

## SEPTEMBER 26, 2023 – GENERAL MEETING

Meeting called to order by Chairman Sutton at 8:45 A.M. in the Commission Chambers, Courthouse Annex, Brown County, SD. Present were Commissioners Dennert, Fjeldheim, Gage, Sutton and Wiese. The Pledge of Allegiance was led by Commissioner Wiese.

### APPROVAL OF AGENDA:

Commissioner Fjeldheim moved to approve the agenda with a change of moving Item 9 - Kylie Lange from Summit Carbon Solutions to item #5, seconded by Dennert. All members present voting aye. Motion carried.

### OPPORTUNITY FOR PUBLIC COMMENT: None

### 2024 ANNUAL BUDGET:

Commissioner Fjeldheim offered the following Resolution:

#### ANNUAL BUDGET FOR BROWN COUNTY, SD For the Year January 1, 2024, to December 31, 2024

#### RESOLUTION #42-23

#### ADOPTION OF ANNUAL BUDGET FOR BROWN COUNTY, SOUTH DAKOTA

Whereas, (7-21-5 thru 13), SDCL provides that the Board of County Commissioners shall each year prepare a Provisional Budget of all contemplated expenditures and revenues of the County and all its institutions and agencies for such fiscal year and,

Whereas, the Board of County Commissioners did prepare a Provisional Budget and cause same to be published by law, and

Whereas, due and legal notice has been given to the meeting of the Board of County Commissioners for the consideration of such Provisional Budget and all changes, elimination's and additions have been made thereto.

NOW THEREFORE, BE IT RESOLVED, That such provisional budget as amended and all its purposes, schedules, appropriations, amounts, estimates and all matters therein set forth, SHALL BE APPROVED AND ADOPTED AS THE ANNUAL BUDGET OF THE APPROPRIATION AND EXPENDITURES FOR BROWN COUNTY, SOUTH DAKOTA and all its institutions and agencies for calendar year beginning January 1, 2024 and ending December 31, 2024 and the same is hereby approved and adopted by the Board of County Commissioners of Brown County, South Dakota, this 26<sup>th</sup> day of September, 2023. The Annual Budget so adopted is available for public inspection during normal business hours at the office of the County Auditor, Brown County, South Dakota. The accompanying taxes are levied by Brown County for the year January 1, 2024, through December 31, 2024.

| COUNTY TAX LEVIES WITHIN LIMITED LEVY | Dollars         | \$'S/1,000 |
|---------------------------------------|-----------------|------------|
| *General County Purposes (10-12-9)    | \$17,191,689.00 | 3.588      |
| TOTAL TAXES LEVIED BY COUNTY          | \$17,191,689.00 | 3.588      |

\*These amounts include the 25% to be distributed to cities.

Seconded by Commissioner Gage. Roll call vote: Dennert-aye, Fjeldheim-aye, Wiese-aye, Gage-aye, Sutton-aye. Resolution adopted.

### SUMMIT CARBON SOLUTIONS PROJECT UPDATE:

Kylie Lange and Alex Lange from Summit Carbon Solutions met with the Commission to give a project update. Kylie stated that both Alex and she are moving to Brown County to be more hands on with the project and they heard that they need to work with County Officials and its constituents. Moving forward the goal is to have complete transparency. Kylie also informed the Commission that they are working with the Emergency Management (EM) and First Responders: they will train them and give them the equipment they will need; planning on getting a Grant to pay for the equipment. They are designing a waiver form and will submit it to

Planning & Zoning for approval. There is no route defined at this time but hoping to have a plan in the next month or so.

Jim Seurer, CEO from Glacial Lakes Energy also commented that they are dedicated to prosperity of Brown County, they buy 65 million bushels of corn from this area. In the future reduction of the Carbon Footprint is critical to their survival and the economic liability to this area, which in turn leads to success for local producers. Jim stated there is not another proven technology or project out there that lower their score by 25-30 points, this can and will qualify for tax incentives at the same time, this project will allow Glacial Lakes to be in a competitive market for corn in this community and potentially even expand, which will mean jobs for Brown County and surrounding area, more importantly higher tax revenues. Without this project Glacial Lakes may have to scale back or discontinue their capital investment particularly this area if not able to get outside city limits of Aberdeen. Jim stated looking into the future this may be their only way to get into Aviation fuel, which is a market 3 times the size of ethanol and has higher margins, which would ultimately lead to more local profits. They have plants in Mina, Huron and Watertown, also. Glacial Lakes want to collaborate again, they need our involvement, feedback, and insight so this can be a win for everyone.

Jared Bossly asked how the condemnation is going to benefit his future place, by still condemning him and going through his farm, he feels they are going to devalue every piece of land the pipeline goes through. Jared also asked why the condemnation cases are not getting dropped, when they don't have a permit. Kylie Lange stated that her understanding is that they are working towards dropping the condemnation cases, but she is not familiar with the legal process. Kylie reiterated they do not have a route at this time so they are working on developing a route that works Brown County, landowners that are interested in the project, so there will be changes made. Commissioner Gage questioned Kylie wanting to know if they had some defined routing in Brown County as of now. Kylie responded they have multiple option they are discussing but haven't made a definite route at this time. Then Gage stated Summit Carbon is wanting a conditional use permit for the pump station that was just addressed at the Planning & Zoning Commission last Tuesday, need to know how you are going to get in and out. Alex Lange stated they want to maintain that location, because have an agreement with a voluntary landowner, but how they get there is still undefined. Commissioner Gage then asked about the equipment for EM, how are they making a decision on what is necessary, Kylie says they are meeting with EM from each county and the Grant will assist with the differences.

Dennis Feickert asked if they are willing to release the full-scale plume study now if they are willing to work with EM and First Responders. Kylie stated they are reviewing the Input & Outputs Safety and Alex is working on that. Summit Carbon will be doing a presentation with this information in the future.

Commissioner Dennert stated that he would like to see plume study presented to the County Commission, also. The asked if Summit is willing to commit to not doing condemnation and Kylie replied not at this time.

Commissioner Fjeldheim asked if they are willing to work with the landowners of Brown County. Maybe they have better options for the pipeline. Kylie said they are willing to work with the public, having to sit down with landowners because don't have a permit through PUC.

Ed Fischbach shared that their landowner attorney has made 2 attempts to get the eminent domain lawsuits against 160 landowners dropped and has not gotten any response. Landowner attorney has filed a motion to dismiss, hearing will be held here on of October 4<sup>th</sup> to dismiss those cases. Ed also commented that the people have a right to say 'NO', we don't want it here.

Dewayne Siebrasse shared that 82% of the farmland is owned by Farmers and it has been passed down by generation after generation. The land is paid for so why put something on it to destroy it, he suggests using sciences for other solutions to capture the carbon. Dewayne shared that the Farm Forum addition had an article on Summit Carbon Solutions, he encouraged people to read it.

Dennis Feickert asked how many lawsuits Summit Carbon Solutions had against Brown County and if it has been dropped. Ross Aldentaler, State's Attorney Deputy stated there was 1 regarding the moratorium and it has been dropped. Dennis then questioned if the offers that Summit is making to the Counties, Sheriff Departments, etc. could be considered bribery.

Alex Lange shared that he did validate with their SD legal team, they are dropping all condemnation proceedings. Part of the condemnation proceedings, you need a PUC permit as Kylie stated we don't have one. Alex also stated that there are some landowners that are for the project and were at the Planning & Zoning meeting. Jared Bossly questioned the 70% for it because there was only 1 person at the Planning & Zoning meeting. Ed Fishbach then asked what percentage of those signed under distress or were coerced into signing. Then Ed also asked if Summit is wanting to turn over a new leaf, would they offer a list of investors, so the people know who is behind this and who is financing this project. Alex responded ultimately no because some of the funds have hundreds of investors, they don't have clarity of where the funds come from to finance projects like this. Alex

says he does know that 85% of the investors are Domestic, 10% is South Korean; vast majority is here domestically.

Amy Haselhorst and her family is one of the 160 landowners, she wanted to let everyone know this project has caused emotional and financial implications for her family. She has had Sheriff Deputies at her home and her place of business, countless times over the last 2 years and trying to explain this to their young daughters. Also, trying to explain why they can't take over their great grandfather's farm, without the fear of someone being able to come in and take it from them. They are teaching their children not to steal but that is what has been happening to them and the other 159 landowners. Amy has also been showing her children how good Government works, such as the Commission along with Planning & Zoning: they take care of the people that elected them. Amy and her husband volunteer for the Warner Fire Department and they have lots of concerns with the pipeline. Amy stated that if Summit wants to turn over a new leaf and support the farmers, she ask that they stop terrifying our children, don't steal our land, and be respectful.

Commissioner Dennert stated that the Eminent Domain Laws need to be reviewed by the Legislature and working on fixing this so the landowners have a fair shake. Some of those in Pierre working on this are Representatives Schaeffbauer and Perry, John Hanson and others. Dennert suggested that Summit Carbon Solutions work with the Legislators on Eminent Domain Reform as a sign of good faith to the people.

Dewayne Siebrasse mentioned that Private Property Rights are in the Constitution, and we need to live by the Constitution.

Commissioner Sutton shared an article that three major carbon capture and sequestration companies were told that state and local governments have the authority to regulate the location and routing of their carbon pipelines, which is the opposite of what the Commission has been told for the last year and a half. Sutton commented that Summit needs to work closely with Planning & Zoning Commission by providing input, look at routes that are less damaging and don't impact the economic growth for Brown County.

Jared Bossly shared that his kids are also afraid, families are being bullied and now they lock their doors because afraid of invasion. Neighbors are on edge and don't trust anyone that is pulling into their farms: the project just needs to end.

Ed Fischbach shared he has a letter from PHMSA if anyone would like to read it. He also reminded them that they were being sued over it. Ed feels that landowners were vindicated by PUC, PHMSA and compliment them for sticking up for the landowners.

Dennis Feickert had a final comment that its about Freedom and Property Rights instead of striping the land/house for a tax incentive.

Kylie again wanted to let everyone know they are willing to work with the people and feel free to reach out to her or Alex.

#### APPLICATION FOR OCCUPANCY – NORTHERN ELECTRIC:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve three applications submitted to provide primary electrical services by Northern Electric for occupancy of Brown County Hwy #12W in Section 24-T123N-R65W, Brown County, SD: Brown County #12W, in Section 17-T123N-R64W, Brown County, SD and Brown County Hwy #12W, in Section 19-T123N-R5W, Brown County, SD. All members present voting aye. Motion carried.

#### HIGHWAY DEPARTMENT UPDATE:

Dirk Rogers, Highway Superintendent gave a brief department update on ongoing projects: continuing to pave on Co. Rd. 16 from State Hwy. 10 south 6 miles; Brooke Brown Rd. will be done before winter and continuing to mow but may not get it all done before weather changes.

#### HIGHWAY 5-YEAR PLAN:

Time and place, as advertised to discuss and receive public comment on the 5-year County Highway and Bridge Improvement Plan. Dirk Rogers, Highway Superintendent presented his 5-year plan to the Commission outlining plans for 2024-2028.

#### WEBSITE DEMONSTRATION:

Joe Adam, IT Specialist met with the Brown County Commission to demonstrate the new website for Brown County that he has been working on to update our services.

#### BROWN COUNTY FAIR ENTERTAINMENT CONSULTANT BID:

Rachel Kippley, Fair Manager met with the Brown County Commission sharing the Brown County Fair Board would like to recommend awarding the bid to Neste Live! for the Entertainment Consultant for the 2024, 2025

and 2026 Brown County Fair. Moved by Commissioner Wiese, seconded by Dennert to award the bid, per the Fair Boards recommendation, submitted by Neste Live! in the amount of \$28,000.00 for 2024; \$29,000.00 for 2025 and \$30,000.00 for 2026 for a three-year total of \$87,000.00 plus one hotel room for a Neste Live on-site Service Representative each year. Rejecting bids from Hooked Up Entertainment @ \$73,500.00 for three years; Pepper Entertainment with a cap of \$30,000.00 annually; Monument Talent @ \$58,000.00 for three years; Romeo Entertainment @ \$99,000.00 (Option 1) and @ \$57,000.00 plus \$1/ticket sold (Option 2). All members present voting aye. Motion carried.

#### FAIR DEPARTMENT UPDATES:

Rachel Kippley, Fair Manager informed the Commission that she is wanting to start contacting Electricians to get quotes because feels the companies are booking in the fall for the following summer. They've had issues in the past with additional projects lumped into Fair week, which elevated the costs for this year. Rachel presented her letter that she would like to send out for quotes.

Rachel also shared the Commission will be receiving a letter from the Aberdeen Hockey Association in regard to some concerns during the Fair this year. She will be meeting with Duke on Friday to discuss this matter further. Commissioner Wiese commented in regard to the Dynamics and the downtime between the acts have an impact so maybe look at having 2 good acts instead of 3 in the future.

Rachel informed the Commission that she wasn't expecting the cost of the Marquee this year and they were hoping to purchase a Forklift between Fair, Fair Grounds and Parks budget. She is getting price quotes because they are in dire need of a Forklift that is in good condition.

#### LANDFILL SCALE BID:

Mike Scott, Landfill Manager and Leif Redinger, Project Engineer met with the Brown County Commission to recommend awarding the bid to Webster Scale for the Landfill Scale. Moved by Commissioner Wiese, seconded by Fjeldheim to award the bid submitted by Webster Scale in the amount of \$173,297.23, rejecting the bid from Prairie Scale @ \$189,351.68. All members present voting aye. Motion carried.

#### LANDFILL UPDATE:

Mike Scott, Landfill Manager share the Solid Waste Conference went well. He thanked Commissioner Fjeldheim for attending. They had about 125 people in attendance and had a good Landfill Tour.

#### MINUTES:

Moved by Commissioner Dennert, seconded by Wiese to approve the General Meeting minutes of September 19, 2023. All members present voting aye. Motion carried.

#### CLAIMS:

Moved by Commissioner Wiese, seconded by Dennert to approve the following claims and payroll.

Claims: Professional Fees: Aberdeen Advanced Care Ambulance \$5,350.00; Avera Medical Group Orthopedics Aberdeen \$185.32; Avera Medical Group Radiology \$347.60; Avera Medical Group University Psychiatry Associates \$3,750.00; Avera St. Luke's Hospital \$1,325.95; Brad Meehan \$357.62; CenturyLink-Lumen \$184.84; CGI, LLC \$1,691.25; Dakota Group LLC \$2,100.00; Dependable Sanitation, Inc \$36,019.20; Fox Law Firm, PLLC \$110.00; Jeremy Lund - Siegel Barnett & Schutz, LLP \$1,544.50; Lewis & Clark BHS \$639.00; Mark Katterhagen \$6.00; Mitchell Alan Vilhauer \$1,173.30; Muth Electric Inc \$29,322.69; Park Dietz & Associates, Inc \$742.50; Priority Dispatch Corp \$3,474.00; Sanford Aberdeen ED \$582.67; Sanford Clinic Radiology-North Center \$90.40; Sanford Health \$651.35; SD Dept of Health \$1,960.00; Taliaferro Law Firm, PC \$51.50; US Bank Visa \$2,420.00; Valerie J. Larson \$6.00; Yellow Robe Consulting \$9,000.00. Publishing: GateHouse Media South Dakota Holdings, Inc \$2,068.23; The Argus Leader \$21.15; Todd County Tribune/Mellette County News \$52.20; US Bank Visa \$300.00; West River Eagle \$16.59. Repairs & Maintenance: City of Aberdeen Treasurer \$9,716.50; CommTech Inc \$2,719.75; Hase Plumbing, Heating & Air Conditioning, Inc \$130.00; Hoven Auto Repair, Inc \$293.98; Lien Transportation Company \$3,836.74; Nelson Sales & Service, LLC \$91.96; NESD Specialized Washing, LLC \$2,040.00; Northstar Safety, Inc \$24.60; Olson's Pest Technicians \$440.00; Pantorium Cleaners Inc \$189.32; Safety Service \$8.25; Schwan Welding \$4,549.38; Sewer Duck, Inc \$600.00; Town & County Building Supply \$110.98; Vosika Fencing \$3,200.00; US Bank Visa \$2,818.69. Supplies: Aberdeen Chrysler Center \$70.00; Advance Auto Parts \$681.03; Amazon Capital Services, Inc \$1,254.43; Cole Paper Inc

\$883.08; Diesel Machinery, Inc \$1,963.44; Fox Law Firm, PLLC \$0.75; Gardner Locksmithing \$22.00; Geffdog Designs \$1,013.10; HF Jacobs & Son Const. Inc \$88,366.32; Hitch 'n Post \$120.00; Marco Technologies, LLC \$26.35; Menards \$626.90; Northstar Safety, Inc \$119.90; Performance Oil \$655.55; Pitney Bowes Global Financial Services LLC \$1,046.10; Runnings \$134.85; Safety Service \$137.70; Share Corporation \$2,371.20; Sherwin Williams \$350.00; Thomson Reuters-West Payment Center \$1,894.62; US Bank Visa \$13,121.91; Western Detention \$589.50. Travel & Conference: Drew Dennert \$254.20; Kathy Fischer \$220.00; Michael Gage \$239.30; Michael Wiese \$234.20; Safe Harbor \$700.00; US Bank Visa \$2,373.12. Utilities: CenturyLink \$1,144.76; Northwestern Energy \$1,279.01; US Bank Visa \$2,984.90; Verizon Wireless \$2,962.67. Others: Office of Child & Family Services \$10,646.50.

Payroll: Commission \$4,615.41; Auditor \$11,144.00; Treasurer \$16,428.74; SA \$33,526.71; Maintenance \$11,356.70; Assessor \$15,031.21; Register of Deeds \$9,932.80; VSO \$4,379.94; GIS \$2,643.52; IT \$8,974.46; HR \$4,406.95; Sheriff \$50,238.30; Jail \$66,966.84; Coroner \$146.70; Court Security \$7,056.83; JDC \$32,985.10; Welfare \$2,336.49; Museum \$11,189.04; Parks/Fairgrounds \$6,580.38; Fair \$4,107.22; 4-H \$786.80; Weed \$5,358.01; Planning & Zoning \$7,232.61; Highway \$53,163.44; Dispatch \$40,951.80; Emergency \$4,933.61; 24/7 Sobriety \$2,541.05; Landfill \$19,889.64. FICA \$26,030.64; Medicare \$6,087.82; Discovery\_HSA \$1,688.61; Health Insurance\_Wellmark BCBS \$127,891.47; Dental Insurance\_Delta \$8,589.00; Life Insurance\_Dearborn \$1,050.94 and Retirement\_SDRS \$54,332.71. All members present voting aye. Motion carried.

#### HR REPORT:

Moved by Commissioner Gage, seconded by Fjeldheim to approve the following Human Resource Report submitted by Human Resources Director, Allison Tunheim: employment ending for Caden Shelton and Brianna Locke, Brown County Fairgrounds seasonal workers; effective August 20, 2023; resignation of Dawson Anderson, Brown County Jail Detention Officer, FT; effective September 29, 2023; request to fill. All members present voting aye. Motion carried.

#### LEASE AGREEMENT:

Moved by Commissioner Fjeldheim, seconded by Wiese to approve and authorize the Chairman to sign the following Lease Agreements: Agtegra for lease of 1 People Mover on October 7, 2023; Dennis Nelson, Freddie Robinson and Les Hinds for lease of Club House on September 30, 2023, for 452<sup>nd</sup> Reunion. All members present voting aye. Motion carried.

#### ABATEMENTS/REFUNDS:

Moved by Commissioner Fjeldheim, seconded by Dennert to approve the following abatement for F & L Investments, LLC for tax year 2023: Parcel #30725 \$345.41; and refunds for F & L Investments, LLC for tax year 2022: Parcel #30725 \$447.37; for tax year 2021: Parcel #30725 \$474.91. All members present voting aye. Motion carried.

#### TRAVEL REQUESTS:

Moved by Commissioner Wiese, seconded by Gage to approve the following Travel Requests: Patricia Kendall, Marianne Marttila-Klipfel, Brandon Duxbury and Levi Margolies, Dacotah Prairie Museum staff to attend Association of SD Museums Annual Conference in Spearfish on October 8-10, 2023. All members present voting aye. Motion carried.

#### PLATS:

##### Resolution #43-23

Commissioner Wiese brought the following resolution: "Be it resolved by the Board of County Commissioners of Brown County, South Dakota, that the plat showing Donald Dennert First Subdivision in the NW ¼ and the N ½ SW ¼ and the W ½ NE ¼ and the NW ¼ NW ¼ SE ¼ all in Section 10-T126N-R62W of the 5TH P.M., Brown County, South Dakota, having been examined, is hereby approved in accordance with the provisions of SDCL 11-3 and any amendments thereof". Seconded by Commissioner Fjeldheim. All members present voting aye. Resolution adopted.

##### Resolution #44-23

Commissioner Wiese brought the following resolution: "Be it resolved by the Board of County Commissioners of Brown County, South Dakota, that the plat showing "B Miller Addition in the NE ¼ of Section 13-Township 126

North, Range 61 West of the 5TH P.M., Brown County, South Dakota, having been examined, is hereby approved in accordance with the provisions of SDCL of 1967, Chapter 11-3 and any amendments thereof". Seconded by Commissioner Fjeldheim. All members present voting aye. Resolution adopted.

#### Resolution #45-23

Commissioner Wiese brought the following resolution: "Be it resolved by the Board of County Commissioners of Brown County, South Dakota, that the following plat showing Bernie and Tonya Jark First Subdivision in the SE ¼ of Section 5-T121N-R62W of the 5TH P.M., Brown County, South Dakota, having been examined, is hereby approved in accordance with the provisions of SDCL 11-3 and any amendments thereof". Seconded by Commissioner Fjeldheim. All members present voting aye. Resolution adopted.

#### ZONING ORDINANCES - SET HEARING DATE/AUTHORIZE PUBLICATION:

Moved by Commissioner Fjeldheim, seconded by Wiese to set hearing date and authorize publication for first reading of the following zoning ordinances to be held on October 17, 2023, in the Commissioner's Chambers, Courthouse Annex, Brown County, SD. Proposed Ordinance #257, applicant of Brown County Planning & Zoning Board for purpose of rezoning the following properties from Heavy Industrial District (H-I) to Highway Commercial District (HC) to bring these parcels into compliance for their current use: Lot 1 & Lot 2 "S&C Schipke Subdivision of Lot 1, D&S Business Park First Addition", Lot 2 thru 8, "D&S Business Park First Addition" & Lot 1 thru 10, "Todd Rosebrock First Subdivision", all in the NW ¼ of Section 9-T123N-R63W of the 5th P.M., Brown County, South Dakota (4051, 4063, 4050, 4202, 4230, 4302, 4301, 4231 & 4201 Schipke Lane; 4095, 4185, 4275, 4365, 4395, 4390, 4360, 4270, 4180 & 4090 Paper Lane; Aberdeen Twp.); Proposed Ordinance #258, applicant Nickolas & Nicole Johnson for the purpose of rezoning the following properties from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: The 343.5 feet next North of the South 343.5 feet of Outlot D, "Engel Subdivision" in the NE ¼ of Section 18-T124N-R63W of the 5<sup>th</sup> P.M., Brown County, South Dakota (12625 389<sup>th</sup> Avenue, Ordway Twp.); Proposed Ordinance #259, applicant Bernie & Tonya Jark for the purpose of rezoning the following properties from Agriculture Preservation District (AG-P) to Mini-Agriculture District (M-AG) to bring this parcel into compliance for its current use: Proposed Lot 1A, "Bernie & Tonya Jark First Subdivision" in the SE ¼ of Section 5-T121N-R62W of the 5<sup>th</sup> P.M., Brown County, South Dakota (14265 396<sup>th</sup> Avenue, East Rondell Twp.). All members present voting aye. Motion carried.

#### SAFETY BENEFITS SURVEY RESULTS:

Commissioner Fjeldheim, seconded by Dennert motioned to acknowledge the Safety Benefits Survey results. Auditor Heupel asked if they wanted to implement the media policy they suggested, consensus was not at this time.

#### OTHER BUSINESS:

Commissioner Gage wanted to recognize the Dacotah Prairie Museum staff for the Abby Award they received for Community Involvement.

#### EXECUTIVE SESSION:

Moved by Commissioner Wiese, seconded by Dennert to go into Executive Session for Personnel per SDCL 1-25-2. All members present voting aye. Motion carried. The Chairman declared the executive session closed with no action taken.

#### ADJOURNMENT:

Moved by Commissioner Fjeldheim, seconded by Wiese to adjourn the Brown County Commission meeting at 11:24 a.m. All members present voting aye. Motion carried.

Lynn Heupel, Brown County Auditor

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