acres Highland/10.40 acres Wetland) more or less.