

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF GREENVILLE    )     **ORDINANCE NO.** \_\_\_\_\_

**AN ORDINANCE**

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO A FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT TO PROVIDE A FEE-IN-LIEU OF AD VALOREM TAXES, INFRASTRUCTURE CREDITS, AND OTHER INCENTIVES NECESSARY TO INDUCE PROJECT HERITAGE TO LOCATE IN THE COUNTY; AUTHORIZING THE SALE OF REAL PROPERTY WHICH IS A PORTION OF A PARCEL CURRENTLY KNOWN AS GREENVILLE TAX MAP NO. 0409000100103 TO PROJECT HERITAGE; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS NECESSARY TO EFFECT THE INTENT OF THIS ORDINANCE; AND OTHER RELATED MATTERS.**

WHEREAS, Greenville County, South Carolina (the “County”) acting by and through its County Council (the “County Council”) is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the “Act”), to enter into fee agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the “State”) and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally;

WHEREAS, Drive Automotive Industries of America, Inc., a Delaware corporation authorized to do business in the State (the “Sponsor”), operates a manufacturing facility located in the County (the “Project”);

WHEREAS, the County and the Sponsor entered into that certain Fee in Lieu of Taxes and Incentive Agreement (the “Original Fee Agreement”), effective as of September 3, 2013, with respect to the Project;

WHEREAS, pursuant to the Original Fee Agreement, the Sponsor committed to invest at least \$50,000,000 (the “Project Commitment”) in the Project by December 31, 2017 (the “Investment Period”);

WHEREAS, as of the date hereof, the Sponsor’s investment in the Project exceeds \$70,000,000, surpassing the Project Commitment;

WHEREAS, Sponsor, together with the affiliated entities MI Developments (America) Inc., a Delaware corporation authorized to do business in the State, and a company currently known to the County as Project Heritage (each a “Sponsor Affiliate” and together, the “Sponsor Affiliates,” and together with the Sponsor, the “Company”), intends to make continuing and further investment in the Project by investing in the establishment of a manufacturing facility through the acquisition of real property; the construction of improvements thereon or therein; and the acquisition of personal property, including, but not limited to, machinery, equipment, and furniture to be installed on or in the real

property, the cost of which is estimated to be \$50,000,000 and which is expected to result in the creation of approximately 150 new jobs in the County (the “Expansion”);

WHEREAS, Sponsor intends to add Project Heritage and any related or affiliated entities of Project Heritage designated by Project Heritage from time to time as additional Sponsor Affiliates to the Original Fee Agreement;

WHEREAS, Project Heritage has requested that the County authorize the transfer by the County of that certain real property, which is an approximately fifty-five (55) acre portion of a parcel currently known as Greenville Tax Map No. 0409000100103 and described on **Exhibit B** hereto (the “Property”), to Project Heritage for use in the Expansion pursuant to the terms set forth below;

WHEREAS, the County is authorized pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County has jointly developed a multi-county park (the “Park”) subject to a Multi-County Park Agreement (the “Park Agreement”);

WHEREAS, the Company has further requested that the County authorize the inclusion of the Property in the Park;

WHEREAS, the Company has further requested that the County amend the Original Fee Agreement to expand the definition of Project to include Project Heritage, to designate Project Heritage as a Sponsor Affiliate, to include the Property in the legal description provided in Exhibit A to the Original Fee Agreement, to extend the Fee Term by ten years, to extend the Investment Period by five years, to extend the special source revenue credit period by five years, and to otherwise reflect the Expansion (the “Amendments”);

WHEREAS, the County desires to authorize the transfer of the Property to Project Heritage and to amend the Original Fee Agreement to memorialize the Amendments, contingent on the Company’s purchase of the Property; and

WHEREAS, the First Amendment to the Original Fee Agreement (the “First Amendment”), which is now before this meeting as **Exhibit A**, is reflective of the Amendments, is in appropriate form, and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in a meeting duly assembled as follows:

Section 1. Amendments Authorized. In order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State of South Carolina by assisting the Company to expand or locate an industrial facility in the State of South Carolina, the Amendments are hereby authorized, ratified, and approved.

Section 2. Findings and Determinations. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Expansion, as reflected in the First Amendment, will constitute a “project” as said term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

- (b) The Expansion and the payments in lieu of taxes set forth herein and the other incentives provided for herein are beneficial to the County, and the County has evaluated the Expansion based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (c) The Expansion is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Expansion gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Expansion, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location of the Expansion within the County and State is of paramount importance.
- (g) The benefits of the Expansion to the public will be greater than the costs.

Section 3. Approval of First Amendment. The form, terms, and provisions of the First Amendment presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the First Amendment were set out in this Ordinance in its entirety. The Chairman of the County Council and the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the First Amendment in the name of and on behalf of the County, and thereupon to cause the First Amendment to be delivered to the Company. The First Amendment is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the First Amendment now before this meeting.

Section 4. Authorization to Transfer the Property. The County hereby authorizes the County Administrator to transfer the Property to Project Heritage, its affiliates or assigns pursuant to a deed for use in the Expansion, all at a price of \$30,000 per acre. The County Administrator shall have authority to execute any and all legal documents, contracts, deeds or other items necessary to transfer the Property to Project Heritage.

Section 5. Ratification of Prior Acts. All previous actions taken by the County Council, or those acting on the County Council's behalf, in connection with the adoption of this Ordinance are ratified as official acts of the County.

Section 6. Further Assurances. The Chairman of the County Council, or the Vice Chairman in the absence of the Chairman, the County Administrator, and the Clerk to County Council, for and on behalf of the County, are hereby authorized and directed to draft, execute, and deliver such documents and take such further actions as may be necessary or appropriate to effect the intent of this Ordinance.

Section 7. Severability. 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 8. Repeal of Conflicting Ordinances. All orders, resolutions, ordinances, and parts thereof in 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.

(SIGNATURE PAGE TO FOLLOW)

**DONE** in meeting duly assembled, this \_\_\_\_ day of \_\_\_\_\_, 2015.

**GREENVILLE COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Bob Taylor, Chairman of County Council

\_\_\_\_\_  
Joseph M. Kernell, County Administrator

Attest:

\_\_\_\_\_  
Theresa B. Kizer, Clerk to County Council

First reading:           June 2, 2015  
Second reading:       September 15, 2015  
Third reading:         \_\_\_\_\_, 2015  
Public hearing:        \_\_\_\_\_, 2015

STATE OF SOUTH CAROLINA     )  
   )  
COUNTY OF GREENVILLE        )

I, the undersigned, Clerk to County Council of Greenville County, South Carolina (“County Council”), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on June 2, 2015, June 16, 2015, and August 4, 2015. At least one day passed between first and second reading, and at least seven days passed between second and third readings. A public hearing was held on August 4, 2015, and notice of the public hearing was published in [*The Greenville News*] on [DATE]. At each meeting, a quorum of County Council was present and remained present throughout the meeting.

Attached hereto are excerpts of the minutes of the meetings of the County Council. The County Council complied with the Freedom of Information Act, Chapter 4, Title 30 of the S.C. Code of Laws, 1976, in connection with said meetings of County Council.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Greenville County Council, South Carolina, as of this \_\_\_\_ day of \_\_\_\_\_, 2015.

Signature: \_\_\_\_\_  
Name: [NAME]  
Title: Clerk to County Council

No. \_\_\_\_\_

**Exhibit A**

**First Amendment to the Fee Agreement**

No. \_\_\_\_\_

**Exhibit B**

**Legal Description of That Certain Real Property Which is a Portion of a  
Parcel Currently Known as Greenville Tax Map No. 0409000100103**