

MEMORANDUM

TO: Real Estate & Transportation Committee
Commissioner Mike Musick, Chairman
Commissioner Bill Read
Commissioner Chad McLeod

FROM: City Attorney's Office

DATE: July 1, 2024

RE: License Agreement for Overflow Parking with Well Done Development, LLC d/b/a The Well

The CRA (Lessor) leases improved property at 114 E. Parker Street to Well Done Development d/b/a The Well (Lessee). The Lease Agreement, executed December 21, 2020, provided commitments that the CRA complete construction of the building and site improvements to accommodate the current 4,700 sq. ft. office building, together with related permitting and construction oversight. Additionally, the Lease Agreement states "This Lease does not include the right to utilize any shared parking facilities owned by Lessor on other property. Lessee must execute a separate shared parking agreement with Lessor in order to secure parking rights in shared parking facilities on other Lessor property."

City of Lakeland Land Development Code Requirements for the use (office) and zoning (O-1) require 1 space per 275 sq. ft. of building. The building constructed is 4,711 sq. ft., which requires 17 spaces and 1 of those would be required as ADA-accessible. The approved site plan, and subsequently constructed on-site parking, provides 17 parking spaces. Additionally, the CRA constructed 3 off-site parking spaces on N. Tennessee Ave. These are not dedicated parking spaces, however, and are accessible to any user on public right-of-way. Informally, the CRA has allowed Well Done Development to utilize the vacant lot directly south at 111 E. Parker St. since its opening in January 2022. The site had been open and frequently used for truck parking, which warranted the CRA to install fencing in February 2024.

The attached License Agreement for Overflow Parking provides the following terms:

- Parking License to be used solely for overflow parking for guests or employees of The Well and does not permit overnight parking.
- The license term will be month-to-month and can be cancelled by either party at any time, with an expiration date of March 31, 2025 if not earlier terminated.
- License fee for use of the premises is \$500 monthly.
- Use of the premises non-exclusive.

The proposed Agreement was considered by the CRA Advisory Board at its June 6, 2024 meeting and received a unanimous recommendation of approval. It is recommended that the City Commission, acting as the Lakeland Community Redevelopment Agency, approve the License Agreement in accordance with the above-described terms and conditions and authorize the appropriate CRA officials to execute all documents necessary to finalize the Agreement.

Attachment

LICENSE AGREEMENT FOR OVERFLOW PARKING

THIS LICENSE AGREEMENT FOR OVERFLOW PARKING (the "Agreement") is entered into this ____ day of _____, 2024, the LAKELAND COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes, ("LICENSOR"), whose address is 228 South Massachusetts Avenue, Lakeland, Florida 33801, and WELL DONE DEVELOPMENT LLC, a Florida Limited Liability Corporation ("LICENSEE"), whose address is 114 East Parker Street, Lakeland, Florida 33801.

LICENSOR is the owner of unimproved real property (the "Licensed Premises") located at 111 East Parker Street and 717 North Florida Avenue, Lakeland, FL 33801, in the area shown on Exhibit "A" which is attached and incorporated by reference.

LICENSEE has requested the right to use the Licensed Premises as overflow parking for LICENSEE's employees, customers, guests, and/or invitees.

LICENSOR is willing to do so on the terms set forth in this Agreement.

In consideration of the terms and conditions and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency thereof being hereby acknowledged, LICENSOR and LICENSEE agree as follows:

- (1) **Parking License.** LICENSOR grants to LICENSEE (and LICENSEE's employees, customers, and invitees), a revocable license for the non-exclusive access and use of the Licensed Premises, subject to the following terms and conditions:
 - a. **Scope:**
 1. LICENSEE will be granted access and the right to use the unmarked parking spaces within the enclosed and secured portions of the Licensed Premises, together with the right of vehicular and pedestrian access necessary for such purpose.
 2. LICENSEE agrees that the Premises will be used solely for overflow parking of automobiles or light trucks by LICENSEE, and LICENSEE's employees, customers, guests, and invitees.
 3. LICENSOR reserves the right at all times to determine the nature and extent of the Licensed Premises, and will have exclusive control and management thereof.
 - b. **Non-Exclusive:**
 1. The Licensed Premises will be used by LICENSEE on a non-exclusive basis with LICENSOR and other parties to whom the right to use or access the Licensed Premises has been or may be granted.
 2. LICENSOR will have the right to close and secure all or a portion of the Licensed Premises to discourage unlicensed use of the Licensed Premises, and will provide LICENSOR with the ability to access any closed or secured portions of the Licensed Premises.
 - c. **Revocable:**
 1. LICENSOR reserves the right to revoke the license granted hereunder at any time in LICENSOR's sole and absolute discretion.

2. LICENSEE's access and use of the Licensed Premises will terminate upon the expiration or earlier termination of this Agreement as provided below.

d. Hours of Access: LICENSEE will have access to Licensed premises all days, Sunday through Saturday, from 8am to 12am, with no overnight parking permitted. In the event evening parking extends beyond the 12am deadline due to an event or activity directly related to LICENSEE'S primary business, LICENSEE must notify the LICENSOR at least 3 days prior of the planned event or activity.

(2) **Term; Expiration.**

- a. Unless terminated prior to such date, the term of this Agreement (the "Term") will commence upon the full execution and delivery of this Agreement by both parties and will continue thereafter on a month-to-month basis and expire at 11:59 p.m. on **March 31, 2025**, at such time the license will automatically be revoked with no further action or notice.
- b. Upon expiration of this Agreement, neither party will have further obligation to the other.

(3) **License Fee; Payment.**

- a. As consideration for the LICENSEE's use of the Licensed Premises, LICENSEE will pay a fee (the "Fee") in the amount of \$500.00 per month.
- b. The Fee will be due and payable in advance on the 1st day of each month during the Term, without prior demand or notice.
- c. If this Agreement commences after the 1st day of the month, the initial Fee will be prorated based on the remaining days in the month.
- d. LICENSEE will be in default by failing to pay the Fee in full within five (5) days of the due date.

(4) **Termination of Agreement.**

- a. Either Party will have the right to immediately terminate the Agreement prior to expiration of the Term upon written notice to the other Party.
- b. The termination of this Agreement will automatically revoke the license without any further action or notice to the LICENSEE.
- c. Upon termination, neither party will have further obligation to the other.
- d. If this Agreement is terminated prior to expiration of the Term and LICENSEE is not otherwise in breach of this Agreement, the LICENSOR will refund a prorated amount of the monthly Fee, based on the remaining days in the month from the date of termination, subject to withholding for set offs, unpaid balances, or damages caused by LICENSEE's use of the Licensed Premises.

(5) **Default; Breach.**

- a. The occurrence of a breach of any of the material covenants of this Agreement will also constitute an event of a default.
- b. Upon the default or breach of this Agreement by LICENSEE, LICENSOR may:
 - 1. secure the Licensed Premises to restrict further access or use by LICENSEE;
 - 2. revoke the license and terminate this Agreement; and/or
 - 3. pursue any other remedy available at law.

- (6) **Revocation of License.** Upon the revocation of the license, LICENSEE will immediately surrender the Licensed Premises and will be excluded from accessing or using the Licensed Premises.
- (7) **Condition of Licensed Premises; Maintenance.**
- a. LICENSEE accepts the condition of the Licensed Premises as is, and will surrender the Licensed Premises in at least the same condition as exists on the commencement date, normal wear and tear and damage excepted.
 - b. During the term of this Agreement, LICENSEE will be required to maintain the Licensed Premises in a clean and orderly manner.
- (8) **No Improvements:** LICENSEE will not be permitted to install, construct, create, remove, or relocate any improvements or fixtures on the Licensed Premises, including any modification or interference with the LICENSOR's fencing and/or gate(s).
- (9) **Non-Permitted Use of Licensed Premises.** At no time shall maintenance or repair work on said vehicles be performed on the Licensed Premises. Maintenance or repair work shall not be deemed to include the removal of disabled or damaged vehicles by tow trucks or other similar type assistance vehicles.
- (10) **No Bailment; Assumption of Risk.**
- a. LICENSEE understands and expressly agrees that LICENSOR will not accept the vehicle in bailment or for safekeeping; nor will LICENSOR be responsible for loss or damage to any vehicle or its contents by fire, vandalism, theft, or any other cause, nor for loss, damage, or injury by or to other customers or any other individual personal injury of any nature.
 - b. LICENSEE acknowledges that LICENSOR will have no duty to provide security and that LICENSOR does not assume any obligation to provide for the security of the Licensed Premises or to protect individuals using the Licensed Premises, or vehicles or property in the Licensed Premises, from criminal activities.
- (11) **Compliance with Laws and Regulations.** LICENSEE will, at all times during the Term of this Agreement, comply with all applicable laws regarding the use of the Licensed Premises.
- (12) **Attorney's Fees.** In the event of any litigation arising out of this Agreement, the prevailing party will be entitled to recover its costs and reasonable attorneys' fees from the non-prevailing party.
- (13) **Effect of Waiver.** The failure of LICENSOR to insist, in one or more instances, upon the strict performance of or compliance with any of the terms, covenants, conditions or agreements of this Agreement, or to exercise any option herein conferred, will not be considered as waiving or relinquishing for the future any of such terms, covenants, conditions, agreements or options, but the same will continue and will remain in full force and effect.
- (14) **No Assignment; Binding Effect.**
- a. This Agreement and the license granted by LICENSOR is personal to the LICENSEE and may not be assigned, transferred, or sub-licensed to any other party except as described or otherwise permitted in this Agreement.
 - b. Except as otherwise provided herein, the terms, covenants, conditions and agreements of this Agreement will be binding upon and will inure to the benefit of the Parties and their respective heirs, personal representatives, successors and assigns, including any of LICENSEE's employees, customers, guests, or invitees who enjoy the benefit of the license granted to LICENSEE.

- (15) **Signs.** The LICENSEE may place signage in accordance with the City of Lakeland Sign Ordinance, with permission of the LICENSOR, at LICENSEE’s expense.
- (16) **Insurance.** The LICENSEE shall comply with the Insurance Requirements set forth in Exhibit “B”.
- (17) **Indemnification.** The LICENSEE will defend, indemnify, save harmless, and defend the LICENSOR, its officers, employees, invitees, or agents against any claim or liability arising from, or based upon, the violation of any federal, state, county, or city law, ordinance, or regulation by LICENSEE, its officers, employees, customers, guests, invitees, agents, servants, sub-tenants or assigns.
 - a. The LICENSEE will defend, indemnify and hold harmless the LICENSOR, its officers, employees, invitees, or agents from all claims, suits, and actions of any kind brought against it for, or on account of, any injuries or damages received or sustained by any person or property by, from, or on account of any acts or omissions, or negligence of the LICENSEE, its officers, employees, agents, or invitees arising out of the access and/or use of the Licensed Premises.
 - b. To the extent provided by law, the LICENSOR will defend, indemnify and hold harmless the LICENSEE, its officers, employees, agents, or invitees from all claims, suits, and actions of any kind brought against it for, or on account of, any injuries or damages received or sustained by any person or property by, from, or on account of the negligence of the LICENSOR, its officers, employees, agents, or invitees arising out of the access and/or use of the Licensed Premises by LICENSOR or its officers, employees, agents, or invitees.
- (18) **Notices.** All notices required or permitted under this Agreement shall be in writing and delivered by hand delivery, U.S. certified mail, return receipt requested, or by a nationally recognized overnight courier service. Notice shall be deemed given on the date of actual delivery in the case of hand delivery or use of an overnight courier service, and, in the case of certified mail, on the earlier of the date of the signature on the return receipt or five (5) days subsequent to deposit into the U.S. postal system. Notices shall be addressed to the following individuals at the following addresses unless a party provides notice under this paragraph that notice should be addressed to other individuals or addresses:

<p>LICENSOR: Community Redevelopment Agency City Hall 228 South Massachusetts Ave. Lakeland, Florida 33801 Attn.: Valerie Ferrell Vaught, Manager</p>	<p>LICENSEE: Well Done Development LLC 114 E Parker Street Lakeland, FL 33801 Attn: Sallie Brisbane Stone</p>
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- (19) **Jurisdiction, Venue and Governing Law.**
 - a. The Parties consent to jurisdiction and venue of the Courts of Polk County, Florida or the United States District Court in and for the Middle District of Florida, Tampa Division in connection with any action or proceeding arising out of or relating to this Agreement or breach of this Agreement.
 - b. This Agreement and the performance thereof will be governed, interpreted, construed and regulated by the laws of the State of Florida.

- (20) **Severability.** The terms and provisions of this Agreement and each sentence and paragraph thereof, are severable and if any such term or provision will be held invalid or unenforceable, all other terms and provisions will continue in full force and effect.
- (21) **Entire Agreement.** This Agreement constitutes the entire understanding and agreement between the Parties and supersedes any prior or contemporaneous understandings or agreements between the Parties, whether oral or written.
- (22) **Modification; Amendment.** No modification or amendment to this Agreement will be effective unless in writing and duly executed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have hereunder executed this Agreement as of the date first set forth above.

WELL DONE DEVELOPMENT LLC

By: _____
Sallie Brisbane Stone, CEO

ATTEST:

**LAKELAND COMMUNITY
REDEVELOPMENT AGENCY**

By: _____
Kelly Koos, City Clerk

By: _____
H. William Mutz, CRA Chairman

Approved as to Form and Correctness:

By: _____
Palmer Davis, City Attorney

Exhibit “B”

INSURANCE REQUIREMENTS

STATEMENT OF PURPOSE

The City of Lakeland (the “City”) from time to time enters into agreements, leases and other contracts with Other Parties (as hereinafter defined).

Such Agreements shall contain at a minimum risk management/insurance terms to protect the City’s interests and to minimize its potential liabilities. Accordingly, the following minimum requirements shall apply:

CITY DEFINED

The term City (wherever it may appear) is defined to mean the City of Lakeland itself, its Commission, employees, volunteers, representatives and agents.

OTHER PARTY DEFINED

The term Other Party (wherever it may appear) is defined to mean the other person or entity which is the counter-party to the Agreement with the City and any of such Other Party’s subsidiaries, affiliates, officers, employees, volunteers, representatives, agents, contractors and subcontractors.

LOSS CONTROL/SAFETY

Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees, and property. The Other Party shall comply with all laws, rules, regulations or ordinances related to safety and health, and shall make special effort to anticipate and detect hazardous conditions and shall take such precautionary and prompt action where loss control/safety measures should reasonably be expected.

The City may order work to be stopped at any time, without liability, if conditions exist that present immediate danger to persons or property. The Other Party acknowledges that such stoppage, or failure to stop, will not shift responsibility for any damages from the Other Party to the City.

INSURANCE - BASIC COVERAGES REQUIRED

The Other Party shall procure and maintain the following described insurance, except for coverage specifically waived by the City of Lakeland, on policies and with insurers acceptable to the City, and insurers with AM Best ratings of no less than A.

These insurance requirements shall in no way limit the liability of the Other Party. The City does not represent these minimum insurance requirements to be sufficient or adequate to protect the Other Party’s interests or liabilities but are merely minimums.

"Except for workers’ compensation and professional liability, the Other Party's insurance policies shall be endorsed to name the City of Lakeland as **additional insured**. It is agreed that the Other Party's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by The City of Lakeland for liability arising out of the operations of this agreement."

INSURANCE – BASIC COVERAGES REQUIRED (cont’d)

Except for worker’s compensation, the Other Party waives its right of recovery against the City, to the extent permitted by its insurance policies.

The Other Party’s deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by the City. They shall be reduced or eliminated at the option of the City. The Other Party is responsible for the amount of any deductible or self-insured retention.

Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the City shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of the City of Lakeland, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract, or lease.

Commercial General Liability: This insurance shall be an “occurrence” type policy written in comprehensive form and shall protect the Other Party and the additional insured against all claims arising from bodily injury, sickness, disease, or death of any person other than the Other Party’s employees or damage to property of the City or others arising out of any act or omission of the Other Party or its agents, employees, or Subcontractors and to be inclusive of property damage resulting from explosion, collapse or underground (xcu) exposures. This policy shall also include protection against claims insured by usual personal injury liability coverage, and to insure the contractual liability assumed by the Other Party under the article entitled **INDEMNIFICATION**, and **“Products and Completed Operations”** coverage.

The Other Party is required to continue to purchase products and completed operations coverage for a minimum of three years beyond the City’s acceptance of renovation or construction properties.

The liability limits shall not be less than:

Bodily Injury and Property Damage	\$1,000,000 Single limit each occurrence
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EVIDENCE/CERTIFICATES OF INSURANCE

Required insurance shall be documented in Certificates of Insurance which provide that the City shall be notified at least 30 days in advance of cancellation, nonrenewable, or adverse change.

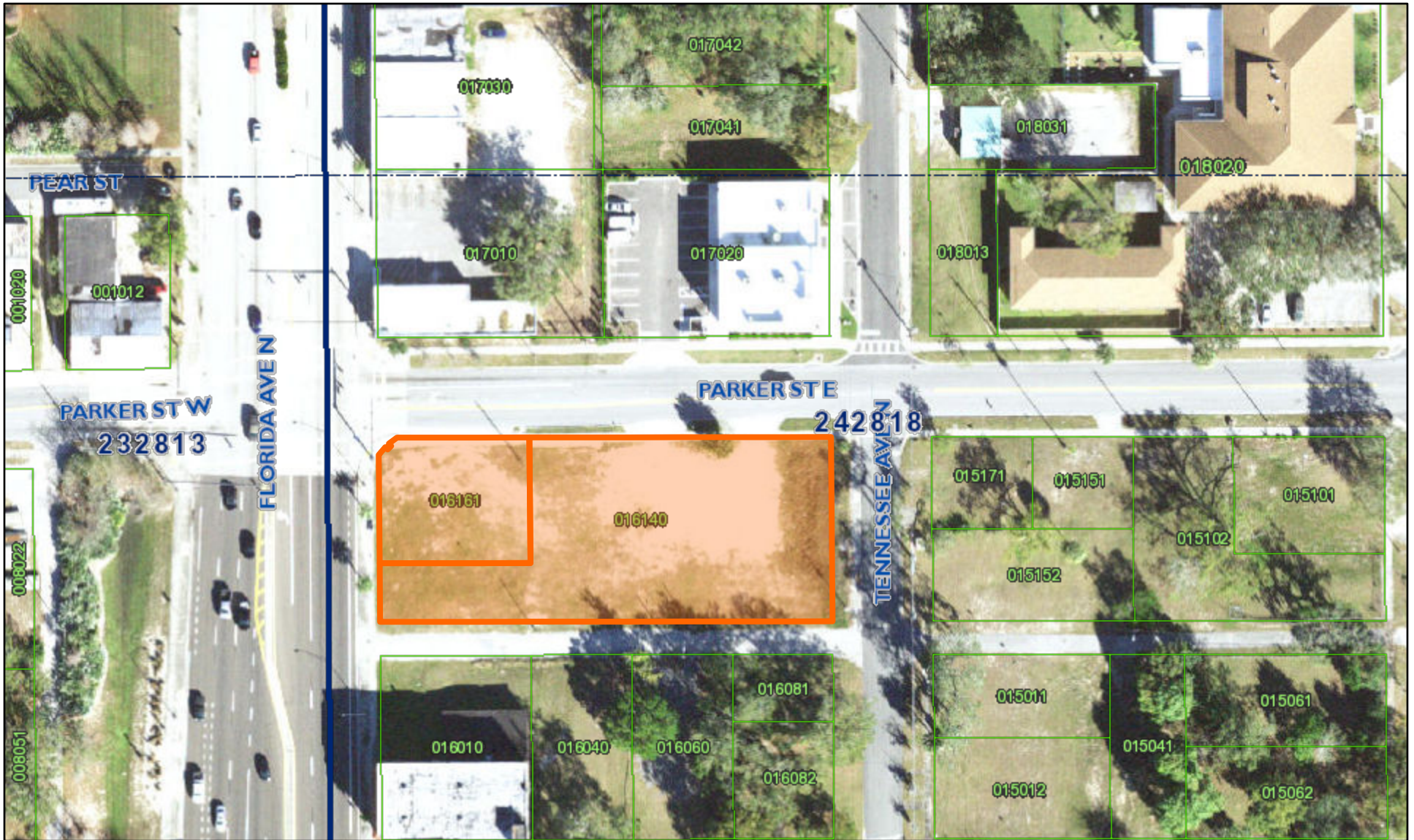
New Certificates of Insurance are to be provided to the City at least 15 days prior to coverage renewals.

If requested by the City, the Other Party shall furnish complete copies of the Other Party’s insurance policies, forms and endorsements.

For Commercial General Liability coverage, the Other Party shall, at the option of the City, provide an indication of the amounts of claims payments or reserves chargeable to the aggregate amount of liability coverage.

Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party’s obligation to fulfill the insurance requirements herein.

Well Done Development Parking Exhibit "A"



- PLSS Townships
- PLSS Sections
- PLSS Boundaries
- Gov't Lots
- Roads
- Waterbodies
- Parcels
- Red: Band_1
- Green: Band_2
- Blue: Band_3

HALFFOOT2023



All maps are worksheets used for illustrative purposes only, they are not surveys. The Polk County Property Appraiser assumes no responsibility for errors in the information and does not guarantee the data is free from error or inaccuracy. The information is provided "as is".



Marsha M. Faux, CFA, ASA
 Property Appraiser
 Polk County, Florida
 February 5, 2024

