

AN ORDINANCE AUTHORIZING THE GRANTING
OF CERTAIN SPECIAL SOURCE CREDITS BY
CHARLESTON COUNTY, SOUTH CAROLINA TO
CUMMINS, INC. ANE ONE OR MORE SPONSORS

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 Resolution approved on May 22, 2012, Cummins, Inc. (previously known by the County as Project Aries) together with one or more sponsors, or their assignees (the "Company") has determined that it desires to construct a distribution facility to serve its current manufacturing facility, 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 five percent (5%) of the total Fee Payments expected to be paid by the Company pursuant to the Fee Agreement; provided that the maximum aggregate value of the Special Source Credits may not exceed \$250,000; 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 five percent (5%) of the total Fee Payments expected to be made during the duration of the Fee Agreement on such terms and conditions as may be determined by the County; provided that the maximum aggregate value of the Special Source Credits may not exceed \$250,000.

The County will rely on information obtained annually from SC Department of Revenue to monitor the capital investment assets which have been placed into service in association with the Project. In order for the County to ensure that required minimum additional annual payroll is in place, the Company will issue a letter on Company letterhead after approval of the Fee Agreement establishing the employment headcount and annual payroll which is in place at the outset of the Project to serve as a benchmark. The Company will then follow up with an additional letter at the time that it notifies the County of its intention to begin receiving the Special Source Credits as described in the paragraph above.

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 reimbursed to the Company, its sublessee, assignee or transferee following the payment of the Fee Payments 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.

Passed and approved this 21st day of August, 2012.

CHARLESTON COUNTY, SOUTH CAROLINA

By: _____
Chairman of County Council

ATTEST:

By: _____
Clerk to County Council

First Reading: May 22, 2012
Second Reading: July 24, 2012
Public Hearing: August 21, 2012
Third Reading: August 21, 2012

EXHIBIT "A"

DESCRIPTION OF LAND

Site 12 Palmetto Commerce Parkway
North Charleston, South Carolina

ALL THAT TRACT OR PARCEL OF LAND lying and being in the City of North Charleston, Charleston County, South Carolina, and being more particularly described as follows:

Commencing on a point on the southwesterly right of way of Palmetto Commerce Parkway (150' r/w) approximately 4,163 feet southeast of the right of way of Ladson Road, said point being the Point of Beginning: running thence and leaving said right of way S 59°28'17" W a distance of 514.44 feet to a point; running thence N 30°29'19" W a distance of 577.96 feet to a point; running thence N 37°46'39" E a distance of 129.17 feet to a point; running thence N 42°57'30" E a distance of 432.13 feet to a point; running thence N 27°25'25" E a distance of 17.86 feet to a point lying on the southwesterly right of way of Palmetto Commerce Parkway (150' r/w); running thence along said right of way and a curve to the left (said curve having a chord bearing of S 27°23'09" E, a chord distance of 636.49 feet, and a radius of 5804.73 feet) an arc distance of 636.81 feet to a point; running thence along said right of way S 30°31'43" E# a distance of 75.19 feet to a point; running thence along said right of way and a curve to the right (said curve having a chord bearing of S 30°17'11" E, a chord distance of 47.81 feet, and a radius of 5654.58 feet) an arc distance of 47.81 feet to a point and the Point of Beginning.

Said tract or parcel contains 8.1 acres more or less.

Address: 9201 Palmetto Commerce Parkway, North Charleston

TMS: 3893-00-00-071