



LEE COUNTY BOARD OF COMMISSIONERS
MCSWAIN EXTENSION EDUCATION AND AGRICULTURE CENTER
2420 TRAMWAY ROAD
SANFORD, NC 27330

February 5, 2024

MINUTES

Roll Call

Present: Robert Reives, Cameron Sharpe, Kirk Smith, Mark Lovick

Absent: Dr. Andre Knecht, Bill Carver, Taylor Vorbeck

CALL TO ORDER

Chairman Kirk Smith called the meeting to order at 6:00 p.m.

INVOCATION

Commissioner Mark Lovick provided an invocation and led the Board and meeting attendees in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

I. ADDITIONAL AGENDA

Commissioner Robert Reives asked to move items IV.A Amend Animal Services Ordinance and V.C Tax Lien Advertisement for Delinquent 2023 Real Property Taxes to the Consent Agenda. County Attorney Whitney Parrish noted that the Animal Services Ordinance can be placed on the Consent Agenda for the first reading but because there is not a unanimous vote, it will be brought back for vote at a second reading at the February 19th meeting.

Motion: Approve the Agenda as amended.

Mover: Robert Reives

For: 4 - Robert Reives, Cameron Sharpe, Kirk Smith, Mark Lovick

Absent: 3 - Dr. Andre Knecht, Bill Carver, Taylor Vorbeck

Motion Result: Passed

II. APPROVAL OF CONSENT AGENDA

Motion: Approve the Consent Agenda as amended.

Mover: Mark Lovick

For: 4 - Robert Reives, Cameron Sharpe, Kirk Smith, Mark Lovick

Absent: 3 - Dr. Andre Knecht, Bill Carver, Taylor Vorbeck

Motion Result: Passed

II.A Minutes from the January 22, 2024 Regular Meeting

BOC Regular Meeting Minutes_final.docx

II.B EOC Project - Change Order #2

II.C Accept Donation to the Animal Shelter

CVH Bank of Kennels Donation Request.pdf

bd5dca46-7678-4a63-a24c-5e4780a0d806photo.jpeg

356b5129-91a9-4847-8884-9390bcbaa661photo.jpeg

II.D Lee County Athletic Park Construction Project - Change Order Approval Request

PCO_001_Well_Abandonment.pdf

PCO_004_Bulletin_1_-_Retaining_Wall_at_Field.pdf

PCO5_-_D3_Walkway_Light_Fix_JRM Signed_2024-1-26.pdf

II.E Drug and Alcohol-Free Workplace Policy Amendment

B.18 Drug and Alcohol Free Workplace Policy Final 02.05.24.docx

B.18A Drug and Alcohol Free Workplace Policy Final 02.05.24 COLTS

Addendum A.doc

II.F Adding Construction Project Manager to Lee County Government's Pay Plan

Construction Project Manager.docx

Pay Plan Rates Effective February 5, 2024.pdf

III. PUBLIC COMMENTS

- Tom Lee, 2001 Plantation Drive (multi-use space as alternative to new gymnasiums for East and West Lee Middle Schools)

- David Smoak, 96 Northridge Trail (County budget ideas)

Commissioner Andre Knecht arrived at 6:06 p.m.

IV. OLD BUSINESS

IV.A Amend Animal Services Ordinance

Moved to the Consent Agenda.

Final Lee_County_Animal_Services_Ordinance-1.9.24-draft whc.rtf

Final_Lee_County_Animal_Services_Ordinance-1.9.24-highlight.rtf

IV.B ARPA Funds Update

Assistant Finance Director Jen Waterhouse provided an update on the County's ARPA funds. A copy of the handout is attached and incorporated into these minutes. County Manager Lisa Minter said that at the Board Retreat, the Board reviewed certain projects and gave consensus to fully fund the historic courthouse project, the parking lots at O.T. Sloan and Horton Parks, and sidewalks, curbs, and guttering at Horton Park. Ms. Minter asked the Board to re-obligate ARPA funds and obligate Revenue Loss funds to cover the shortage at the parks projects.

Federal ARPA Dollars- Obligate by 12-31-24.pdf

1-30-24MBMB Revenue Loss Projects.pdf

Motion: Motion to approve the re-obligation of \$133,160 of ARPA restricted funds and obligation of \$444,349 of Revenue Loss funds to the construction of parking lots at O.T. Sloan Park and Horton Park and for sidewalks, curb, and guttering at Horton Park.

Mover: Robert Reives

For: 5 - Dr. Andre Knecht, Robert Reives, Cameron Sharpe, Kirk Smith, Mark Lovick

Absent: 2 - Bill Carver, Taylor Vorbeck

Motion Result: Passed

V. NEW BUSINESS

V.A Charters of Freedom Presentation

Dr. David Streater and Ron Lewis of Foundation Forward gave a presentation about the Charters of Freedom displays. A copy of the presentation is attached and incorporated into these minutes. Mr. Lewis said the four pedestals displaying the document replicas and optional Field of Honor would be at no cost to the County. The Field would have bricks available for purchase by anyone for \$100. Senator Jim Burgin and Senator Warren Daniel (Burke County) assisted with the legislative appropriation of \$500,000 to the Foundation Forward nonprofit for construction of 20 displays. The County would be responsible for the upkeep and sidewalks, landscaping, etc. Chairman Smith noted that the new Library, Athletic Park, the Central Carolina Community College's Lee County campus, or the County's courthouse could potentially feature this display. County Manager Lisa Minter advised providing three locations for consideration. County Attorney Whitney Parrish requested a copy of the Memorandum of Agreement to review prior to the Board voting. Mr. Lewis said the nonprofit's construction manager will evaluate the three sites presented by the Board. The Board gave consensus to move forward to review sites and the Memorandum terms. The Freedom Foundation representatives will appear before the Board in March with updates.

V.B Triangle Land Conservancy (TLC) presentation on farmland preservation resources and opportunities for Lee County

Cooperative Extension Director Dr. Bill Stone introduced the Triangle Land Conservancy (TLC) group, who provided a presentation on farmland preservation through conservation easements. This was originally presented at the County's Agricultural Advisory Board, as its members feel strongly about farmland preservation and Lee County's future. TLC's Executive Director Sandy Sweitzer and Associate Director of Land Protection West Margaret Sands gave the presentation, a copy of which is attached and incorporated into these minutes. Ms. Sands explained that conservation easements are purchased from farm owners and limit the use of land for agricultural and conservation purposes by running with the land. The TLC primarily uses federal grant sources for funding, but some counties assist with purchasing the easements using "rollback" taxes. Lee County Tax Administrator Michael Brown and County Manager Lisa Minter said this year's rollback taxes were \$67,773.08, though this figure is not consistent from year to year.

V.C Tax Lien Advertisement for Delinquent 2023 Real Property Taxes
Moved to the Consent Agenda.

GS_105-369.pdf

VI. MANAGERS' REPORTS

County Manager Lisa Minter wanted to remind the Board and the public that the nonprofit funding application is available online under the Finance Department and paper copies are available at the Administration Building (located at 408 Summit Drive, Sanford) and the Library's main branch (located at 107 Hawkins Avenue, Sanford).

VII. COMMISSIONERS' COMMENTS

ADJOURN

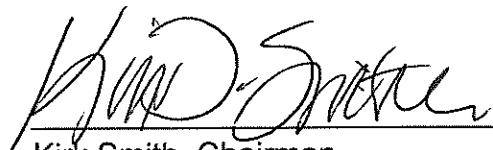
Motion: Motion to adjourn. The Board adjourned at 7:25 p.m.

Mover: Robert Reives

For: 5 - Dr. Andre Knecht, Robert Reives, Cameron Sharpe, Kirk Smith, Mark Lovick

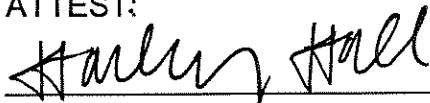
Absent: 2 - Bill Carver, Taylor Vorbeck

Motion Result: Passed



Kirk Smith, Chairman
Lee County Board of Commissioners

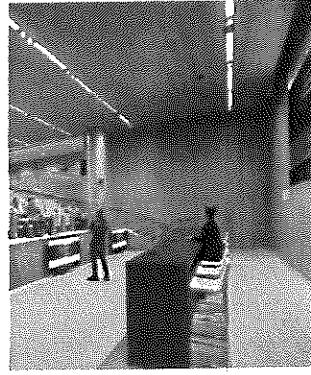
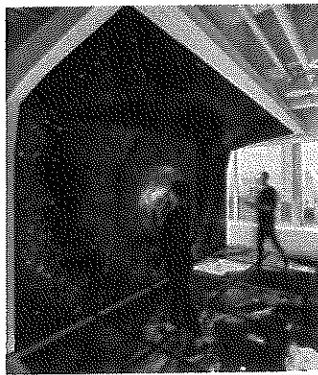
ATTEST:


Hailey Hall, Clerk to the Board

Proposal Prepared For

Lee County

Lee County EOC RFP



4018 Patriot Dr
Suite 180
Durham, NC 27703
(919) 806-1009
Fax: 919-806-1016
www.avispl.com

Prepared by: Andrew Staley
Andrew.Staley@avispl.com
Proposal no: 431391-6, CR-002



Investment Summary

Prepared For:	Matt Britt Lee County 408 Summit Drive Sanford, NC 27330-3840
----------------------	---

Prepared By:	Andrew Staley
Date Prepared:	01/23/2024
Proposal #:	431391-6, CR-002
Valid Until:	02/23/2024

Total Equipment Cost **\$174.92**
Includes cable, connectors, hardware, switches, relays, terminal blocks, panels, etc., to ensure complete and operational system

Professional Integration Services **\$0.00**
Includes engineering, project management, CAD, on-site installation and wiring, coordination and supervision, testing, checkout, owner training, etc. performed on the Owner's premises. Also includes all fabrication, modification, assembly, rack wiring, programming, warranties, etc., some performed at AVI-SPL

Direct Costs **\$19.05**
Includes non equipment or labor costs, such as travel expenses, per diem, lift and vehicle rentals

General & Administrative **\$5.56**
Includes all G & A expenses: vehicle mileage, shipping and insurance, as applicable

Subtotal	\$199.53
Tax	\$13.97
Total	\$213.50

*** ANY and all applicable taxes will be included upon invoicing**

Due to global semiconductor ("chip") shortages and supply chain disruptions pricing quoted in this proposal may change. Installation schedules are subject to current (daily) product availability and may be delayed or postponed.

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Terms and Conditions

This Proposal together with AVI-SPL's General Terms and Conditions and the applicable Addendum(a) located here and incorporated herein by this reference (collectively the "Agreement") constitutes the entire agreement between AVI-SPL LLC ("Seller", "AVI-SPL", "we", "us", "our") and the buyer/customer identified in the Proposal ("Buyer", "Customer", "Client", "you", "your") with respect to its subject matter and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties, written or oral. By signing below, issuing a valid purchase order for the Services and/or Products specified herein or receiving the Products and/or Services specified herein, whichever occurs first, Buyer acknowledges it has read and agrees to the terms of this Agreement. This Agreement shall not be binding upon Seller until accepted by Buyer as set forth in this Agreement and the earlier of Seller's confirmation in writing of Buyer's order and Seller's performance under the applicable Proposal. Any terms and conditions contained in Buyer's purchase order or any other Buyer-provided documents related to this transaction shall have no effect and are hereby rejected. Notwithstanding anything herein to the contrary, if a master services agreement signed by both Parties is in effect covering the sale of the Services and/or Products that are the subject of this Proposal, the terms and conditions of said agreement shall prevail to the extent they conflict or are inconsistent with this Agreement.

Billing and Payment Terms

Unless otherwise agreed in writing by Buyer and Seller in the Proposal, the total Proposal price, excluding the price for Stand-alone Services (as defined in this section), shall be billed as follows, subject to continuing credit approval: 50% down payment at time of order, 40% upon delivery at Seller; 10% upon project completion and Buyer sign-off or first beneficial use, whichever occurs first, payable net 30 from Buyer's receipt of invoice. For purposes of this Agreement, "Stand-alone Services" means any Services not attached to an installation project. Billing and payment terms for Stand-alone Services are set forth in the applicable Service Addendum(a). Unless otherwise specified in the Proposal, Products are sold F.O.B. origin-Buyer to pay all shipping charges. If this Proposal covers Products or Services for more than one system, room, suite, or location, for purposes of payment in accordance with payment terms stated on the face hereof each room, suite, or location shall be treated as if the subject of a separate sale and payment made accordingly. Unless otherwise specified in the Proposal, all pricing and amounts are in US Dollars and all billing and payment shall be made in US Dollars.

Link to AVI-SPL Terms and Conditions: <https://avispl.com/terms-of-use/>

Buyer Acceptance

Lee County Government
Buyer Legal Entity

[Signature]
Buyer Authorized Signatory

KIRK D. SMITH
Buyer Authorized Signatory Name

CSAIDMAN
Buyer Authorized Signatory Title

02/06/2024
Date

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

Candace Juman
Finance Officer, Lee County

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Room Summary - EOC Phase 1

Equipment List

Mfg	Model	Description	Qty	Unit Price	Extended Price
CHIEF	CHITS318TU	MOUNT, MEDIUM SWING ARM, DUAL STUD	1	\$316.03	\$316.03
CHIEF	CHILSM1U	MOUNT, FUSION MICRO-ADJ FIXED WALL MOUNT, LARGE	-1	\$141.11	(\$141.11)
				Subtotal	\$174.92

Room Support and Maintenance

Elite Maintenance Services - Room; 8-months \$0.00

Equipment Total	\$174.92
Installation Materials	\$0.00
Professional Services	\$0.00
Direct Costs	\$19.05
General & Administrative	\$5.56
Subtotal	\$199.53

For informational purposes only – all Purchase Orders must match Investment Summary details.

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PCO #001

Project: 50-0081 - Lee County Multi-Sports Complex
 0 Broadway Rd.
 Sanford, North Carolina 27330
 Phone: 919-775-7882

Prime Contract Potential Change Order #001: Demolish 2 Existing Wells

TO:	Lee County Government	FROM:	Sanford Contractors Inc 367 Freedom Pkwy Ste 200 Pittsboro, North Carolina 27312
PCO NUMBER/REVISION:	001 / 0	CONTRACT:	50-0081. - Lee Co Multi-Sports Complex
REQUEST RECEIVED FROM:		CREATED BY:	Rob Brisley (Sanford Contractors Inc)
STATUS:	Pending - In Review	CREATED DATE:	11/30/2023
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No	ACCOUNTING METHOD:	Amount Based
LOCATION:		PAID IN FULL:	No
SCHEDULE IMPACT:		SIGNED CHANGE ORDER RECEIVED DATE:	
EXECUTED:	No	TOTAL AMOUNT:	\$5,471.93

POTENTIAL CHANGE ORDER TITLE: Demolish 2 Existing Wells

CHANGE REASON: Client Request

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
 CE #002 - Demolish 2 Existing Wells

ATTACHMENTS:

1444_001.pdf

#	Budget Code	Description	Amount
1	31--2200..S SCI Sitework.Subcontractors	Demolish 2 Existing Wells	\$5,170.00
Subtotal:			\$5,170.00
OH&P on Self Perform (10.00% Applies to Labor, Materials, Equipment, Labor Burden, Overhead, Other, Temporary Labor, and Equip Rental/Repairs.):			\$0.00
OH&P on Subcontractors (5.00% Applies to Subcontractors.):			\$258.50
Bond (0.80% Applies to all line item types.):			\$43.43
Grand Total:			\$5,471.93

This instrument has been prec audited in the manner required by the Local Government Budget and Fiscal Control Act

Candace Juman

Finance Officer, Lee County
Sanford Contractors Inc

367 Freedom Pkwy Ste 200
Pittsboro, North Carolina 27312

DocuSigned by:

Robert C. Brisley 1/11/2024

74A7D411DDCB4FC

SIGNATURE

DATE

Kyle Mullens (The John R. McAdams Co., Inc.)

2905 Meridian Parkway
Durham, North Carolina 27713

Lee County Government

Kyle Mullens

1/16/24

SIGNATURE

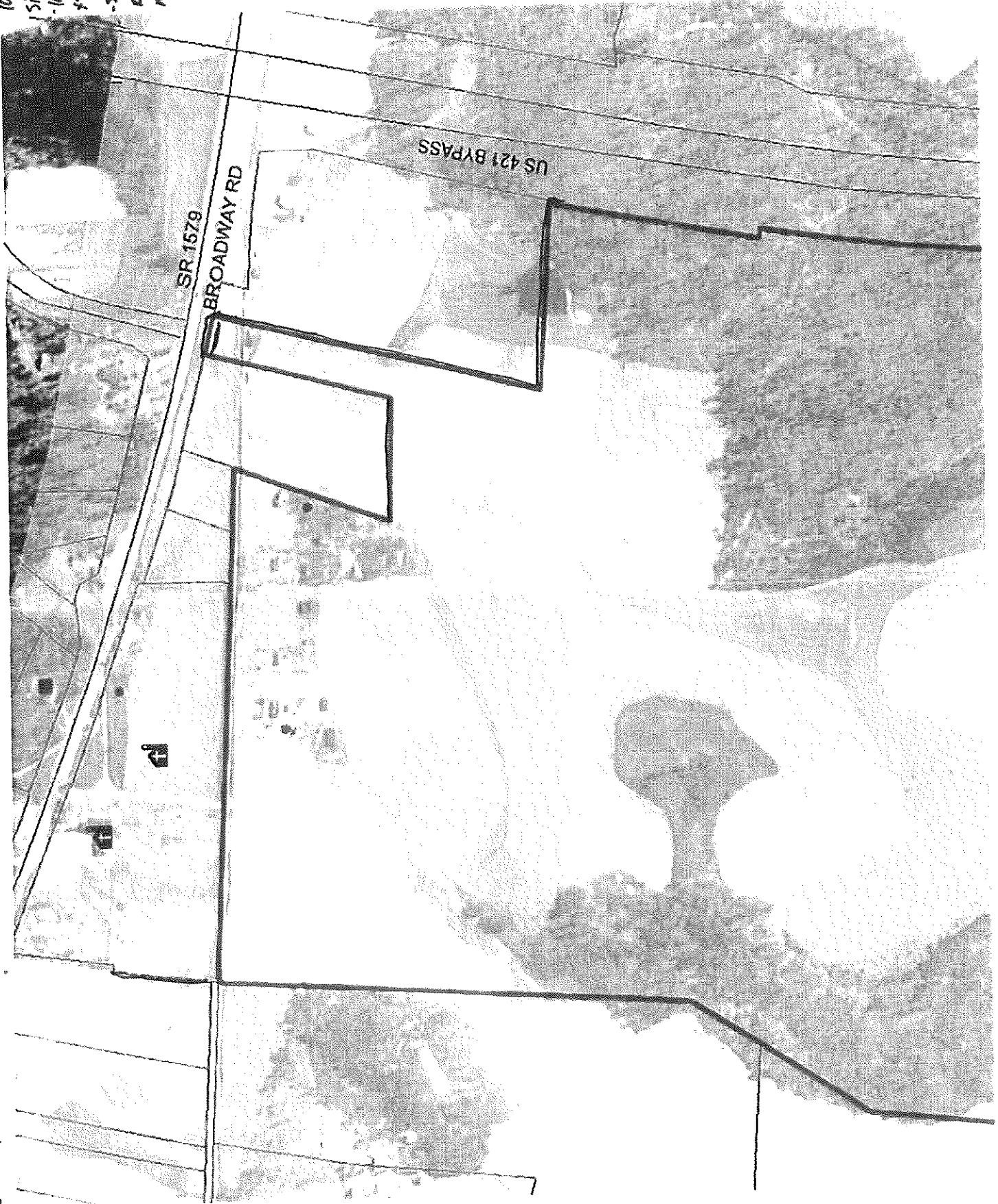
DATE

[Signature]

SIGNATURE

DATE

10/20/23
Site visit
- located
for wells
- see red
dots on
map



**PCO #004**

Project: 50-0081 - Lee County Multi-Sports Complex
 0 Broadway Rd.
 Sanford, North Carolina 27330
 Phone: 919-775-7882

Prime Contract Potential Change Order #004: Bulletin 1 - Retaining Wall at Field 8

TO:	Lee County Government	FROM:	Sanford Contractors Inc 367 Freedom Pkwy Ste 200 Pittsboro, North Carolina 27312
PCO NUMBER/REVISION:	004 / 0	CONTRACT:	50-0081. - Lee Co Multi-Sports Complex
REQUEST RECEIVED FROM:		CREATED BY:	Drake Howard (Sanford Contractors Inc)
STATUS:	Pending - In Review	CREATED DATE:	1/11/2024
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No	ACCOUNTING METHOD:	Amount Based
LOCATION:		PAID IN FULL:	No
SCHEDULE IMPACT:		SIGNED CHANGE ORDER RECEIVED DATE:	
EXECUTED:	No	TOTAL AMOUNT:	\$28,216.84

POTENTIAL CHANGE ORDER TITLE: Bulletin 1 - Retaining Wall at Field 8

CHANGE REASON: Design Development

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

CE #005 - Retaining Wall

Plan changes encapsulated in Bulletin 001 (ie: New Retaining Wall, Grading Revision, Extra Fencing)

ATTACHMENTS:

#	Budget Code	Description	Amount
1	32--3223..S Segmental Retaining Walls.Subcontractors	Additional Retaining Wall (~712 sqft)	\$11,356.40
2	31--2200..L SCI Sitework.Labor	Grading Labor	\$3,000.00
3	31--2200..E SCI Sitework.Equipment	Grading Equipment	\$3,000.00
4	32--3100..S Fences and Gates.Subcontractors	6 FT Fence on Wall	\$1,485.00
5	01--7829..S Surveying.Subcontractors	Surveying	\$2,500.00
6	32--3223..S Segmental Retaining Walls.Subcontractors	Soil Remediation	\$4,980.00
Subtotal:			\$26,321.40
OH&P on Self Perform (10.00% Applies to Labor, Materials, Equipment, Labor Burden, Overhead, Other, Temporary Labor, and Equip Rental/Repairs.):			\$600.00
OH&P on Subcontractors (5.00% Applies to Subcontractors.):			\$1,016.07
Bond (1.00% Applies to all line item types.):			\$279.37
Grand Total:			\$28,216.84



This Instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

Candace Helman
Finance Officer, Lee County

Kyle Mullens (The John R. McAdams Co., Inc.)
2905 Meridian Parkway
Durham , North Carolina 27713

Lee County Government

Sanford Contractors Inc

367 Freedom Pkwy Ste 200
Pittsboro, North Carolina 27312

Kyle Mullens 1/16/24
SIGNATURE DATE

[Signature]
SIGNATURE DATE

DocuSigned by:
Robert C. Brisley 1/11/2024
74A7D411DDCB4FC...
SIGNATURE DATE



PCO #005

Project: 50-0081 - Lee County Multi-Sports Complex
 0 Broadway Rd.
 Sanford, North Carolina 27330
 Phone: 919-775-7882

Prime Contract Potential Change Order #005: CE #007 - D3 Walkway Light Fix

TO:	Lee County Government	FROM:	Sanford Contractors Inc 367 Freedom Pkwy Ste 200 Pittsboro, North Carolina 27312
PCO NUMBER/REVISION:	005 / 0	CONTRACT:	50-0081. - Lee Co Multi-Sports Complex
REQUEST RECEIVED FROM:		CREATED BY:	Allie Godfrey (Sanford Contractors Inc)
STATUS:	Pending - In Review	CREATED DATE:	1/25/2024
REFERENCE:		PRIME CONTRACT CHANGE ORDER:	None
FIELD CHANGE:	No	ACCOUNTING METHOD:	Amount Based
LOCATION:		PAID IN FULL:	No
SCHEDULE IMPACT:		SIGNED CHANGE ORDER RECEIVED DATE:	
EXECUTED:	No	TOTAL AMOUNT:	\$82,975.64

POTENTIAL CHANGE ORDER TITLE: CE #007 - D3 Walkway Light Fix

CHANGE REASON: Design Development

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*

CE #007 - D3 Walkway Light Fixture
 Per Jason Lund's response to RFI 34:

"Leased fixtures are not in the scope of the project and it is our understanding that the Owner will not be entering into an agreement to obtain "Duke Energy" fixtures used as the basis of design (BOD).

The electrical drawings clearly illustrate the type D3 lighting fixtures are included in the project scope and are "Owned" not leased. If leased fixtures were specified the circuitry/wiring of the fixtures would not have been shown as Duke Energy wires their fixtures and does not use client owned panelboards or equipment to serve their fixtures. Likewise, 2" PVC grey conduit would have been specified and shown on drawings, as well as standard Duke Energy conduit installation detail, for the routing of Duke Energy conductors by the utility, again not the case.

Two (2) lighting fixture cut sheets are attached for reference, an approved equal will be considered should the Electrical Contractors lighting vendor have an option available in their line card. Lighting fixture shall utilize 13' standard pole, 3" or 4" to be coordinated with fixture, and color dark bronze to match surrounding parking lot and drive/area way lighting fixtures. Fixtures shall include integral pushbutton type photocell for dusk to dawn operation.

Two (2) similar lighting fixture options are included with this RFI response:
 Cooper Lighting, InView Mesa Series - ATO-MSA-SA4C-940-4-5WQ-BZ-BPC
 Lithonia Lighting, Radean Post Top Series - RADPT-LED-P3-40K-SYM-MVOLT-PT4-PE-DDBXD"

ATTACHMENTS:

#	Budget Code	Description	Amount
1	26--2000,,S Electrical.Subcontractors	D3 Light Fixture Material	\$42,695.00



PCO #005

#	Budget Code	Description	Amount
2	26--2000..S Electrical.Subcontractors	D3 Light Fixture Labor	\$35,547.00
Subtotal:			\$78,242.00
OH&P on Self Perform (10.00% Applies to Labor, Materials, Equipment, Labor Burden, Overhead, Other, Temporary Labor, and Equip Rental/Repairs.):			\$0.00
OH&P on Subcontractors (5.00% Applies to Subcontractors.):			\$3,912.10
Bond (1.00% Applies to all line item types.):			\$821.54
Grand Total:			\$82,975.64

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

Candace Deeman

Finance Officer, Lee County

Kyle Mullens (The John R. McAdams Co., Inc.)

2905 Meridian Parkway
Durham, North Carolina 27713

Kyle Mullens

1/26/24

SIGNATURE

DATE

Lee County Government

David Smith

SIGNATURE

DATE

Sanford Contractors Inc

367 Freedom Pkwy Ste 200
Pittsboro, North Carolina 27312

DocuSigned by:

Robert C. Brisley 1/25/2024

74A7D411DDCB4FC

SIGNATURE

DATE



Drug and Alcohol-Free Workplace Policy

Number:
B- 18

Revision:
9

Effective Date:
02/05/2024

Pages:
45

1.0 Policy

Lee County Government is committed to providing an alcohol and drug free workplace for its employees and those who conduct business with the County. This commitment is based on the belief that the County has a responsibility to ensure the safety of County employees and the general public. This document establishes County policy and procedures for staff that are responsible for ensuring that the letter and spirit of this commitment are communicated and implemented in Lee County Government.

2.0 Applicability

This policy applies to all safety sensitive and non-safety sensitive employees, employees classified in safety sensitive positions, paid part-time employees, contract employees, and contractors when they are on Lee County Government property or when performing any Lee County or transit-related safety sensitive or non-safety sensitive business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contract employees are governed by this policy while on Lee County property and will not be permitted to conduct business if found to be in violation of this policy. **The Lee County Transit System Employees in safety sensitive and non-safety sensitive positions adhere to the Drug and Alcohol-Free Workplace Policy in Addendum A.**

3.0 Procedure/Rules

A. Prohibitions and Violations

The following actions are prohibited on County premises and in County workplaces and while conducting any County business:

- a. The unlawful manufacture, solicitation, distribution, dispensation, sale, possession or use of controlled substances. The unlawful manufacture, possession, sale, distribution or delivery of drug paraphernalia.
- b. Use of alcoholic beverages and the unlawful manufacture, solicitation, distribution, dispensation, sale, or possession of alcoholic beverages.
- c. Misuse of legally prescribed drugs, and the use of illegally obtained prescription drugs.
- d. Any use of legally prescribed drugs or non-prescription medication which carry a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected that has not been reported to the Human Resources Director.

Any violation of **a** through **d** above shall be considered unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.

Impaired behavior and/or diminished performance on the job resulting from the use of alcohol or any controlled substance shall be considered unacceptable personal conduct and shall be grounds for disciplinary action up to and including dismissal.

The County will report violations of criminal drug statutes occurring in the workplace to the appropriate law enforcement officials. All employees have a responsibility to report observed and suspected violations of this policy to their supervisor or department director.

Disciplinary action, up to and including dismissal, shall be taken when an employee:

- Refuses to sign a consent form and participate in a required drug or alcohol test after being advised of the reasons for the request.
- Intentionally tampers, or attempts to tamper, with a drug or alcohol sample or testing process.
- Produces a confirmed positive test result.

B. Types of Testing

Testing may be given as pre-employment testing, random testing for safety sensitive employees as defined in this policy and at any time for reasonable suspicion.

1. Substances that may be tested for under this policy include:
 - a. Marijuana/cannabinoids (THC)
 - b. Cocaine metabolites

- c. Opioids
 - d. Phencyclidine (PCP)
 - e. Amphetamines/methamphetamines
 - f. Alcohol
 - g. Barbiturates (e.g., amobarbital, butabarbital, phenobarbital, secobarbital)
 - h. Methaqualine (e.g., quaalude)
2. An employee who receives a positive test result may request that the same or split specimen be tested by another certified laboratory with the cost of such testing to be at the employee's expense.
 3. When management has reasonable suspicion to believe an employee is using or is under the influence of alcohol or a controlled substance, or is misusing prescription drugs, the employee may be required to submit to an immediate drug and/or alcohol test. The test shall be administered by qualified personnel and shall involve proper procedures of specimen collection and testing.

Reasonable Suspicion

Each County employee is subject to reasonable suspicion testing. Reasonable Suspicion means an expressible belief based on specific objective facts, and rational inferences drawn from those facts, that an employee has consumed or is under the influence of alcohol or drugs while in the course of their work. Circumstances which constitute a basis for determining "reasonable suspicion" may include, but are not limited to:

Observable occurrences, such as direct observation of alcohol or drug use or possession and/or the physical symptoms of being under the influence of alcohol or drugs.

A report of direct observation of an employee's alcohol or drug use, while in the course of their work, that is provided by a reliable and credible source.

A pattern of unexplained, preventable accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident while in the course of employee's work or is conducting County business while under the influence of alcohol or drugs.

Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale or use, of alcohol or drugs while working or while on the County's premises or in possession of or operating a County vehicle, machinery or equipment.

Combative, abusive, violent or disruptive behavior (verbal or physical); fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Erratic behavior/mood swings.

Relevant body or breathe odors.

The employee is the focus of a criminal investigation, arrest or conviction for a drug related offense.

Evidence of substance abuse or drug test tampering.

A pattern of excessive absenteeism, tardiness or deterioration in work performance or other abnormal behavior in combination with an observable occurrence as described above.

The following procedures apply when a supervisor has reasonable suspicion to believe an employee is in violation of the County's Alcohol and Drug Free Workplace Policy.

1. The Supervisor shall review the circumstances and actions which are the basis for the reasonable cause/suspicion with the department director or designee.
2. The employee may be suspended for investigatory purposes in accordance with established policy.
3. In cases which involve possible manufacture, solicitation, distribution, dispensing, selling or possession of alcohol or controlled substances in the work place, the department director or designee shall contact the local law enforcement agency and State Bureau of Investigation for assistance.
4. The Supervisor shall document the facts in writing as fully as possible and instruct witnesses to reduce their observations to writing to the extent possible. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances existing at the time. Once reasonable cause has been established by the Human Resources Director or the County Manager, the employee shall be advised (in the presence of a witness) that as a condition of continued employment, management has

the right to require him/her to submit to a drug or alcohol test. The employee shall then be advised of:

- a. The basis for the reasonable suspicion and the requirement that the employee sign a consent form for testing
 - b. The methods of testing which may be used
 - c. The substances which may be identified
 - d. The importance of cooperating with the collection site personnel
 - e. The confidentiality of individual test results
 - f. The consequences of; refusing to sign consent form, failing to submit to immediate testing, failing to report for a specimen collection, or the receipt of a positive test result.
5. Immediately after reviewing a through f above with the employee, the employee shall be advised of the location where the test will be administered and shall sign a consent form.
 6. County personnel shall transport the employee to the test site immediately after the consent form is signed.
 7. If the employee refuses to sign the consent form or to undergo testing immediately as scheduled, the department director shall take appropriate disciplinary action.
 8. If a negative test result occurs, the employee shall be notified immediately by the department director or designee.
 9. If the employee has been placed on investigatory suspension, he/she shall be reinstated in accordance with policy requirements. All records surrounding the incident shall be removed from the employee's personnel file. If the test is positive, the Human Resources Director, within 5 days of receiving positive test confirmation, shall inform the employee, in writing, of the results and the proposed action to be taken.
 10. Disciplinary actions will result from a confirmed positive test, refusal to participate in a test or of altering or attempting to alter test results.
 11. Drug testing will be carried out by a laboratory certified by the U.S. DHHS and testing will be conducted via urine specimens.

12. Alcohol testing will meet industry standards or applicable U.S. DHHS guidelines and will be conducted via a saliva, blood or breath specimen.
13. All specimens will be collected under chain of custody procedures which include photo identification of the donor and protocols to assure specimen integrity.
14. A positive drug (controlled substance) test will undergo confirmatory testing.
15. A positive alcohol test will undergo confirmatory testing by either blood or breath.
16. All test results will be maintained in a secure and confidential manner in the County Human Resources Department and will not be released without written consent of the employee unless as a result of action initiated by or on behalf of the employee, they are required to be produced.

Pre-Employment Substance Abuse Screening

All job finalists are required to undergo drug/alcohol testing within twenty-four (24) hours (excluding Saturdays, Sundays, and holidays) of receiving and accepting an offer of employment contingent upon a negative drug/alcohol test result. Finalists who fail to undergo such testing within twenty-four (24) hours will not be considered for employment.

1. The Human Resources Department will make arrangements for finalists to be sent to a designated medical facility for testing.
2. Finalists will submit a Lee County approved, signed substance abuse testing consent form to the qualified, approved laboratory provider, assenting to the testing procedure.
3. Finalist testing will be performed on urine specimens using a secure chain of custody procedure to reduce the likelihood of possible errors in the testing procedures using qualified, approved standard medical testing procedures. Gas Chromatograph/Mass Spectrometry (GC/MS) or other appropriate, accepted medical testing procedures will be used to confirm all positive test results.
4. Upon completion of the tests, results will be sent to the employee/finalist if requested, and the appropriate staff member in the Human Resources Department.

5. Completion of offers of employment shall not occur until negative test results have been verified by the Human Resources Department.

Effect of Positive Result

A finalist with a confirmed positive test **will not** be considered for employment.

1. The Human Resources Director will notify the department director or designee of the test result.
2. Positive test results will be held in strict confidence with only the department director or designee, and Human Resources Director having access with no release of results.
3. Employment decisions based on drug test results are final.
4. All finalists for employment as criminal justice officers and all veteran law enforcement officers who apply for transfer from another law enforcement agency or who apply for reinstatement must submit to drug/alcohol testing according to the drug testing rules adopted by the Sheriff's Standards Division of the State of North Carolina.

Safety Sensitive Categories

Employees classified in safety sensitive positions are subject to all sections of the above policy and to the following policy.

A safety sensitive position includes:

1. Positions whose function includes any duty related to the safe operation of mass transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch, maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee who holds a Commercial Driver's License.
2. Positions requiring the operation of or maintenance of vehicles, machinery, equipment or the handling of hazardous materials, the mishandling of anything which may place the employee, fellow employees or the general public at risk of serious injury or the nature of which would create a security risk in the workplace.
3. Positions where the incumbent's mental fitness is necessary to minimize or prevent the risks described above.

4. Positions requiring direct patient care or whose work requires an employee to be working in the field on a routine basis.
5. Safety Sensitive Positions are classified in Appendix A.

Prohibited Substances

“Prohibited Substances” addressed by this policy include the following:

Illegally Used Controlled Substances or Drugs:

1. Any illegal drug or any substance identified in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), as further defined by 21CFR 1300.11 through 1300.15 is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, Opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.

Illegally or Improperly Used Prescription/Over the Counter Drugs:

2. Prescription/Over the Counter Drugs which are used appropriately and in accordance with this policy are not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected, must be reported to the Human Resources Director. For those types of prescriptions or over the counter drugs, the employee must obtain a written release from the attending physician releasing the person to perform their job duties any time they obtain a performance-altering prescription. A legally prescribed drug means that an individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient’s name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing any type of transit business is prohibited.

Alcohol:

3. The use of beverages containing alcohol or substances including any medication, mouthwash, food, candy, or any other substance such that alcohol is present in the body while performing transit business is prohibited. The

concentration of alcohol is expressed in terms of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

Prohibited Conduct

- Manufacture, trafficking, possession, and use of a controlled substance.
- Lee County employees working in safety sensitive positions are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances on Lee County Government property, in transit or other Lee County vehicles, in uniform or while on transit system or on any other County business.
- Any safety sensitive or non-safety sensitive employee who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition.
- Employees found to be under the influence of a prohibited substance or who fail to pass a drug or alcohol test shall be removed from duty and their employment may be terminated. A drug or alcohol test is considered positive if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- No safety sensitive or non-safety sensitive employee should report for duty or remain on duty when his/her ability to perform assigned safety sensitive functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No safety sensitive or non-safety sensitive employee shall use alcohol while on duty, in uniform, while performing safety sensitive functions, or just before or just after performing a safety sensitive function. No safety sensitive or non-safety sensitive employee shall use alcohol within four hours of reporting for duty or during the hours that they are on call.

Employees who violate the provision above will be discharged. Law enforcement shall be notified as appropriate, where criminal activity is suspected.

Compliance and Testing Requirements

All safety sensitive and non-safety sensitive employees will be subject to urine drug testing and/or breath alcohol testing as a condition of employment. Any safety sensitive or non-safety sensitive employee who refuses to comply with a request for testing shall be removed from duty and their employment terminated. Any safety sensitive or non-safety sensitive employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of these actions will result in the employee's removal from duty

and their employment terminated. Refusal can include an inability to provide a sufficient urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.

Treatment Requirements

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use policies. Under certain circumstances, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with Lee County requirements for treatment, after care or return to duty shall be subject to disciplinary action, up to and including termination. The cost of any treatment or rehabilitation services is at the employee's expense. Employees may use accumulated leave as outlined in the Lee County Personnel Policy to participate in the prescribed rehabilitation program.

Notification of Criminal Drug Conviction

All employees are required to notify the Lee County Human Resources Director and Department Director of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision may result in termination.

Proper Application of the Policy

Lee County Government is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any Director/Supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates shall be subject to disciplinary action up to and including dismissal.

Testing Procedure

Analytical urine drug testing and breath testing for alcohol may be conducted when circumstances warrant or as required by Federal regulations. All safety sensitive and non-safety sensitive employees shall be subject to testing prior to employment, for reasonable suspicion, and following an accident. Those employees who perform safety sensitive functions as defined in this policy shall also be subject to testing on a random, unannounced basis.

If an employee is being tested for return to duty or a follow-up test, the collection of the sample will be under direct observation.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human service (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

The drugs that will be tested for include marijuana, cocaine, Opioids, amphetamines, and phencyclidine. An initial drug screen will be conducted on each urine specimen.

For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds established in 49 CFR Part 40 as amended.

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, Lee County Government reserves the right to test for additional drugs under Lee County's own authority using standard laboratory testing protocols.

Test for breath alcohol concentrations will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved testing device operated by a trained technician. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed using a NHTSA-approved evidential breath-testing device (EBT) operated by a trained breath alcohol technician (BAT).

A safety sensitive or non-safety sensitive employee who has a confirmed alcohol concentration of greater than 0.02 but less than 0.04 will be removed from his/her position for eight hours unless a retest results in a concentration measure of less than 0.02.

The inability to perform safety sensitive duties due to an alcohol test result of greater than 0.02 but less than 0.04 will be considered an unexcused absence subject to Lee County disciplinary procedures. An alcohol test concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy and a violation of the requirements set forth in 49 CFR Part 665 for safety sensitive employees.

Any safety sensitive or non-safety sensitive employee that has a confirmed positive drug or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and referred to a Substance Abuse Professional (SAP) for assessment. A positive drug/alcohol test will also result in termination. Lee County affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Employee Requested Testing

Any safety sensitive or non-safety sensitive employee who questions the results of a required drug may request that the split sample be tested. The test must be conducted on the split sample that was provided by the employee at the same time as the original sample.

All cost for such testing is paid by the employee unless the result of the split sample test invalidates the result of the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40. As amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

Pre-Employment Testing

All safety sensitive and non-safety sensitive position applicants shall undergo urine drug testing immediately following the offer of and acceptance of employment, or transfer into a safety sensitive or non-safety sensitive position.

Receipt of a negative drug test result is required prior to employment.

Failure of a pre-employment drug test will disqualify an applicant for employment. Evidence of the absence of drug dependency from a Substance Abuse Professional that meets with the approval of the Human Resources Director and a negative pre-employment drug test will be required prior to further consideration for employment.

Reasonable Suspicion Testing

All safety sensitive and non-safety sensitive employees may be subject to a fitness for duty evaluation, and urine and/or breath testing when there are reasons to believe that drug or alcohol use is adversely affecting job performance. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances, which are consistent with the short-term effects of substance abuse or alcohol misuse. Examples of reasonable suspicion include, but are not limited to the following:

- Observable occurrences, such as direct observation of alcohol or drug use and/or the physical symptoms of being under the influence of alcohol or drugs.
- A report of direct observation of an employee's use of alcohol or drugs, while in the course of their work, provided by a reliable and credible source.
- A pattern of unexplained, preventable or potentially serious accidents and/or information based on specific objective facts that an employee has caused, or contributed to an accident while in the course of employee's work or is conducting County business while under the influence of alcohol or drugs.

- Evidence that an employee is involved in the unauthorized manufacture, solicitation, distribution, dispensation, possession, sale or use, of alcohol or drugs while working or while on the County's premises or in possession of or operating a County vehicle, machinery or equipment.
- Combative, abusive, violent or disruptive behavior (verbal or physical); fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.
- Erratic behavior/mood swings.
- Relevant body or breathe odors.
- The focus of investigation, arrest or conviction for drug related offense.
- Evidence of substance abuse or drug test tampering.
- A pattern of excessive absenteeism, tardiness or deterioration in work performance or other abnormal behavior in combination with an observable occurrence as described above.

Procedures

The following procedures apply when a supervisor has reasonable cause to believe an employee is in violation of the County's Drug and Alcohol-Free Workplace Policy.

- The Supervisor shall review the circumstances and actions which are the basis for the reasonable cause/suspicion with the department director or designee.
- The employee may be suspended for investigatory purposes in accordance with established policy.
- In cases which involve possible manufacture, solicitation, distribution, dispensing, selling or possession of controlled substances in the work place, the department director or designee shall contact the local law enforcement agency and State Bureau of Investigation for assistance.
- The Supervisor or Department Director shall document the facts in writing as fully as possible and instruct witnesses to reduce their observations to writing to the extent possible. Documentation should include specific dates, times, people involved, behavior, reactions, overall performance and a general discussion of the circumstances existing at the time.

- Reasonable suspicion referrals must be made to the Human Resources Director by a Supervisor/Department Director who is trained to detect the signs and symptoms of drug and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse.

Special Category of Safety-Sensitive Positions

Certain CDL and heavy vehicle operators may be subject to DOT and Federal Motor Carrier Safety Administration policies and other applicable federal regulations.

Random Testing

Employees in safety sensitive positions will be subjected to random, unannounced testing. The selection of safety sensitive employees for random alcohol testing will be made using a scientifically valid method that ensures that each covered employee will have an equal chance of being selected each time selections are made. The random tests will be unannounced and spread throughout the year.

Employment Assessment

Any safety sensitive and non-safety sensitive employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be referred for evaluation by a Substance Abuse Professional through the Employee Assistance Program. Assessment by a Substance Abuse Professional or participation in the County's Employee Assistance Program does not shield an employee from disciplinary action or guarantee employment or reinstatement with Lee County. Lee County Human Resources Department should be consulted to determine the penalty for performance-based infractions and violation of policy provisions.

If a safety sensitive or non-safety sensitive employee is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the Substance Abuse Professional. The employee must have negative return-to-duty drug and alcohol tests and be subject to unannounced follow-up testing for a period of one to five years. The cost of any treatment or rehabilitation services are the responsibility of the employee. Employees will be allowed to take accumulated leave in accordance with the Lee County Personnel Policy to participate in the prescribed rehabilitation program.

Rehabilitation

Lee County Government will support the employee in his/her efforts to rehabilitate himself/herself when treatment is initiated by the employee. An employee may be given extended leave to receive inpatient care. Upon release to duty by a qualified professional the employee will be required to sign a written agreement that may include (but is not limited to):

- A release to work statement from the evaluating Substance Abuse Professional.
- A negative test for drugs and/or alcohol requirement for future going forward.
- An agreement to unannounced frequent follow-up testing for a period of one to five years with a least six tests performed the first year. Follow-up testing beyond one year will be at the recommendation of the evaluating SAP.
- A statement of work-related behaviors.
- An agreement to follow specified after care requirements with the understanding that violation of the re-entry contract is grounds for termination.

5.0 Training

Supervisor and Employee Training

This training will include an explanation of the dangers of substance abuse, the prohibited conduct of all employees, the testing requirements, the rights of management and employees, steps to take following an accident and the disciplinary consequences of substance abuse.

APPENDIX A

All County employees are subject to reasonable suspicion testing. The following positions are designated as safety sensitive categories and are subject to random, pre-employment testing, and reasonable suspicion testing. Certain CDL and heavy vehicle operators may be subject to DOT and Federal Motor Carrier Safety Administration policies and other applicable federal regulations:

<u>Department</u>	<u>Position Title</u>
Emergency Management	Director of Emergency Management Emergency Management Specialist Emergency Management Coordinator
Fire Marshal	Fire Marshal Deputy Fire Marshal Fire Inspector
General Services	Director Deputy Director Horticulturist Housekeeping Supervisor Maintenance Supervisor Maintenance Workers Maintenance Mechanics Housekeepers
Library	Outreach Coordinator
Solid Waste	Superintendent Solid Waste Specialist Solid Waste Enforcement Officer
Tax	Appraisal Manager Real Property Appraisers Revaluation Coordinator
Soil Conservation	Conservation Supervisor
Recreation	Director Asst. Parks and Recreation Director Athletic Supervisor Parks Operation Supervisor

Sheriff's Office

Armed Law Enforcement Officers
Communications Dispatchers
Detention Officers

COLTS

All Employees

Health Department

Environmental Health Specialist
Environmental Health Supervisor
Environment Health Program Specialist
Public Health Nurse I
Public Health Nurse II
Public Health Nurse III
Public Health Nurse Supervisor
Lab Technician II
Physician Extender

Social Services

Social Worker IA & T
Social Worker III
Social Worker II
Social Worker I
Community Social - Services Assistant
Social Work Program Manager

ADDENDUM A - County of Lee Transit System Drug and Alcohol-Free Workplace Policy

**DRUG AND ALCOHOL TESTING POLICY
County of Lee Transit System
Adopted as of February 5, 2024**

A. PURPOSE

- 1) The County of Lee Transit System provides public transit and paratransit services for the residents of Lee County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, The County of Lee Transit System declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy statement as a condition of employment. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions, and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.
- 3) Any provisions set forth in this policy that are included under the sole authority of The County of Lee Transit System and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of The County of Lee Transit System will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

B. APPLICABILITY

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the dispatch or movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

C. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies.
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Alternate specimen: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Employee: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Evidential Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid.

Invalid Result: The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of HHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

Limit of Detection (LOD): The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

Limit of Quantification (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

Negative result: The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

Oral Fluid Specimen: A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

Oxidizing Adulterant: A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Primary specimen: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary ("A") specimen by the collector to distinguish it from the split ("B") specimen, as defined in 49 CFR Part 40, as amended.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second HHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling dispatch or movement of a revenue service vehicle and
- (5) Carrying a firearm for security purposes.

Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

Split Specimen: In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

Split specimen collection: A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: An employee's specimen not consistent with a normal human specimen, as determined by HHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
- (6) Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.
- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine collection .
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.

- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Undiluted (neat) oral fluid: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

Urine specimen: Urine collected from an employee at the collection site for the purpose of a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

D. EDUCATION AND TRAINING

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.
- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable

suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

E. PROHIBITED SUBSTANCES

- 1) Prohibited substances addressed by this policy include the following.
 - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended.

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a County of Lee supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.

- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

F. PROHIBITED CONDUCT

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
 - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
 - i. The employee's alcohol concentration measures less than 0.02; or
 - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) The County of Lee Transit System under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
- 8) Consistent with the Drug-free Workplace Act of 1988, all County of Lee Transit System employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including transit system premises and transit vehicles.

G. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the County of Lee Transit System management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in this policy.

H. TESTING REQUIREMENTS

- 1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under The County of Lee Transit System authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with The County of Lee Transit System . Any

safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy.

I. DRUG TESTING PROCEDURES

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to The County of Lee Transit System. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The County of Lee Transit System will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however The County of Lee Transit System will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) Observed collections
 - a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:
 - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to The County of Lee Transit System that there was not an adequate medical explanation for the result.
 - ii. The MRO reports to The County of Lee Transit System that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
 - iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute

and that a second collection must take place under direct observation (see §40.197(b)(1)).

- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
- v. The temperature on the original urine specimen was out of range (See §40.65(b)(5));
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).
- vii. All follow-up-tests; or
- viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted by a person of the same gender as the donor as required by 49 CFR Part 40.67.

J. ALCOHOL TESTING PROCEDURES

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by

49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in this policy. An alcohol concentration of less than 0.02 will be considered a negative test.
- 3) The County of Lee Transit System affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

K. PRE-EMPLOYMENT TESTING

- 1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.
 - a. All offers of employment for the covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
 - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
 - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant

must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

- d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy.
- e. If a pre-employment test is canceled, The County of Lee Transit System will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide The County of Lee Transit System with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. The County of Lee Transit System is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide The County of Lee Transit System proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

L. REASONABLE SUSPICION TESTING

- 1) All County of Lee Transit System FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under the County of Lee Transit System authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.
- 2) The County of Lee Transit System shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the The County of Lee Transit System.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy. The County of Lee Transit System shall place the employee on administrative leave in accordance with the provisions set forth under this policy. Testing in this circumstance would be performed under the direct authority of the County of Lee Transit System. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority.** However, self-referral does not exempt the

covered employee from testing under Federal authority as specified in this policy or the associated consequences.

M. POST-ACCIDENT TESTING

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) **NON-FATAL ACCIDENTS** – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
 - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
 - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that The County of Lee Transit System unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the County of Lee Transit System may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

N. RANDOM TESTING

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under company authority will be selected from a pool of non-DOT-covered individuals.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.

- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under The County of Lee Transit System authority.
- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under The County of Lee Transit System authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

O. RETURN-TO-DUTY TESTING

The County of Lee Transit System will terminate the employment of any employee that tests positive or refuses a test as specified in this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

P. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

Q. RESULT OF DRUG/ALCOHOL TEST

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
 - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
 - b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.

- c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
 - d. In the case of a directly observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
 - e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
 - f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
 - g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
 - h. Fail to cooperate with any part of the testing process.
 - i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed urine collection.
 - j. Possess or wear a prosthetic or other device used to tamper with the collection process.
 - k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
 - m. Fail to remain readily available following an accident.
 - n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) An alcohol test result of ≥ 0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
- a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement.
 - b. Failure to execute or remain compliant with the return-to-work agreement shall result in termination from the County of Lee Transit System employment.
 - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test

is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy is under the sole authority of the County of Lee Transit System and will be performed using non-DOT testing forms.

- c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.
 - d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy.
 - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy.
 - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with The County of Lee Transit System.
 - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

R. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

S. PROPER APPLICATION OF THE POLICY

The County of Lee Transit System is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to

subordinates, shall be subject to disciplinary action, up to and including termination.

T. INFORMATION DISCLOSURE

- 1) Drug/alcohol testing records shall be maintained by the County of Lee Transit System Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the County of Lee Transit System] or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
- 11) In the case of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the Lee County Board of Commissioners on February 5, 2024.



Kirk D. Smith, Chair
Lee County Board of Commissioners

Attachment A

<u>Job Title</u>	<u>Job Duties</u>	<u>Testing Authority</u>
Melanie Rodgers	Director Lee County Senior Services	Oversees COLTS
Meta McCune	Director Lee County Human Resources	Oversees Drug and Alcohol Policy
Cynthia Correa	Human Resources Technician	Oversees Pre-employment and Random Drug Testing
Tonya Surratt	Transportation Coordinator County of Lee Transit System Supervisor	Relays Information to COLTS Staff

Attachment B Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

County of Lee Drug and Alcohol Program Manager

Name: Cynthia Correa
Title: Human Resources Technician
Address: 408 Summit Drive Sanford NC 27330
Telephone Number: 919-718-4615 Ext. 5563

Medical Review Officers

Name: Dr. Charlton Norman Owensby
Title: Medical Review Officer
Address: 2000 N Drexel Blvd. Oklahoma City, OK 73107
Telephone Number: 704-455-7500

Names: Dr. Ann Marie Richards or Dr. James Liffbrig
Title: Medical Review Officers
Address: 150 Ivey Lane, Pinehurst, NC 28374
Telephone Number: 919-215-5210

Substance Abuse Professional #1

Name: Gene P. Smith, CSAP, LSAP
Title: Executive Director - Life Changes Inc.
Address: PO Box 531 Danville VA 24543
Telephone Number: 434-822-6600 or 800-776-3022

Substance Abuse Professional #2

Name: Robert Asemota, MS, LCAS SAP
Title: President/CEO, OSA Assessment and Counseling Services, Inc.
Address: 202 Kelly Place, Suite 101 High Point, NC 27262
Telephone Number: 336-882-6859 FAX 336-882-6850

HHS Certified Laboratory Primary Specimen

Name: LabCorp
Address: 1904 T.W. Alexander Drive, RTP, NC 27709
Telephone Number: 919-572-6900

ARPA MB^2

MB^2 Beginning Balance					\$ 8,000,000.00
	Appropriated	Expended	Remaining	Reobligate	
BOC Approved Projects	\$ 5,866,148.98	\$ 1,859,427.01	\$ 4,006,721.97	\$ 45,457.91	
Mental Health- BOC Approved	\$ 1,550,225.00	\$ -	\$ 1,550,225.00		
Optional Proposal Funds	\$ 180,000.00		\$ 180,000.00		
	\$ 7,596,373.98				
BOC Approved Projects	Appropriated	Expended	Remaining	Reobligate	
BOC Chambers	\$ 2,000,000.00	\$ -	\$ 2,000,000.00		
Bob Hales Reno	\$ 422,161.00	\$ 290,160.00	\$ 132,001.00		
OMI Service Project	\$ 315,000.00	\$ 262,500.00	\$ 52,500.00		
Jail Full Body Scanner*	\$ 159,000.00	\$ 159,000.00	\$ -		
Affordable Housing- Brick Capital/City of Sanford	\$ 850,000.00	\$ -	\$ 850,000.00		
Sports Lighting at OT Sloan*	\$ 425,000.00	\$ 409,251.00	\$ 15,749.00	\$ 15,749.00	
Basic Needs	\$ 4,000.00	\$ 2,688.94	\$ 1,311.06		
Safe Sleep	\$ 2,000.00	\$ -	\$ 2,000.00	\$ -	
Safe Travel	\$ 2,148.98	\$ 284.81	\$ 1,864.17	\$ -	
Safe Space	\$ 2,000.00	\$ 2,000.00	\$ -	\$ -	
Rental/Utility assistance for Seniors	\$ 50,000.00	\$ 33,953.17	\$ 16,046.83		
Lucas CPR Machines*	\$ 96,000.00	\$ 95,395.03	\$ 604.97	\$ 604.97	
Parks and Rec- Gymnastics Renovation*	\$ 100,000.00	\$ 100,000.00	\$ -		
Horton Sanitation Facility- Additional funds	\$ 125,000.00	\$ 95,896.06	\$ 29,103.94	\$ 29,103.94	
Urgent Repair program	\$ 250,000.00	\$ 125,000.00	\$ 125,000.00		
Playground at Temple Park*	\$ 150,000.00	\$ 150,000.00	\$ -		
Shelter with Restrooms at Temple Park	\$ 160,000.00	\$ 133,298.00	\$ 26,702.00		
Historic Courthouse Project	\$ 153,839.00	\$ -	\$ 153,839.00		
R.E.N.E.W - Well-Being Initiative	\$ 500,000.00	\$ -	\$ 500,000.00		
AFP Grant Match for O.T. Sloan	\$ 100,000.00	\$ -	\$ 100,000.00		
Total BOC Approved:	\$ 5,866,148.98	\$ 1,859,427.01	\$ 4,006,721.97	\$ 45,457.91	
Subtotal MB^2 Dollars					\$ 2,179,308.93
Mental Health Initiative- BOC Approved	Appropriated	Expended	Remaining		
Pre-Trial Community Social Worker (Grade 71-with benefits-1yr)**	\$ 94,480.00	\$ -			
Undetermined projects	\$ 1,455,745.00	\$ -			
Total Health Initiative:	\$ 1,550,225.00	\$ -			
Subtotal MB^2 Dollars					\$ 629,083.93
Remaining Proposed Optional Projects	Estimated Cost				
Town of Broadway Grant Match (Water Sewer)	\$ 180,000.00				
Hazardous Waste Mitigation at Moore Center	\$ -				
	\$ 180,000.00				
Subtotal MB^2 Dollars					\$ 449,083.93

*Projects that have been completed

FOUNDATION FORWARD
BUILDING
YOUR CHARTERS OF FREEDOM
SETTINGS

Declaration of Independence – U.S. Constitution – Bill of Rights
and the Civil Rights Amendments

SETTING v. MONUMENT
Dr. DAVID W. STREATER
Director of Education

Copyright 2024

--FOUNDATION FORWARD--

501 (c)(3) NON-PROFIT

^x

Apolitical and Areligious

Take advantage and practice your

Constitutional Rights!

^x

WORKS OVER WORDS

^x

AN EDUCATIONAL ORGANIZATION

-ACCESS-

-EDUCATION-

-COMMUNITY-

WHAT IS FOUNDATION FORWARD?

Foundation Forward is a non-profit education project. It is an organization that builds *Your* Charters of Freedom Settings in communities across the country.

Our Passion is to provide easy and open Access for all to visit these founding documents:

Declaration of Independence,
United States Constitution,
Bill of Rights,
and
Civil Rights Amendments

Our Vision is to provide this *Access and Education* in all communities across the United States of America.

Our Aim is to educate people and preserve American history.

[See our Video](#)



The Rotunda for The Charters of Freedom

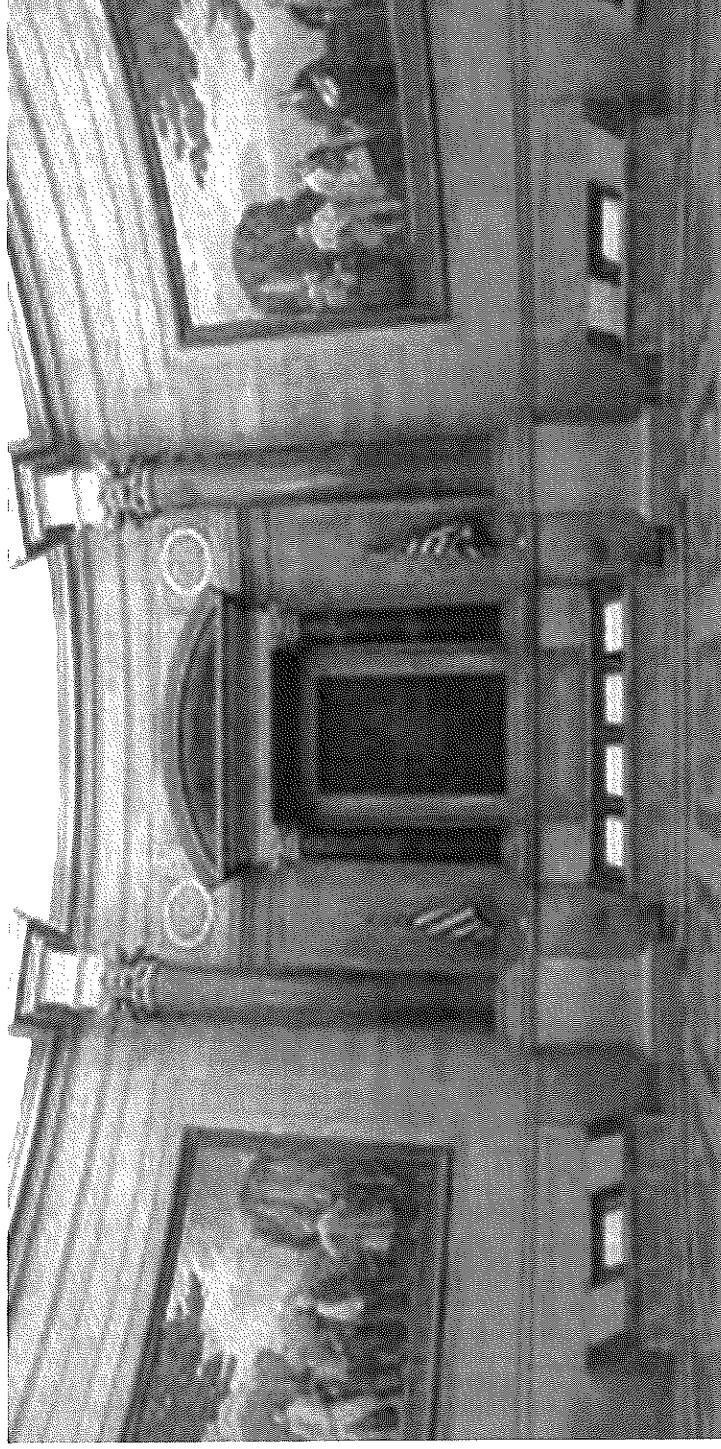
SCOPE OF PROJECT

Design and build replicas of the Charters of Freedom display as exhibited in the National Archives Rotunda, Washington, D.C. in communities.

The display *must* be central and open to the community 24/7, with high visibility, voluminous foot traffic, and easy access for students, veterans, and all others.

**When BUILDING SETTINGS --
Documents in order--as displayed in The National
Archives.**

**Declaration of Independence on the left;
United States Constitution in the center;
Bill of Rights on the right.**





United States Constitution

The Declaration of Independence

The Bill of Rights

Beautiful Dedication Days

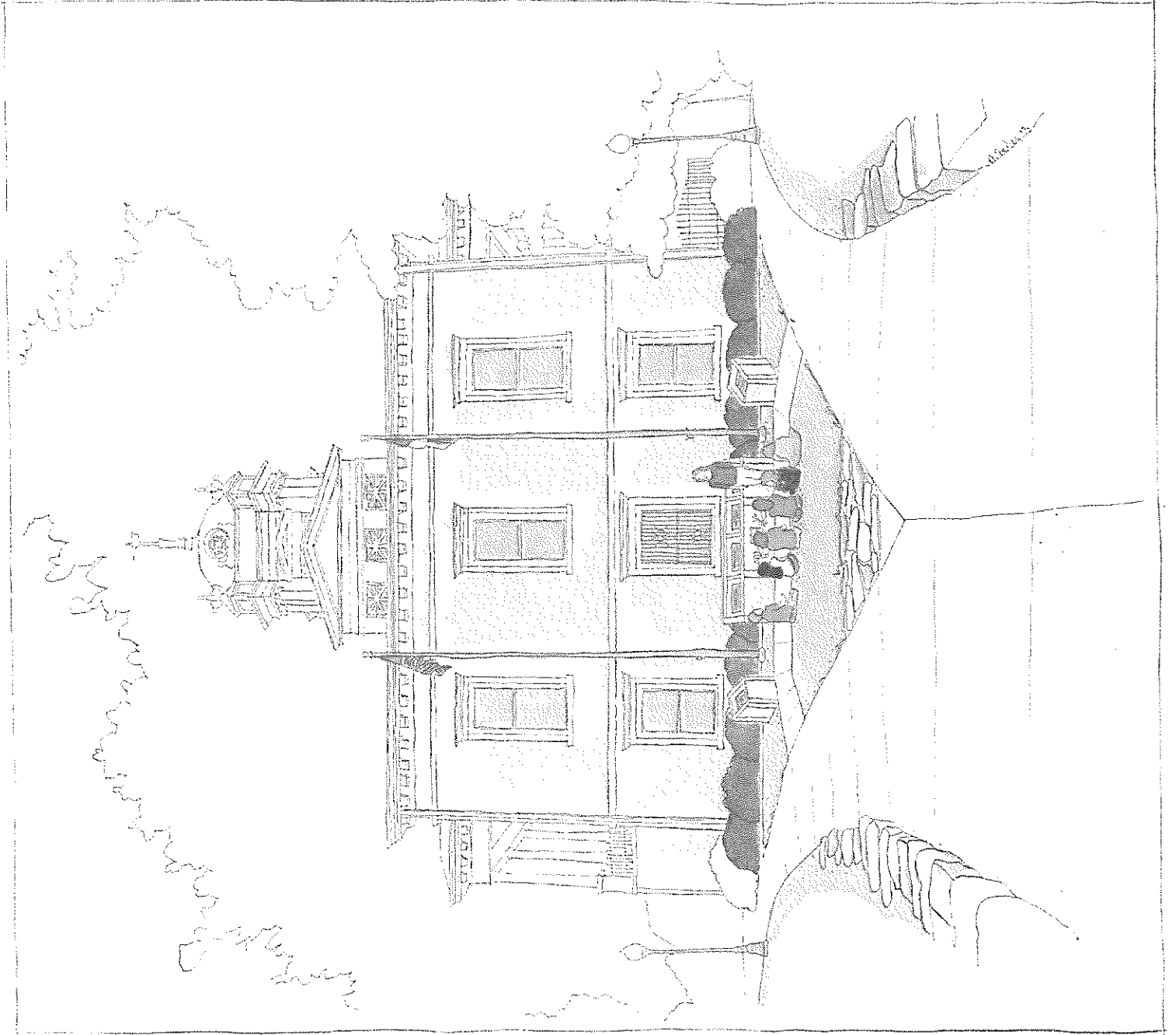


- Burnsville, North Carolina
- September 25, 2017



Morganton, NC 2014

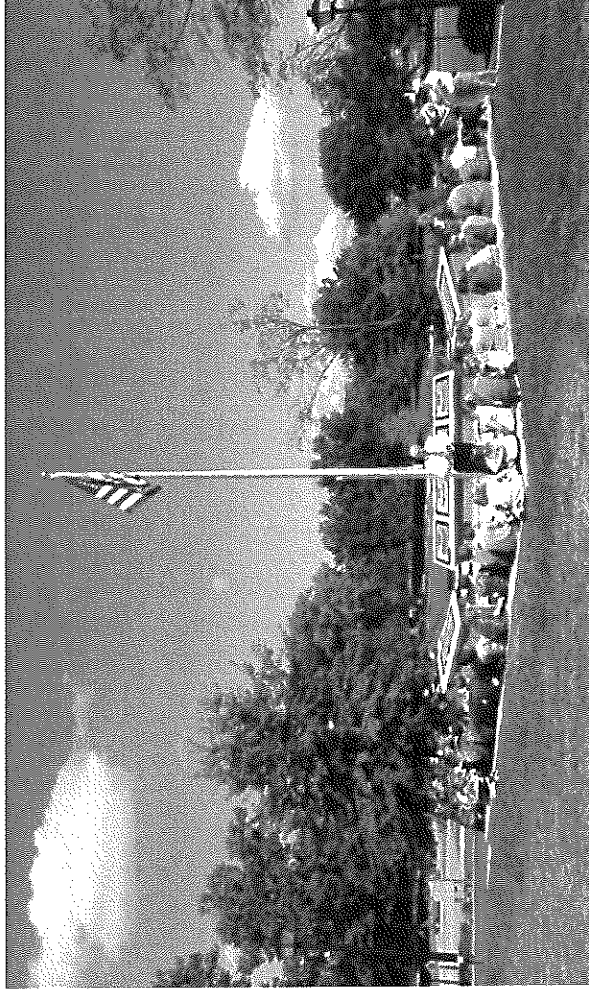
Artist Rendition of Teacher and Students



Experiential Learning On Field Trips



Students with Dr. Ben
Franklin & Dr. Streater,
Franklin, NC



Another example
of teacher and
students

FOUNDATION FORWARD

AN

EDUCATION

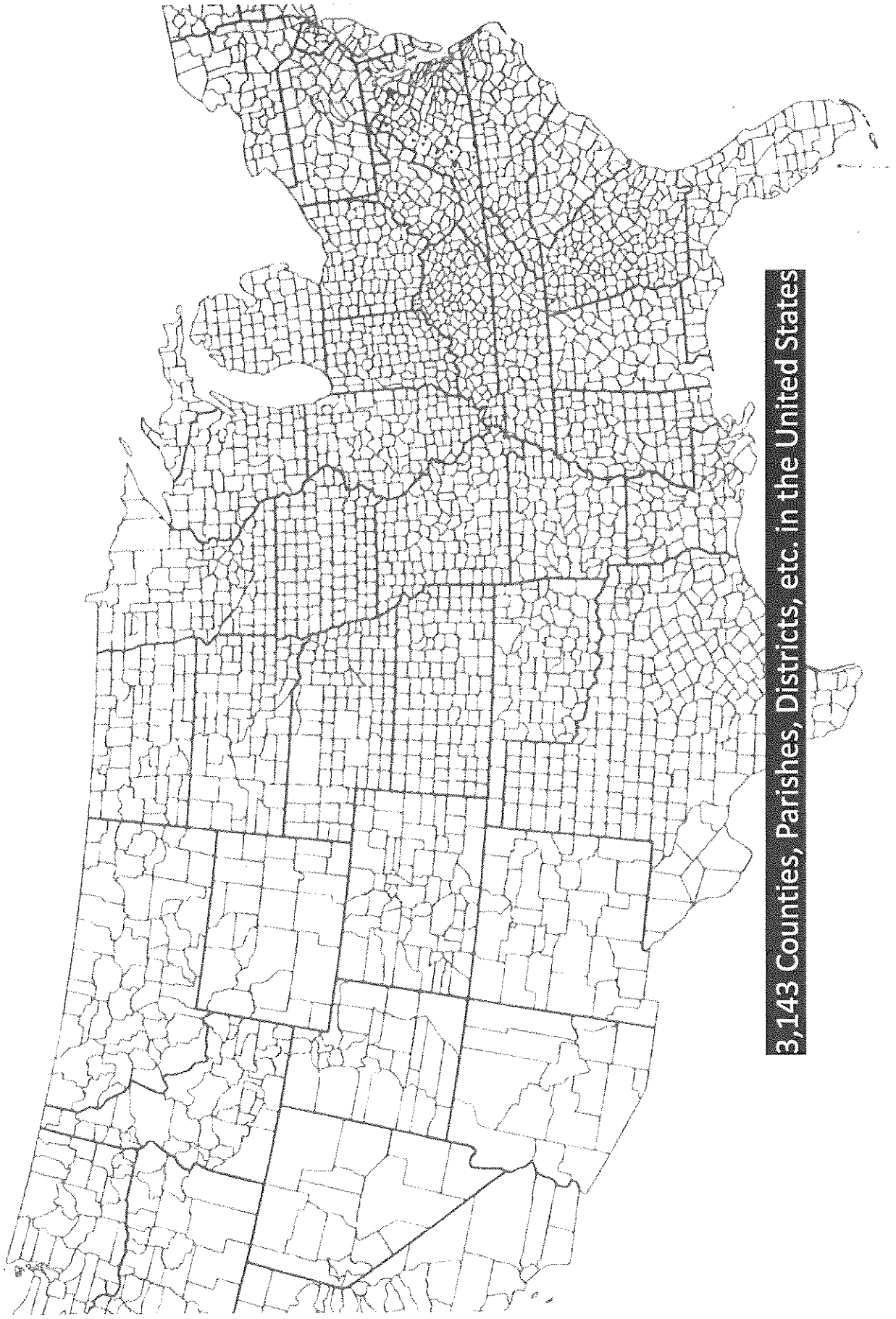
NON-PROFIT

ORGANIZATION

**PROVIDING CHARTERS OF FREEDOM
SETTINGS WITH**

**COMPLIMENTARY ACCOMPANING
EDUCATIONAL MATERIALS**

For Students and Teachers



3,143 Counties, Parishes, Districts, etc. in the United States

FOUNDATION FORWARD IS ABOUT

*

EDUCATION

*

ACCESS

*

COMMUNITY

*

USEFUL PURPOSES

*

Uses: Field Trips for students, Constitution Day events, Guard and Reserves Deployments, Holiday events such as 4th of July, Veterans' Day, Labor Day, family and individual pictures, awards ceremonies for public and private entities, weddings, public announcements, news announcement events, military promotions, Girl and Boy Scouting events, service awards such as American Legion, Marine Corps League, VFW, Lions Club, Civitan, Rotary Club, church events, etc.

Use your imagination!

PROJECT SEQUENCE

- Presentation to Local Government/Community
 - Acceptance of Project with Site Approval
 - Letter of Intent / Memo of Understanding Signed
 - Community Support Implemented
 - Building/Construction of Charters of Freedom Setting
- Dedication Date established upon ~50 - 75% Construction Completed
- Recognition Plaques & Time Capsule Sealed ~ Six Months after Dedication
 - EDUCATION MINDED
 - OPEN & COMMUNITY ORIENTED 24/7
 - EASY TO ACCESS FOR STUDENTS, VETERANS, AND THE GENERAL PUBLIC
 - AVAILABLE PARKING FOR FIELD TRIPS

Charters of Freedom Setting Project

- Aspects of Foundation Forward
 - Charters of Freedom Setting of three or four pedestals
 - Rubbings on Constitution and front Foundation Forward Seal
 - Lights in Document Chambers
 - Field of Honor & Legacy Pavers
 - Doner Pedestals & Plaques
 - Safe for Time Capsule
 - Dedication Ceremony
 - Time Capsule Ceremony
 - Video How to Care for Setting
 - Complementary Education Materials for Teachers & Students
 - Monthly Education Moment in local newspapers and radio
- Aspects of the Community
 - Appropriate Site Location and Plot Size
 - Any Flag Poles
 - Electrical Supply to Setting for Chamber Lights
 - ADA Sidewalks & Runups
 - Landscaping Near & Around
 - Spotlights and Like - option
 - Contacts to Schools and Media for Education Purposes

THANK YOU!
WOULD YOU LIKE TO HELP?
HELP US SPREAD THE NEWS!

NETWORKING TO PRESENT THIS PROGRAM TO SCHOOL, CIVIC, MILITARY,
CHURCH, OTHER GROUPS, ETC.

FOUNDATION FORWARD

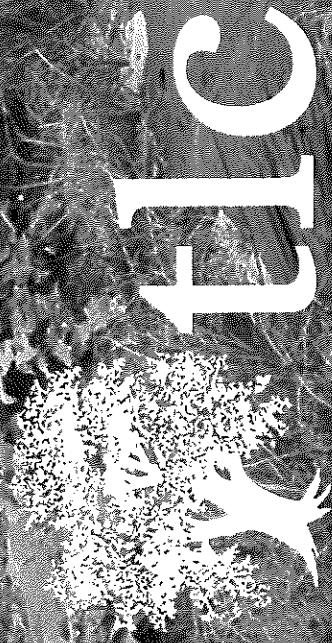
--AN EDUCATION NON-PROFIT ORGANIZATION--

David W. Streater, PhD, MS

Director of Education

***Contributions and In-Kind Services and
Materials are Appreciated***

Lee County Farmland Protection



TRIANGLE LAND
CONSERVANCY



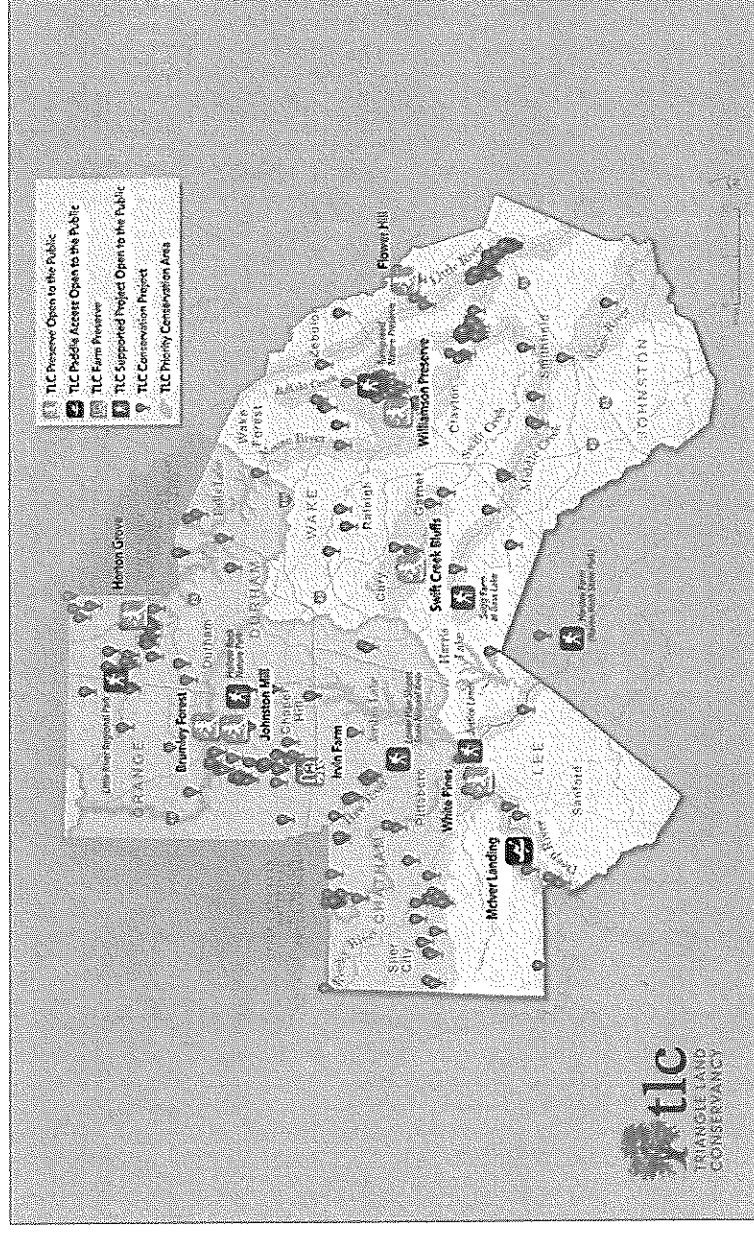
Preserving working lands for the future

Triangle Land Conservancy



TLC strives to create a healthier and more vibrant Triangle region by safeguarding clean water, protecting natural habitats, supporting local farms and food, and connecting people with nature through land protection and stewardship, catalyzing community action, and collaboration.

- Founded in 1983
- 7 public nature preserves and one public boat access
- First nature preserve was White Pines on the Deep River

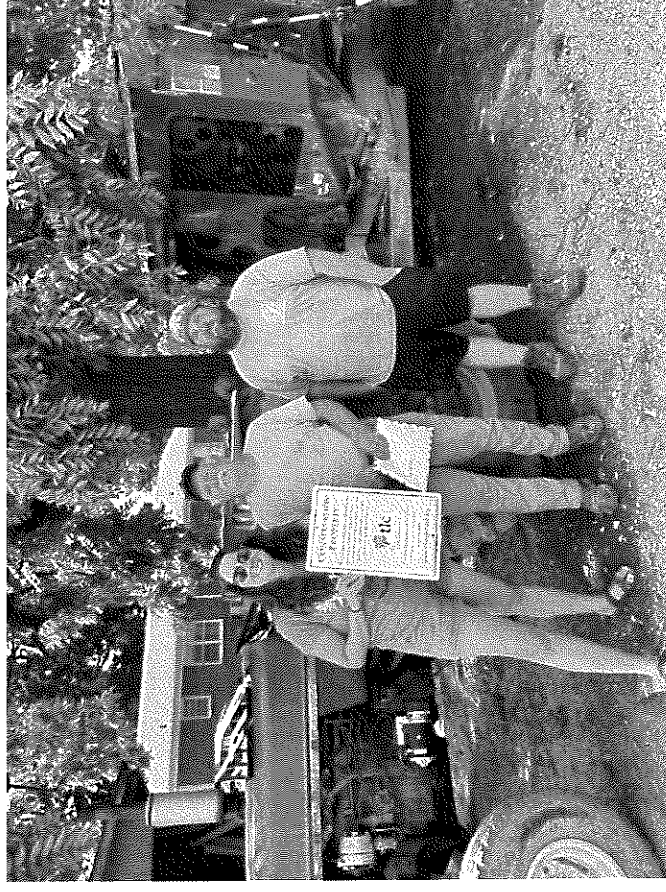


TLC has helped conserve almost 25,000 acres across the Triangle through acquisitions, conservation easements, and transfers including Endor Iron Furnace and a portion of Raven Rock State Park

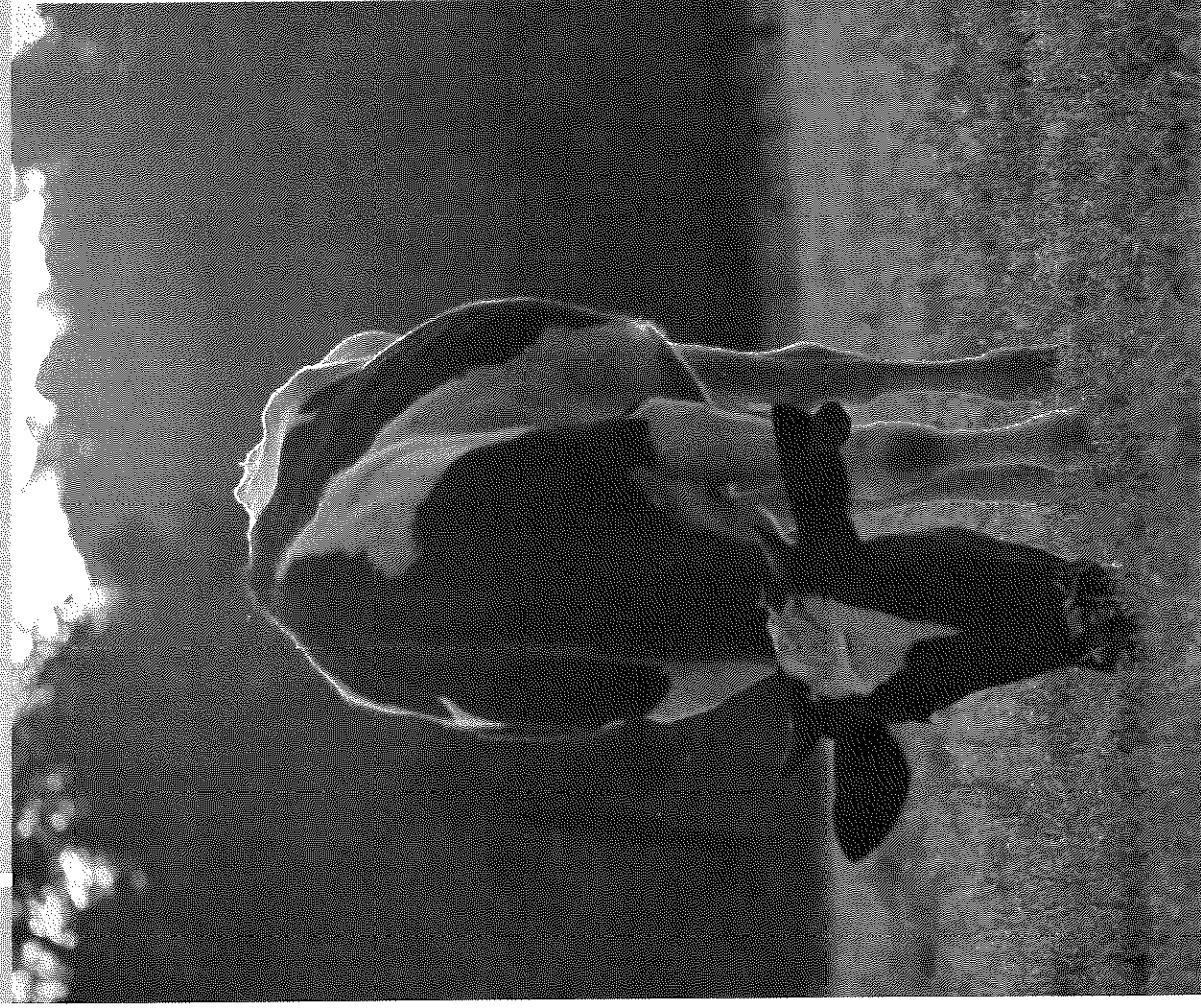
Supporting Local Farms and Food



- TLC works with willing landowners to acquire conservation easements on working farms and forests
 - Voluntary legal agreement that limits uses inconsistent with agricultural production and conservation values
 - Landowners **still own** the land and can use, sell or pass land on to heirs
 - Conservation easements do **not** allow public access
- TLC typically acquires conservation easements using some combination of federal, state, and local dollars plus landowner donation (a “bargain sale”)
- TLC staff monitor conservation easements annually to ensure they are followed and continue landowner relationships



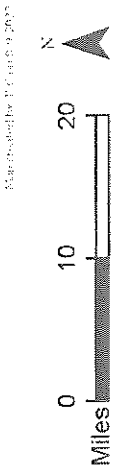
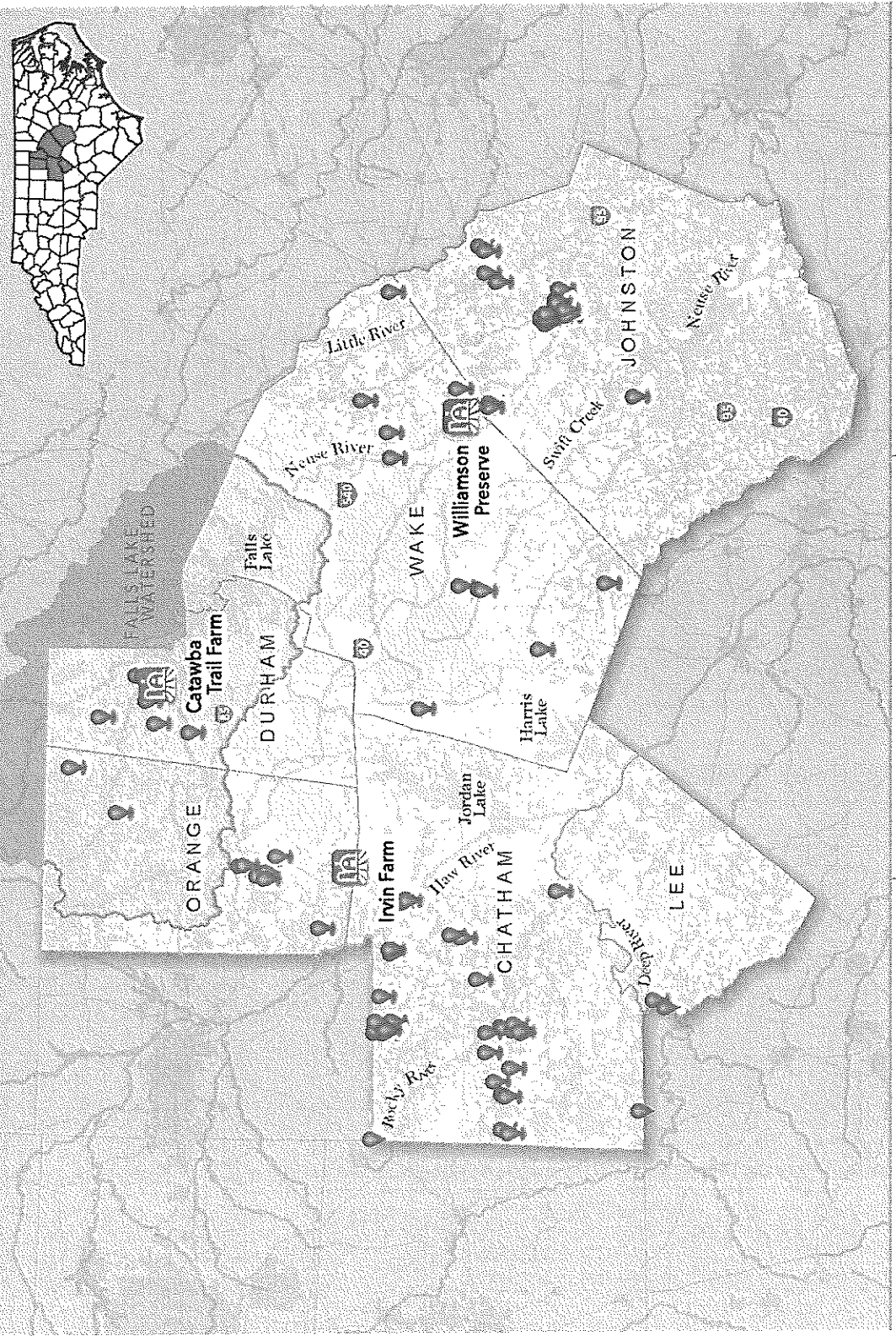
Conservation Easement Benefits






Benefits to Community

- Conservation easements preserve working lands for open space, food security, and communities' livelihoods
- Prime soils are protected for future agricultural use
- Properties with conservation easements have a reduced value, so it's easier for farmers to start or expand operations
- Agricultural lands generate more money than they use—more protected farms means more net providers of tax dollars
- Farms and forests provide flood resilience and wildlife habitat in addition to food and fiber

TLC Working Lands



**Triangle Working Lands Initiative
Benchmark Map**
98 agricultural easements held on 8,090 acres

-  TLC farm preserves
-  TLC agricultural easements
-  Parcels with Working Lands Tax Status

Map provided by TLC in 2017

Current County Partnerships

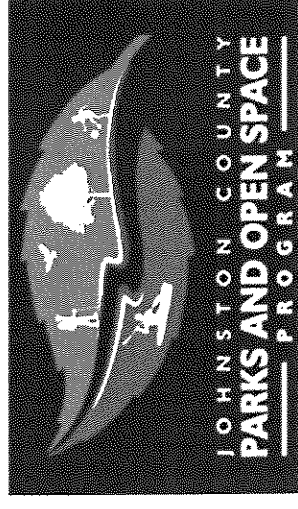
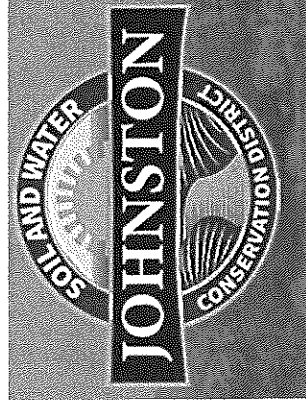
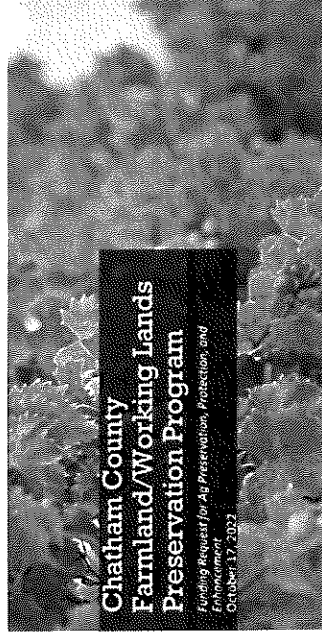


Chatham County

- In 2022 the Chatham County Board of Commissioners established a County Agricultural Preservation and Development Trust Fund
 - \$600,000 of funds dedicated from sales tax revenue
- Hired a Farmland Preservation Coordinator to work on agricultural support projects and administer county grants

Johnston County

- Johnston County has allocated funds for conservation projects in individual budget cycles
 - \$665,000 in 2022
 - \$825,000 in 2023
 - \$110,000 from rollback taxes-3 years of back taxes paid when farms are converted to non-agriculture use



Current County Partnerships

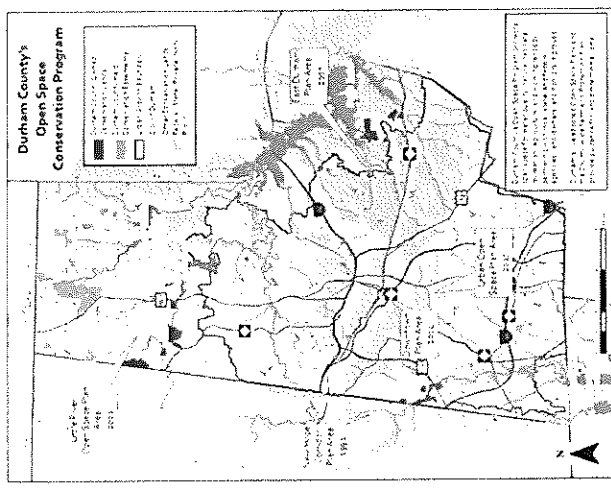


Durham and Orange

- TLC works with both counties similarly-partnering on specific projects that help them achieve their Open Space and Land Use Plans
- Both counties contribute approximately \$500,000 annually for open space conservation projects, including agricultural conservation easements

Wake County Farmland Preservation Program

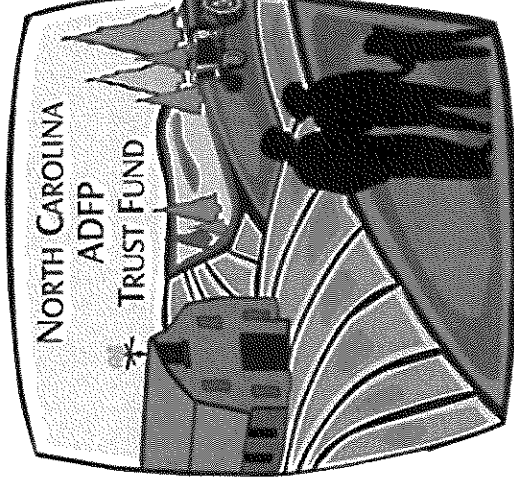
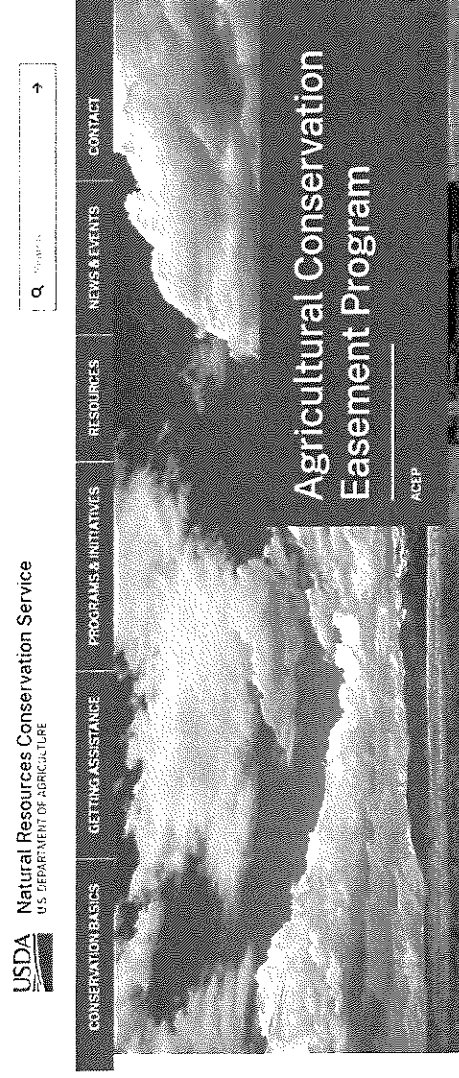
- Approved in June 2022 and hired Farmland Preservation Coordinator
- Funded with rollback taxes-money from lost farms is invested in protection of remaining farms
- Approximately \$3 million of rollback as of January 2024



Leveraging County Investment



- US Department of Agriculture – Natural Resource Conservation Service (NRCS)
- North Carolina Agricultural Development and Farmland Preservation Trust Fund (ADFP)
 - Competitive state grant program that funds agricultural conservation easements
 - Local Agriculture Growth Zone program is new; provides state matching funds for dedicated county funds
- Landowner in-kind donation of value
 - Almost all TLC conservation easement projects have some level of landowner donation involved



Success Stories



Hatchers Bridge Tree Farm-98 acres Johnston Co
Owned by the Barnes family since the 1940s, demonstration site for best ag and forestry practices

Funding:
Johnston County (38%)

NC ADFP (49%)

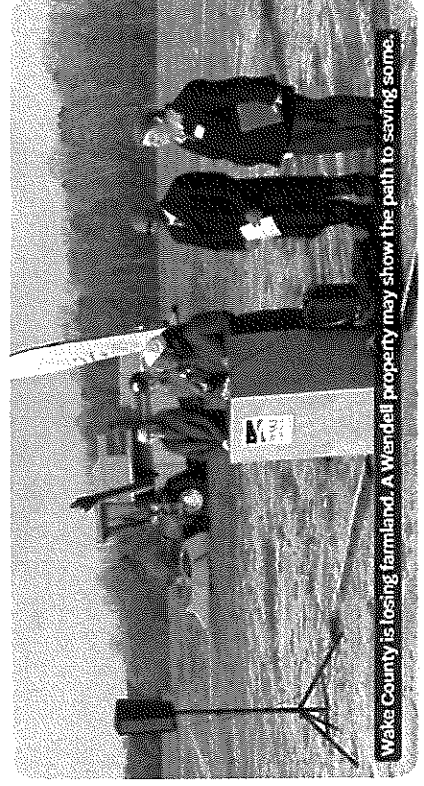
Landowner Donation (13%)



The News & Observer
@newsobserver

Wake County is losing farmland. A Wendell property may show the path to saving some.

...



Wake County is losing farmland. A Wendell property may show the path to saving some.

From newsobserver.com

Bailey Farm-125 acres Wake Co

Produce farm-zucchini, squash, sweet potatoes

Funding:

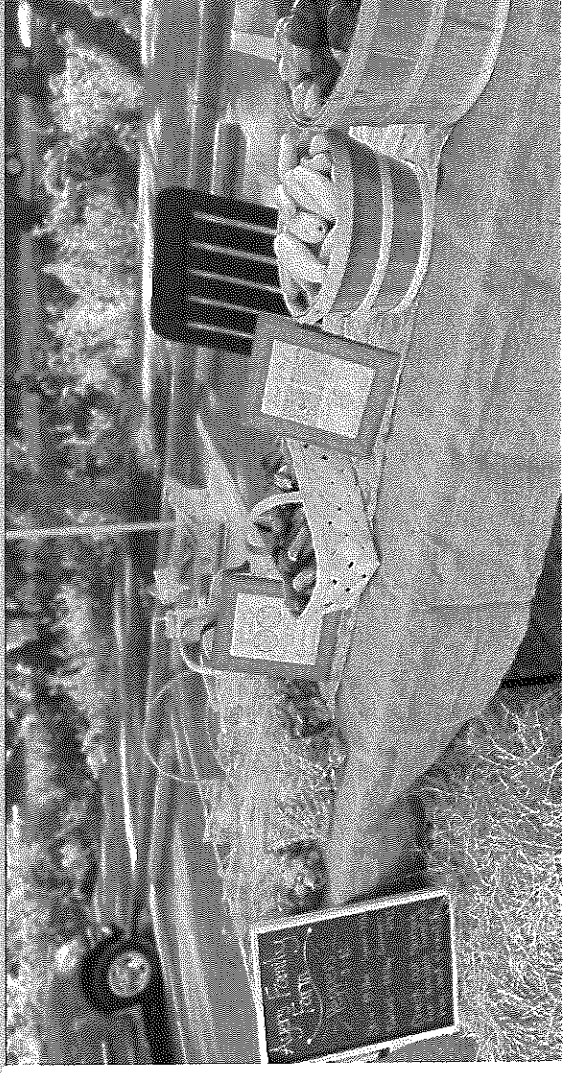
Wake County Farmland Preservation Program (40%)

Landowner Donation (60%)

Ayers Family Farm - Lee County



- Current ADFP application-first in Lee County
- ADFP PUV program-State would fund 75% and Ayers will donate 25%
- Easement value is \$729,508
- State funding decision will be announced in fall. Still seeking \$16,000 in match for stewardship endowment



Farms and Forests in Lee County Today



Lee County Farms

- 250 farms
- Almost 40,000 acres of farmland
- 99% family farms

Lee County Forests

- Over 94,000 acres of private timberland
- Makes up 58% of the county

Total Working Lands Contribution

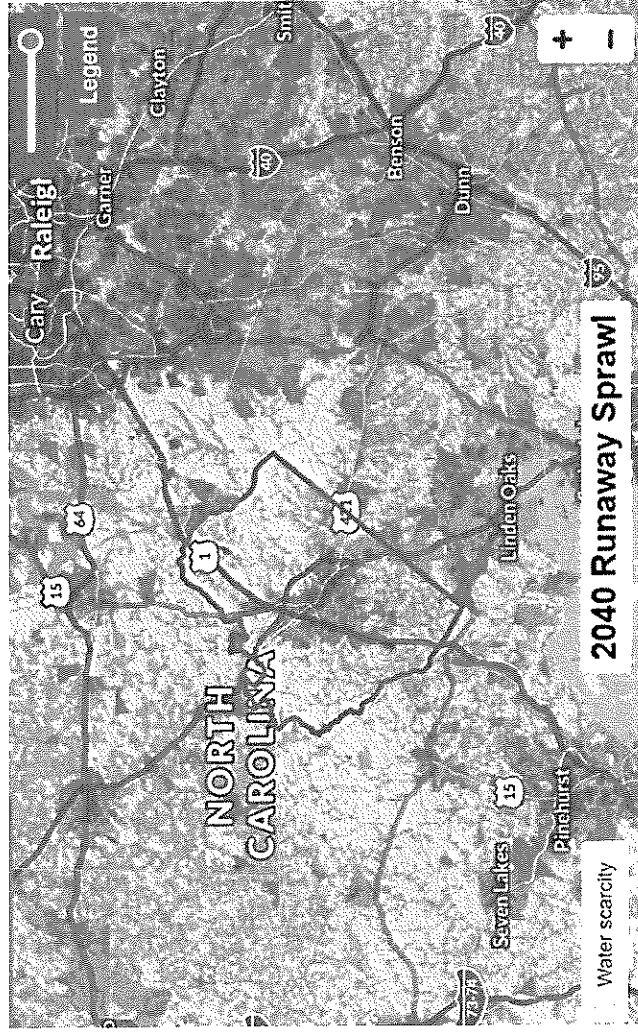
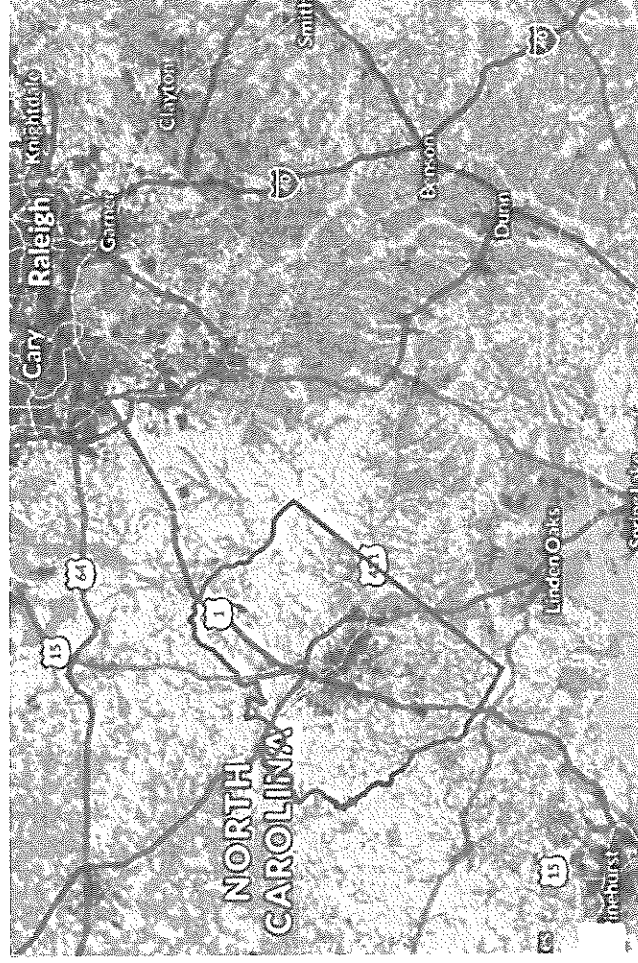
- Farms generate \$40 million a year for Lee County
- \$283 million combined with other agriculture and agribusiness
- Many local jobs supporting agriculture (feed and equipment sales, processing, marketing and selling products)

A Changing Landscape



FARMS UNDER THREAT 2040

American Farmland Trust



- North Carolina is second in the country for farmland loss (1.1 million acres by 2040)
- \$1.25 billion reduction in farm output and eliminate 19,600 jobs
- AFT model is national scale-doesn't account for specific local change (influx of industry)

Investing in Agriculture



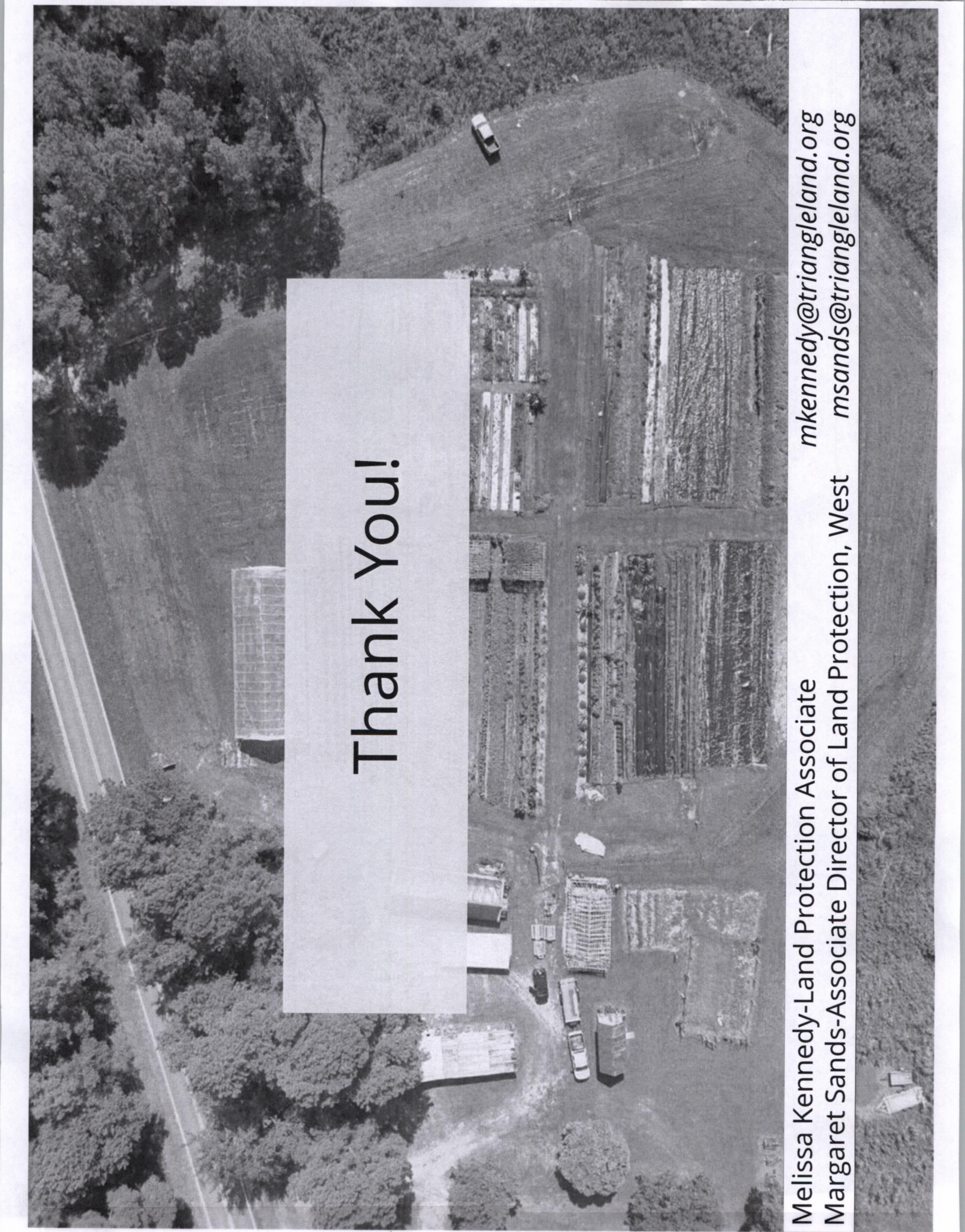
- Proactive County Planning
 - Lee County funding for agricultural conservation puts Plan SanLee into action
 - Objective 6: **“Promote the long-term sustainability of Lee County’s rich rural and agricultural heritage by directing growth away from productive farming areas and concentrating development in urbanized portions of the county”**
 - Funding agricultural conservation easements would create blocks of protected lands, helping combat sprawl in rural areas
 - Supported by Lee County Working Lands Protection Plan (2010)
 - Recommendation 1: **“Begin preliminary discussion of a public/private funding partnership for farmland preservation programs with local government, the public and local business sector”**
- Community Support from Plan San Lee
 - “Many expressed that growth and higher density growth should be focused in areas where it is most suitable”
 - “A strong desire existed to preserve open space and farmland”
 - “Residents valued the small town feel and rural character of the community”

Sustaining the Future



- TLC requests that Lee County consider a recurring dedication of Present Use Value rollback taxes for permanent agricultural easements to balance economic growth with agricultural history
- TLC will continue to partner with landowners to place conservation easements on farms and forests in the county
- TLC will continue to leverage match funds for effective working lands protection





Thank You!

Melissa Kennedy-Land Protection Associate

mkennedy@triangleland.org

Margaret Sands-Associate Director of Land Protection, West

msands@triangleland.org

NORTH CAROLINA, LEE COUNTY
Presented for registration on this 21st day
of Feb 20, 24 at 2:00 AM/PM
recorded in Book 310 Page 990
Pamela G. Britt, Register of Deeds