



Legislation Text

File #: 24-1164, Version: 1

Interoffice Memorandum

DATE: July 24, 2024

TO: Mayor Jerry L. Demings and County Commissioners

THROUGH: N/A

FROM: Joseph C. Kunkel, P.E., Director, Public Works Department

CONTACT: Brian R. Sanders, Manager

PHONE: (407) 836-8022

DIVISION: Transportation Planning Division

ACTION REQUESTED:

Approval and execution of Transportation Impact Fee Agreement regarding an alternative impact fee calculation for AutoNation Winter Park and Orange County. District 5. **(Transportation Planning Division)**

PROJECT: N/A

PURPOSE:

On June 27, 2024, the Alternative Impact Fee Committee approved the alternative transportation impact fee calculation and variables for AutoNation Winter Park - Application.

| Variables | Alternative Impact General Industrial Light | Ordinance Rate Auto Service |
|------------------------------------|--|--|
| Trip Generation Rate per 1,000 SF | 4.96 | 28.19 |
| Trip Length (miles) | 5.41 | 3.80 |
| Percent New Trips (%) | 92% | 72% |
| Limited Access Discount Factor (%) | 36.1% | 36.1% |

The Alternative Transportation Impact Fee utilizing the above variables is \$3,332.56 per thousand square feet. This rate differs from the applicable ordinance rate of \$10,038 per thousand square feet (per Ordinance Rate Schedule of September 8, 2023). The Alternative Impact Fee Committee

requests the approval of the Transportation Impact Fee Agreement regarding an Alternative Impact Fee Calculation between Orange County and AutoNation Winter Park. Additionally, AutoNation Winter Park has paid the County \$36,374 for future monitoring for this site. This fee will be used to conduct a follow-up study of the trip generation, trip length, new trips characteristics of the above referenced site, and limited access discount factor as provided for in the Alternative Impact Fee Agreement. This Agreement has been approved in form by the County Attorney's Office and Risk Management.

BUDGET: N/A

BCC Mtg. Date: August 13, 2024

1 THIS INSTRUMENT PREPARED BY
2 AND AFTER RECORDING RETURN TO:
3
4 Gregory McAloon, Esq.
5 200 SW 1st Ave. 14th Floor
6 Fort Lauderdale, FL 33301

7
8 A Portion of Parcel ID: 03-22-30-0000-00-083
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10
11 **TRANSPORTATION IMPACT FEE AGREEMENT**
12 **REGARDING AN ALTERNATIVE IMPACT FEE CALCULATION**
13 **FOR AUTONATION WINTER PARK**
14

15 This TRANSPORTATION IMPACT FEE AGREEMENT REGARDING AN
16 ALTERNATIVE IMPACT FEE CALCULATION FOR AUTONATION WINTER
17 PARK (the “Agreement”), effective as of the latest day of execution (the “Effective Date”),
18 is made and entered into by and between AutoNation Imports of Winter Park, Inc., a
19 Delaware corporation with a mailing address at 200 SW 1st Ave. 14th Floor, Fort
20 Lauderdale, FL 33301 (“Operator”), and Orange County, a charter county and political
21 subdivision of the State of Florida, with a mailing address at c/o County Administrator,
22 P.O. Box 1393, Orlando, FL 32802-1393 (“County”).

23 **WITNESSETH:**

24 WHEREAS, Operator is a lessee to certain real property, as generally depicted on
25 Exhibit “A,” and more particularly described on Exhibit “B,” both of which are attached
26 hereto and incorporated herein by this reference (the “Property”); and

27 WHEREAS, Operator intends to develop all or a portion of the Property as a
28 123,381 square foot remote service building with 74 bays, known as AutoNation Winter
29 Park (“the Project”); and

30 WHEREAS, pursuant to section 23-93 of the Orange County Code (the
31 “Alternative Transportation Impact Fee Code”) and Orange County Administrative
32 Regulations 4.01 and 4.02, as all may be amended, Operator conducted an alternative
33 transportation impact fee traffic study (the “Study”) and submitted the Study (Project No.

34 20041.10 by Traffic and Mobility Consultants) to County prior to the issuance of any
35 building permit for the Project; and

36 WHEREAS, Operator calculated an alternative transportation impact fee (the
37 “Alternative Impact Fee Calculation”) in accordance with the formula set forth in section
38 23-93 of the Orange County Code; and

39 WHEREAS, on June 13, 2024, County conditionally accepted Operator’s
40 Alternative Impact Fee Calculation with the following results: Average Daily Trip
41 Generation Rate of 4.96 trips per 1000 square feet; Percentage of New Trips at 92%; LADF
42 of 36.1%; and Assessable Trip Length of 5.41 miles, as all such terms are defined in the
43 Alternative Impact Fee Code; and

44 WHEREAS, on June 27, 2024, County accepted Operator’s Alternative Impact Fee
45 Monitoring Methodology; and

46 WHEREAS, pursuant to the Alternative Transportation Impact Fee Code, the
47 parties are required to enter into this Agreement.

48 NOW, THEREFORE, in consideration of the premises contained herein and other
49 good and valuable consideration exchanged by and between County and Operator, the
50 receipt and sufficiency of which are hereby acknowledged, the parties hereto stipulate and
51 agree as follows:

52 1. **Recitals.** The above recitals are true and correct and are incorporated herein
53 by this reference.

54 2. **Conditional Acceptance of Alternative Impact Fee Calculation.** Subject
55 to sections 3 and 4 of this Agreement, County conditionally accepts the Alternative Impact
56 Fee calculation submitted by Operator.

57 3. **Monitoring.**

58 (a) Pursuant to Section 23-93(h) of the Alternative Transportation Impact Fee
59 Code, within the applicable time frame, County shall conduct, or shall have begun to
60 conduct, “monitoring.” For purposes of this Agreement, the term “monitoring” shall mean

61 (i) taking machine traffic counts and/or manual traffic counts at all entrances and exits to
62 and from the Project for five (5) consecutive days, excluding legal holidays, and/or (ii)
63 conducting surveys for five (5) consecutive days to determine trip length and/ or percentage
64 of new trips associated with the Project. Such monitoring may be conducted by County or
65 by an authorized agent acting on behalf of County.

66 (b) Contemporaneously with Operator's execution and submittal of this
67 Agreement, Operator shall deliver a check to County in the amount of Thirty-Six Thousand
68 Three Hundred Seventy-Four Dollars (\$36,374.00) to cover County's cost of conducting
69 monitoring pursuant to paragraph 3 (a) ("Monitoring Fees"). The check shall be made
70 payable to "Orange County Board of County Commissioners" and shall be brought to the
71 Fiscal and Operational Support Division of the Planning, Environmental, and Development
72 Services Department. Upon payment of the Monitoring Fees to County, no further
73 Monitoring Fees shall be owed by Operator to County under this Agreement.

74 (c) If the monitoring performed by County, or by its authorized agent on behalf
75 of County, results in any additional transportation impact fee, Operator shall pay the
76 difference between the amount of transportation impact fees paid pursuant to the
77 Alternative Traffic Impact Fee Calculation conditionally accepted by County under section
78 2 above, and any additional fee shown to be owing (the "Additional Impact Fee").

79 (d) Operator shall pay the Additional Impact Fee to County no later than thirty
80 (30) days following written demand by County. Operator shall pay to County, by certified
81 cashier's check, the Additional Impact Fee, plus interest from the date impact fees were
82 due until the date of demand, at the interest rate in effect on the date the monitoring is
83 completed, as established quarterly by the Comptroller of the State of Florida for judgments
84 and decrees, pursuant to section 55.03, Florida Statutes, as may be amended.

85 (e) Any Additional Impact Fee owed shall be calculated using the cost variables
86 found in the Alternative Transportation Impact Fee Code existing on the Effective Date
87 and the monitoring variables that result from County's monitoring.

88 (f) If monitoring by County results in a decreased total impact fee, Operator
89 shall not be entitled to any refund.

90 (g) Once paid to County, the Alternative Impact Fee, Monitoring Fees, and/or
91 Additional Impact Fee are all non-refundable.

92 4. ***Expansion of Development.*** This Agreement is effective only for the limits
93 and scope of the Project as identified, described, and approved by County as of the
94 Effective Date. In the event the Project expands or is altered after the Effective Date,
95 Operator, its successors, and assigns shall be subject to County's usual process, which may
96 include payment of an additional impact fee pursuant to the fee schedule set forth in section
97 23-92 of the Orange County Code, as may be amended from time to time.

98 5. ***Successors and Assigns.*** This Agreement shall be binding upon, and shall
99 inure to the benefit and burden of, the heirs, legal representatives, successors, and assigns
100 of the parties and shall run with Property and be binding upon the successors and assigns
101 of Operator and upon any person, firm, corporation, or entity who may become a successor
102 in interest to Property.

103 6. ***Notices.*** Any notice delivered with respect to this Agreement shall be in
104 writing and shall be deemed to be delivered (whether or not actually received) (i) when
105 hand delivered to the person(s) hereinafter designated, or (ii) upon deposit of such notice
106 in the United States Mail, postage prepaid, certified mail, return receipt requested,
107 addressed to the person at the address set forth opposite the party's name below, or at such
108 other address or to such other person as the party shall have specified by written notice to
109 the other party delivered in accordance herewith:

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111 As to Operator: AutoNation Imports of Winter Park, Inc.
112 c/o AutoNation
113 200 SW 1st Ave. 14th Floor
114 Fort Lauderdale, FL 33301
115 Attn: National Director of Real Estate
116
117 With a copy to: AutoNation Imports of Winter Park, Inc.

118 c/o AutoNation
119 200 SW 1st Ave. 14th Floor
120 Fort Lauderdale, FL 33301
121 Attn: Senior Real Estate Counsel
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123 As to County: Director, Orange County Public Works Department
124 4200 South John Young Parkway
125 Orlando, Florida 32839
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128 With copies to: Orange County Public Works Department
129 Manager, Transportation Planning Division
130 4200 South John Young Parkway
131 Orlando, Florida 32839
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133 Orange County Planning, Environmental,
134 and Development Services Department
135 Manager, Fiscal and Operational Support Division
136 201 South Rosalind Avenue
137 Post Office Box 1393
138 Orlando, FL 32802-1393

139 7. **Recordation of Agreement.** Operator shall record this Agreement in the
140 Public Records of Orange County, Florida, at Operator's expense, no later than ten (10)
141 business days after the Effective Date.

142 8. **Applicable Law.** This Agreement and the provisions contained herein shall
143 be construed, controlled, and interpreted according to the laws of the State of Florida, and
144 in accordance with the Orange County Code.

145 9. **Specific Performance.** County and Operator shall each have the right to
146 enforce the terms and conditions of this Agreement only by an action for specific
147 performance. Notwithstanding the foregoing statement, nothing herein precludes County
148 from imposing a lien(s) against the Property for non-payment of impact fees. Venue for
149 any action(s) initiated under or in connection with this Agreement shall be in the Circuit
150 Court of the Ninth Judicial Circuit in and for Orange County, Florida.
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152 10. ***Attorney Fees, Legal fees.*** In the event either party hereto brings an action
153 or proceeding, including any counterclaim, cross-claim, or third party claim, against the
154 other party arising out of this Agreement, each party in such action or proceeding, including
155 appeals therefrom, shall be responsible for its own attorney and other legal fees.

156 11. ***Amendment.*** No amendment, modification, or other change to this
157 Agreement shall be binding upon the parties unless in writing and executed by all the
158 parties hereto.

159 12. ***Construction of Agreement.*** Captions of the sections of this Agreement are
160 for convenience and reference only, and the words contained therein shall in no way be
161 held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of
162 the provisions of this Agreement.

163 13. ***Counterparts.*** This Agreement may be executed in up to two (2)
164 counterparts, each of which shall be deemed an original, and both of which together shall
165 constitute one and the same instrument.

166 14. ***Termination; Effect of Annexation.*** This Agreement shall remain in
167 effect so long as the Property remains in unincorporated Orange County, Florida, unless
168 the Parties terminate it in writing. If any portion of the Property is proposed to be
169 annexed into a neighboring municipality, and out of the unincorporated areas, County
170 may, in its sole discretion, terminate this Agreement upon notice to the Operator.

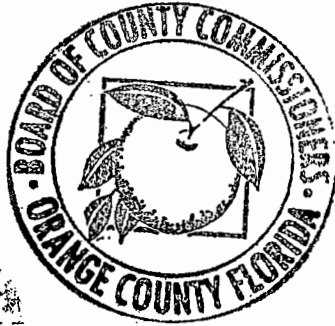
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[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

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IN WITNESS WHEREOF, County and Operator have caused this Agreement to be
duly executed by their respective duly authorized representatives on the dates set forth
below.



COUNTY
ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Bryan W. Brooks*
for Jerry L. Demings
Orange County Mayor

Date: *14 August 2024*

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Jennifer Lara-Keimetz*
Deputy Clerk

Print name: *Jennifer Lara-Keimetz*

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OPERATOR
AUTONATION IMPORTS OF WINTER
PARK, INC.

By: Maja Kenjar
Name: Maja Kenjar
Title: Secretary

Date: 7/2/2024

WITNESSES:

Geri H. Rawlins
Print Name: Geri H. Rawlins

Cynthia R. Hallgren
Print Name: Cynthia R. Hallgren

STATE OF FLORIDA
COUNTY OF BROWARD

THE FOREGOING instrument was acknowledged before me in person or ___
via online notarization by Maja Kenjar, as Secretary of AutoNation Imports of Winter Park,
Inc. a Delaware corporation who is known by me to be the person described herein, this
2nd day of July, 2024. S/he is personally known to me or has
produced _____ (type of identification) as identification.

2nd WITNESS my hand and official seal in the County and State last aforesaid this
2nd day of July, 2024

Geri H. Rawlins
NOTARY PUBLIC
Print Name: Geri H. Rawlins
My Commission Expires: 11-11-2024



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Exhibit "A"

PROJECT LOCATION MAP



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Exhibit "B"

AutoNation Winter Park

A Portion of Parcel ID No. 03-22-30-0000-00-083

Legal Description

A Portion of the Following Described Property:

PARCEL 1

From the Northwest corner of the South 3/4 of the East 1/2 of the SE 1/4 of Section 3, Township 22 South, Range 30 East, Orange County, Florida run S 89°43'10" E 30 feet; thence S 0°24'20" W 577.75 feet for a Point of Beginning, said point being on the East R/W line of Forsyth Road; run thence S 89°43'10" E 887.46 feet; thence N 0°24'20" E 151.50 feet to a point 8.0 feet Southerly of the centerline of a railroad spur tract; thence S 89°43'10" E 75.48 feet to the P.C. of a curve concave Northwesterly having a radius of 366.10 feet; thence Northeasterly along the arc of said curve through a central angle of 69°16'56", a distance of 442.69 feet to a point on the East line of Section 3, Township 22 South, Range 30 East; thence S 89°43'10" E 100.00 feet; thence S 0°36'34" W, parallel with the East line of said Section 3, a distance of 389.49 feet; thence S 89°43'10" E 440.03 feet to the West R/W line of the Crane Strand Drainage Canal; thence S 0°36'34" W 730.00 feet; thence N 89°43'10" W 1839.94 feet to the East R/W line of Forsyth Road; thence N 0°24'20" E 730.00 feet to the Point of Beginning.

LESS AND EXCEPT therefrom that portion conveyed to Orange County, Florida by virtue of the Special Warranty Deed recorded November 11, 1999 in Official Records Book 5880, Page 1559, Public Records of Orange County, Florida, being more particularly described as follows:

A parcel of land lying in Section 3, Township 22 South, Range 30 East, being a portion of lands described in Official Records Book 2323, Page 733, Public Records of Orange County, Florida and being more particularly described as follows:

Commence at the Southwest corner of the Southeast quarter of the Southeast quarter of said Section 3, for a point of reference; thence run North 00°37'59" West, along the West line of said Southeast Quarter of the Southeast Quarter, 679.02 feet; thence run North 89°14'45" East, 30.00 feet to the East right-of-way line of Forsyth Road, as recorded in Official Records Book 2323, Page 733, said Public Records and the Point of Beginning; thence run North 00°37'59" West, along said East right-of-way line, 730.56 feet; thence run North 89°14'59" East, 3.36 feet; thence run South 00°36'50" East, 195.16 feet; thence run South 02°45'37" East, 467.21 feet; thence run South 00°36'50" East, 68.47 feet to the North line of "Commerce Square, Phase I" according to the plat thereof as recorded in Plat Book 6, Page 27, Public Records of Orange County, Florida; thence run South 89°14'45" West, along said North line, 20.62 feet to the Point of Beginning.

PARCEL 2

Commence at the West 1/4 corner of Section 2, Township 22 South, Range 30 East, Orange County, Florida; run thence S 00°36'34" W along the West line of said Section 2 a distance of 207.75 feet for a Point of Beginning, said point being on the southerly R/W line of Crane Strand Drainage Canal; thence run along the Southerly and West R/W line of said canal the following courses and distances: S 59°52'43" E 499.65 feet to the P.C. of a curve concave Southwest and having a radius of 207.27 feet; thence along the arc of said curve through a central angle of 60°29'17" 218.82 feet to the P.T.; thence S 00°36'34" W 602.41 feet; thence departing said R/W run N 89°43'10" W 440.03 feet; thence N 00°36'34" E 389.49 feet; thence N 89°43'10" W 100.00 feet to said West line of Section 2; thence N00°36'34" E along said West line 642.52 feet to the Point of Beginning.

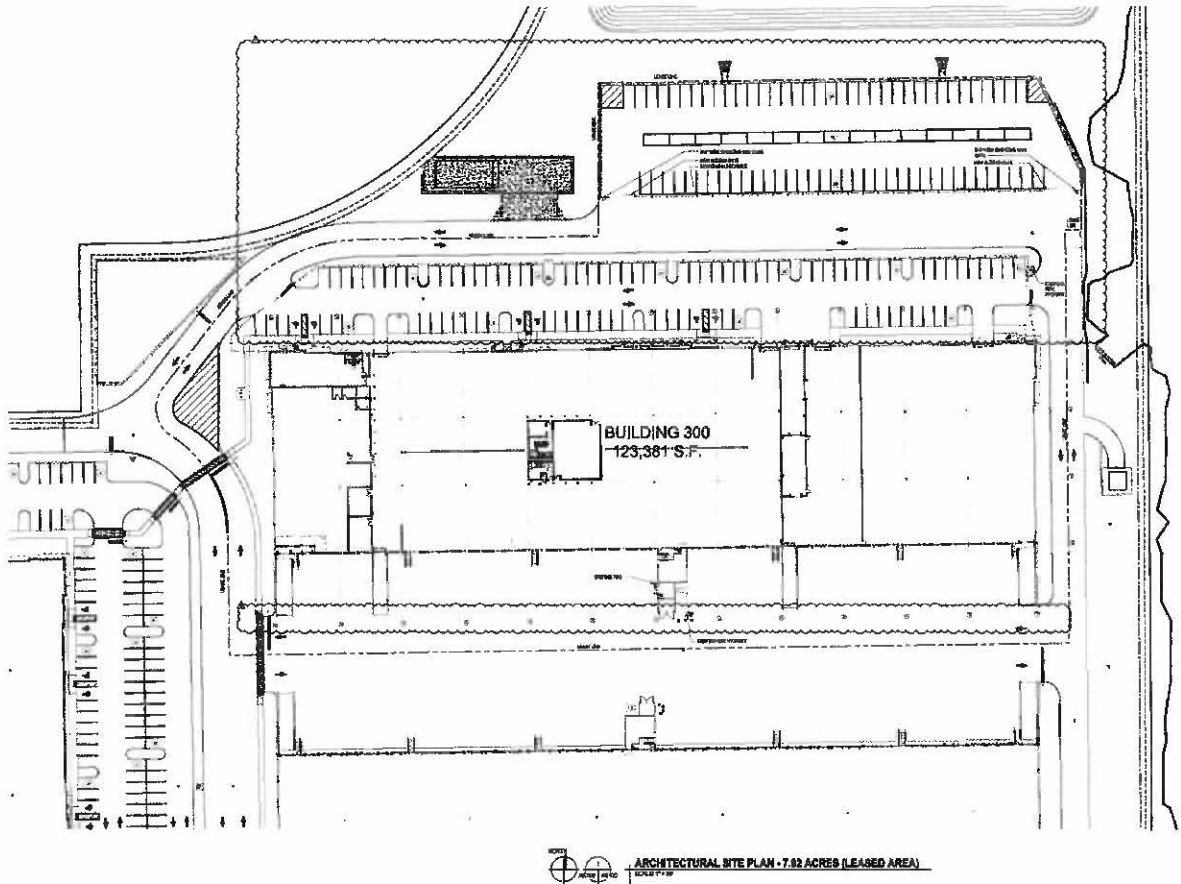
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Sketch of Description for the Property:



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