Lincoln, Fort Rice, Riverview, Florence Lake, Burnt Creek, Canfield, Lyman, & Phoenix Unorganized Townships

Burleigh County Commission Meeting Agenda

Tom Baker Meeting Room, City/County Office Building, 221 N 5th St, Bismarck

Attend in Person | Watch live on Government Access Channels 2 or 602 | Listen to Radio Access 102.5 FM | Stream on freetv.org or Dakota Media Access Facebook Live | Replay later from freetv.org

November 2, 2026

5:00 P.M.

Invocation and Pledge of Allegiance presented by Chaplain.

COUNTY COMMISSION

1. Meeting called to order.
2. Roll call of members.
3. Approval of Agenda.
4. Consideration of October 19, 2026, meeting minutes and bills.(Page 3)
5. **PUBLIC COMMENT.** *Restricted to Burleigh County residents and landowners.*

6. Consent Agenda: (Page 6)
    a. Abatements.
    b. Raffle permit.
    c. 2nd approach permit.
    d. Developer waiver request.
    e. Partial refund for zoning application.

7. Engineer Schriock: (Page 25)
    a. Burleigh County 2027 fee schedule.
    b. Mower tractor bid.
    c. Maintenance certification.
    d. Township maintenance agreement.
    e. Motor grader bids.
    f. Authorization to advertise for bids.

8. Sheriff Leben: (Page 84)
    a. Salary Variance request.

9. States Attorney Lawyer: (Page 86)
    a. Summit Carbon Solutions update.

10. Planning Director Flanagan: (Page 162)
    a. Ordinance amendments.

11. Finance Director Schmidt: (Page 201)
    a. 2025 Mill Levy Calculation Follow Up.

12. Commissioner Schwab: (Page 204)
    a. Apple Creek Road bridge update.
    b. Olympic torch acceptance.

13. Auditor Splonskowski: (Page 209)
    a. Auxiliary Board openings.

14. Other Business.

15. Adjourn.

The next regularly scheduled Commission meeting will be on November 16th, 2026.

Mark Splonskowski
Burleigh County Auditor

BURLEIGH COUNTY COMMISSION
MEETING MINUTES
OCTOBER 19, 2026

5:05 PM

Chairman Bitner called the regular meeting of the Burleigh County Commission to order.

Roll call: Commissioners Wayne Munson, Steve Schwab, Jerry Woodcox, Steve Bakken, and Chairman Brian Bitner were present.

Motion by Comm. Bakken, 2nd by Comm. Munson to approve the amended agenda, adding an election update and a BNSF rail bridge project update under Other Business and allowing the 2025 mill levy discussion to be heard when the State's Attorney became available. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

Motion by Comm. Munson, 2nd by Comm. Bakken to approve the October 5, 2026, meeting minutes and the bills. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.*** A detailed list of funds expended is available for public inspection upon request at the Burleigh County Auditor & Treasurer's office.

Chairman Bitner opened the meeting to public comment.

- No Public Comment was heard.

Chairman Bitner closed the public comment segment.

Motion by Comm. Munson, 2nd by Comm. Bakken to approve the Brandon Engh and Robert & Jayme Holmberg abatements and the consent agenda in its entirety. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

Bismarck-Mandan Metropolitan Planning Organization Executive Director Kim Riepl presented an update on efforts to restore passenger rail service through the Bismarck-Mandan area. She reviewed the proposed North Coast Hiawatha route, federal corridor planning, the MPO's passenger rail station siting study, regional coordination, and potential economic and mobility benefits. Riepl reported that passenger rail service could return to the region as early as the early 2030s and encouraged continued local and state advocacy. Commissioner Bakken also discussed information from the Northwest Passenger Rail Summit and the importance of North Dakota participation in the regional corridor.

County Human Service Zone Director Kayla Kershaw reported that two positions on the Burleigh County Human Service Zone Board were becoming vacant at the end of November. One application had been received from the Burleigh County Sheriff's Department, and applications remained open for the second vacancy through November 10, 2026. Motion by Comm. Bakken, 2nd by Comm. Munson to appoint Jeremy Alm of the Burleigh County Sheriff's Department to the Burleigh County Human Service Zone Board. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

County Sheriff Kelly Leben presented an update on the Burleigh East parking lot renovation project. He reported that water intrusion discovered during the Burleigh East remodel requires the parking lot work to be treated as a separate project. The proposed process will require an RFP and architect selection, with preliminary project costs estimated between approximately $300,000 and $600,000. The goal is to complete design and procurement work during the winter and begin construction in the spring. Motion by Comm. Bakken, 2nd by Comm. Woodcox to authorize beginning the process for the Burleigh East parking lot renovation project. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

Sheriff Leben presented the 2025 and 2026 Justice Assistance Grants (JAG). He explained that both grant years were being presented together because the awards had been delayed and that equipment purchases would be divided between the two grants. Motion by Comm. Munson, 2nd by Comm. Woodcox to approve the 2025 and 2026 Justice Assistance Grants. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

County Human Resources Director Pam Binder presented the third-quarter Human Resources status update. Binder reported 640 HR actions year-to-date, continued employee turnover and quality-of-hire concerns, payroll tracking within budget, and health insurance claims generally even with the prior year. She also reported that the Blue Cross Blue Shield of North Dakota/Cambia merger is expected to increase stop-loss and administrative costs for 2027 and that negotiations are underway.

City of Bismarck Utility Operations Director Michael Mart and Apex Engineering Project Manager Mike Berg provided an update on the Hay Creek gravity sewer project near the Missouri Valley Complex. Berg reported that the approximately $32,000,000 project encountered unstable soil approximately 25 feet below grade, causing work to pause. The City approved the use of helical piers and saddles to support the 42-inch gravity sewer through approximately 500 feet of poor material, and the contractor was preparing to resume construction.

Commissioner Schwab and County Engineer Dan Schriock provided an update on the Apple Creek Road bridge project. Schriock reported that one run of the 16-foot-by-16-foot box culvert had been installed, but an upstream diversion dam failure flooded the excavation and delayed the project approximately one to one-and-one-half weeks. The remaining culvert runs were scheduled for installation, with the anticipated completion date moved from October 23 to approximately November 5, weather permitting.

County Elections Coordinator Thomas Larson provided an election update. Approximately 4,100 absentee ballots had been issued and approximately 2,000 returned. Early voting was scheduled to begin October 22 and continue through November 2, with Saturday hours from 9:00 AM to 1:00 PM. Election Day was scheduled for November 3, with polls open from 7:00 AM to 7:00 PM at 18 polling locations and the Bismarck Event Center operating as a vote center. Larson encouraged voters to ensure their identification information was current and clarified that voters are not required to vote every race on the ballot; only an overvoted race would not be counted.

Commissioner Bakken provided an update from BNSF regarding demolition of the former rail bridge. BNSF planned double shifts and 24-hour work Monday through Saturday through Thanksgiving to accelerate removal of the center and east trusses and associated falsework before ice flow. The pedestrian trail under

the bridge will remain closed during the work for public safety. Discussion also included possible future use of historic stone from the bridge and a planned BNSF project update at a future Commission meeting.

County Finance Director Taylor Schmidt requested a leave variance for a Deputy Finance Director candidate with more than four years of local government experience, increasing starting annual leave accrual from eight to ten hours per month. Motion by Comm. Bakken, 2nd by Comm. Munson to approve the leave variance request for the Deputy Finance Director candidate. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

Director Schmidt requested authorization to temporarily close the Finance/Treasurer's office to the public on Friday, January 8, 2027, while the County transitions its accounting and tax software from an on-site server to a cloud-based system. Staff will continue working, but core public-facing functions will be unavailable during the conversion. The closure will be advertised in advance. Motion by Comm. Munson, 2nd by Comm. Bakken to authorize the temporary public closure of the Finance/Treasurer's office on January 8, 2027. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.***

Director Schmidt presented a follow-up on the 2025 mill levy calculation error. He reported that mobile homes and in-lieu-of-tax values were incorrectly included in the valuation used to calculate mill rates, resulting in approximately $900,000 less being levied and collected for affected taxing districts than had been certified. Schmidt reviewed the timeline of discovery, clarified that the additional taxes were never levied or collected from taxpayers, and outlined process improvements including preliminary value notices, mill levy confirmations, earlier reconciliation, additional review, and expanded documentation.

Discussion included the ability of affected taxing districts to account for the reduced prior-year levy within applicable levy limits, the review and certification process, and responsibility for calculating mill levies following the County's prior reorganization of Auditor/Treasurer duties. County State's Attorney Julie Lawyer advised that once a taxing entity certifies its budget and levy, the County is obligated to collect the authorized amount. She stated that because the County failed to collect the certified amounts due to its own error, the County should make the affected entities whole. Lawyer identified unrestricted General Fund reserves as a potential source and noted that possible insurance coverage could also be investigated. Motion by Comm. Munson, 2nd by Comm. Bakken to use General Fund reserve funds to make the affected political subdivisions whole for the 2025 mill levy calculation error. Commissioners Bakken, Munson, Schwab, Woodcox, and Chairman Bitner voted 'AYE'. ***Motion carried.*** Director Schmidt stated that the amounts presented in the packet were high estimates and that Finance would calculate final amounts, accounting for normal valuation changes such as abatements, before presenting the payments to the Commission at a subsequent meeting.

No other business was had.

Meeting adjourned.

6:22 PM

_____
Mark Splonskowski,
County Auditor

_____
Brian Bitner,
Chairman

The following list of abatements and settlement of taxes is forwarded for action to the Burleigh County Commission:

Abate #	Owner	Tax Year	Legal Description	Credit Type		Current T&F	Reduced T&F
26-340	Dale & Paula Schaeffer	2024	GOLDEN HEIGHTS Block 03 Lot 4 TWN: 138 RNG: 79		Error in Property Description	$ 303,100	$ 289,400
36-341	Dale & Paula Schaeffer	2025	GOLDEN HEIGHTS Block 03 Lot 4 TWN: 138 RNG: 79		Error in Property Description	$ 321,500	$ 297,000
26-367	Selma Schumacher	2025	NORTH HILLS 6TH BLOCK 1 LOT 4 & SOUTH 47.95' OF LOT 3 & WEST 3.48' OF LOTS 5-6 LESS NORTH 104.05' OF LOT 6 CENTURY VILLAGE 2 TOWNHOMES UNIT 2919	100%	Homestead Credit	$ 237,600	$ 37,600

APPLICATION FOR A LOCAL PERMIT OR RESTRICTED EVENT PERMIT

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
GAMING DIVISION
SFN 9338 (8-2025)

Applying for *(check one)*

☒ Local Permit ☐ Restricted Event Permit*

Games to be conducted ☐ Raffle by a Political or Legislative District Party

☐ Bingo ☒ Raffle ☐ Raffle Board ☐ Calendar Raffle ☐ Sports Pool ☐ Poker* ☐ Twenty-One* ☐ Paddlewheels*

**See Instruction 2 (f) on Page 2. Poker, Twenty-One, and Paddlewheels may be conducted Only with a Restricted Event Permit. Only one permit per year.*

LOCAL PERMIT RAFFLES MAY NOT BE CONDUCTED ONLINE AND CREDIT CARDS MAY NOT BE USED FOR WAGERS

ORGANIZATION INFO

Name of Organization or Group	Dates of Activity *(Does not include dates for the sales of tickets)*
UTTC- American Indigenous Business Leaders (AIBL) (student club)	**11/17/2026**

Organization or Group Contact Person	E-mail	Telephone Number
[redacted]	[redacted]	[redacted]

Business Address	City	State	ZIP Code
Science-Tech Bldg, 3315 University Drive	**Bismarck**	**ND**	**58504**
Mailing Address (if different)	City	State	ZIP Code

SITE INFO

Site Name		County	
James Henry Gymnasium		**Burleigh**	
Site Physical Address	City	State	ZIP Code
Fort Berthold Ave	**Bismarck**	**ND**	**58504**

Provide the exact date(s) & frequency of each event & type *(Ex. Bingo every Friday 10/1-12/31, Raffle - 10/30, 11/30, 12/31, etc.)*

Raffle in conjunction with UTTC Basketball games 11/17/2026. Single occurrence for AIBL.

PRIZE / AWARD INFO (If More Prizes, Attach An Additional Sheet)

Game Type	Description of Prize	Exact Retail Value of Prize
Raffle (tickets)	**Ribbon Skirt & Shirt Combo**	**300.00**
	Total *(limit $50,000 per year)*	$ **300.00**

ADDITIONAL REQUIRED INFORMATION

Intended Uses of Gaming Proceeds

Does the organization presently have a state gaming license? *(If yes, the organization is not eligible for a local permit or restricted event permit and should call the Office of Attorney General at 1-800-326-9240)*

☐ Yes ☒ No

Has the organization or group received a restricted event permit from any city or county for the fiscal year July 1 - June 30 (If yes, the organization or group does not qualify for a local permit or restricted event permit)

☐ Yes ☒ No

Has the organization or group received a local permit from an city or county for the fiscal year July 1 - June 30 *(If yes, indicate the total retail value of all prizes previously awarded)*

☒ No ☐ Yes - Total Retail Value: _____ (This amount is part of the total prize limit for $50,000 per fiscal year)

Is the organization or group a state political party or legislative district party? *(If yes, the organization or group may only conduct a raffle and must complete SFN 52880 "Report on a Restricted Event Permit" within 30 days of the event. Net proceeds may be for political purposes.)*

☐ Yes ☒ No

Printed Name of Organization Group's Permit Organizer	Telephone Number	E-mail Address
[redacted]	[redacted]	[redacted]

Signature of Organization Group's Permit Organizer	Title	Date
[signature]	**AIBL Co-Advisor**	**Oct 22, 2026**

American Indigenous Business Leaders (AIBL)
Special Meeting Minutes

Thursday, October 20th, 2026 - 12:15 p.m.
Location: Room 109; Science & Tech Building

United Tribes Technical College

I. **Opening Prayer:** Tallon Long Feather

II. **Call to Order:** 12:18

Advisors: Don Williams

Attendees: Tallon Long Feather, Halle Robinson, Jess Williams, Asa Eastman, Aliyah Zephier

III. Approval of Agenda:

A. Jess Williams created a motion to approve the agenda

B. Halle Robinson seconded

IV. Roll Call:

A. President: Tallon Long Feather - present

B. Vice President: Halle Robinson - present

C. Secretary: Miranda Littleghost - absent

D. Treasurer: Mijahjo Martin - absent

E. Marketing Coordinator: Jess Williams - present

F. Fundraising Coordinator: Brandy Jo Canyon - absent

G. SGA Representative: Asa Eastman - present

H. A quorum of a majority of the voting party was called.

V. Unresolved Business:

A. Spooktacular Club Crawl

1. Volunteers: Jess Williams, Halle Robinson
2. Volunteers after 11:50 - Tallon Long Feather, Asa Eastman
3. Open to other volunteers, but we should have enough.
4. Halle Robinson and Asa Eastman said they could donate small candy bags.

B. Trunk or Treat
    1. Volunteers: Tallon Long Feather, Halle Robinson, Asa Eastman
    2. Asa Eastman said we could use his truck.
    3. The Club decided to do a skeleton theme for the truck, the committee will donate supplies to decorate.

C. Horror on Harmon
    1. Volunteers:
        a) Asa Eastman (7-8:30pm)
        b) Halle Robinson (7-9pm)
        c) Tallon Long Feather (8-10pm)
    2. Asa will get more information on what the concessions at Horror on Harmon entails, then we will vote on menu items in the Halloween Committee Microsoft Teams chat.
    3. An email will be sent out to get more volunteers as well.

D. Masquerade Powwow
    1. AIBL still needs more information on what they are doing.

E. Halloween Photoshoot
    1. With the lack of information about the masquerade powwow, the Club cannot vote to do the Photoshoot at the Powwow yet.

F. Basketball Fundraiser
    1. Halle Robinson created a motion to do a raffle at the November 17th Basketball game for a ribbon skirt/shirt set that Aliyah Zephier will make.
        a) Jess Williams seconded
        b) All in favour, zero opposed. APPROVED by Club.
    2. Halle Robinson created a motion for the $5/ticket and $10/arm length for the raffle at the Basketball game.
        a) Aliyah Zephier seconded.
        b) All in favour, zero opposed. APPROVED by Club.
    3. Current menu:
        a) Popcorn: $2/bag
        b) Chips: $2
        c) Soup & Frybread: Bandy Canyon can decide her pricing at the main meeting.

d) Sodas: $3.50
    (1) Coke Zero, Sprite, Dr Pepper - bottles
e) Redbull: $4
f) Water: $1
g) Powerade: $3.50
h) Bake Sale?: Mijahjo Martin can decide what she wants to do at the main meeting.

4. Tallon Long Feather can donate the Redbulls.
5. Asa Eastman creates a motion to use $300 in club funds for concession items for the November 17th Basketball game
    a) Halle Robinson seconded.
    b) All in favour, zero opposed. APPROVED by Club.

VI. New Business:

A. (No Proposed New Business)

VII. Upcoming Events:

A. Spooktacular Club Crawl (Oct 28; 11:30am-1:30pm)
B. Trunk or Treat (Oct 30; 1-1:30pm)
C. Horror on Harmon Fundraiser (Oct 30; 7-11pm)
D. Masquerade Powwow (Oct 31; 1-4pm)
E. Basketball Fundraiser (Nov 17; 7:30pm)

VIII. Next Meeting: Thursday, November 5th @ 12pm in the Healing Room

IX. Adjourn Time:

A. Halle Robinson created a motion to adjourn @ 12:57pm.
B. Aliyah Zephier seconded.
C. All in favour, zero opposed. APPROVED by Club.

Agenda items may be added by emailing the president at least two (2) days before the next scheduled meeting.

I. Minutes Submitted By: Tallon Long Feather, President

UNITED TRIBES TECHNICAL COLLEGE

10/22/2026

Detailed Use of Proceeds Statement:

The UTTC American Indigenous Business Leaders student club will use the proceeds of our 50/50 raffle, held on 11/17/2026, for general fundraising events and future club expenditures.

Thank you,

Don Williams

AIBL Co-Advisor

701.221.1443

United Tribes Technical College
American Indigenous Business Leaders
Club Bylaws

Article I: Name
The name of this student organization shall be United Tribes Technical College's American Indigenous Business Leaders Club (AIBL).

Article II: Purpose
AIBL's goal is to stimulate American Indians' interest in pursuing a business education to assist in the area of tribal economic development. AIBL's chapter objectives are designed to encourage student interest through educational, community service and social activities.

Article III: Membership

Members shall be any student enrolled at UTTC.

This club shall not discriminate based on race, color, ethnicity, national origin, age, gender, ability, religion, sexual orientation, or veteran status.

Article IV: Meetings
Regular meetings shall be held twice a month at a minimum. The time and place for the meetings will be determined by the President of the organization.

Special meetings may be called by the President or a simple majority of the club.

The President will send a notice of meeting along with the agenda to members no later than 24 hours before the scheduled meeting. Club members wishing to propose an agenda item must submit the item to the President at least 48 hours prior to the meeting.

A quorum will consist of the club members present at any properly announced meeting.

All issues to be voted on shall be decided by a simple majority of those present at the meeting in which the vote takes place. The President will only vote in case of a tie.

Article V: Officers
There shall be seven officers of the club: president, vice president, secretary, treasurer, marketing coordinator, fundraising coordinator and Student Government representative. Their duties are as follows:

The *president* shall schedule and convene regular club meetings and any special meetings of the club. The president will prepare and send out notices and agendas for such meetings and will maintain order of such meetings.

The *vice president* shall chair the regularly scheduled and special meetings in the absence of the president.

The *Treasurer* shall maintain an accurate financial record for all revenues and expenses for the Club, assure any debts incurred are paid in an expedient manner, and report on financial records at regular meetings.

The *secretary* shall be responsible for keeping and transcribing minutes of Club meetings to be distributed at regular meetings, maintains an official member list, provides the minutes and records upon the member's request and maintains a file on all Club activities and reports.

The *marketing coordinator* will design and/or create meeting advertisements to be used in promoting Club activities and will market and promote AIBL's objectives.

The *fundraising coordinator* is responsible for maintaining a record of all fundraising activities submitted and pursued by the Club, identifying which fundraising suggestions are viable with respect to time, facilities, equipment and/or supplies needed and will locate additional sources of funding not mentioned in Club meetings.

The *Student Government representative* will represent the Club on the Student Government. The representative will be responsible for investigating and expressing student concerns and opinions within their respective degree program and will report activities of the Student Government to the Club.

All officers will work closely together to facilitate and organize Club activities.

The officers will be elected by club members and will serve for one year with elections held in April of each year.

In the event of an officer vacancy, the current officers will appoint one of the current officers to complete the vacant duties until the position is filled.

Officers can be removed from their position by a quorum vote for not fulfilling their duties as outlined by the Bylaws, not being in good academic standing, having violated the UTTC Student Code of Conduct, or having left school. The Business Department Chair reserves the right to remove an officer if necessary. Election for any officer vacancy will be done at the next regularly scheduled meeting following the vacancy.

Article VI: Parliamentary Authority

Robert's Rules of Order shall be followed in all AIBL meetings where applicable. All activities and decisions are subject to approval by the Business Department Chair.

Article VII: Amendment and Review

These bylaws may be amended, when necessary, by a vote of two-thirds majority of the club membership. Proposed amendments must be submitted to the president to be sent out with the regular meeting announcements.

AIBL Club Meeting Agenda

October 21, 2021 – 12:00pm (proof of existence at least 2 years)

Science & Technology Building, Room 118

I. Opening Prayer

II. Meeting called to order

III. Approval of meeting agenda

IV. Approval of meeting minutes

V. Old business
   a. Regular meeting day and time
   b. Election of Marketing Coordinator
   c. Fundraising activities
      i. Student Government Representative's report
      ii. Halloween Masquerade Powwow
         1. Cake walk
         2. Volunteers
      iii. Horror on Harmon Haunted House
   d. State Certification Class for Food Handlers

VI. New business
   a. Environmental activity for club (Olivia St. John)
   b. Radisson Work Force Summit (Manuelita Hairy Chin)

VII. Next meeting date/time

VIII. Adjournment

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Memo

DATE: November 2, 2026

TO: Mark Splonskowski
County Auditor

FROM: Daniel Schriock
County Engineer

RE: Second access permit for Tyler Isaackson

Please place the approval of a 2nd approach for Tyler Isaackson on the November 2nd, 2026 County Board Consent Agenda.

Tyler Isaackson 8755 26th Street NE, Bismarck ND 58503 has asked for a second access permit for his lot. This lot is a 3.87 Acre lot legally described Lot 9 Block 00 in Shamrock Acers in Burnt Creek Township. He currently has a driveway off 26th Street NE along the southern end of his property. He wishes to have a second approach installed 125' East of 26th Street on Bernell Drive. (See attached map).

We have reviewed the proposed access request and have determined it meets our requirements.

2nd Approach Permit Requirements

A second approach permit shall be granted by the County Engineer unless the application does not meet
one of the following criteria:

1) The distance between adjacent approaches and the requested approach must be larger than 100 feet (center to center distance).

2) The requested approach provides adequate sight distance for the given speed zone (as set forth in "A Policy on Geometric Design of Highways and Street" by AASHTO).

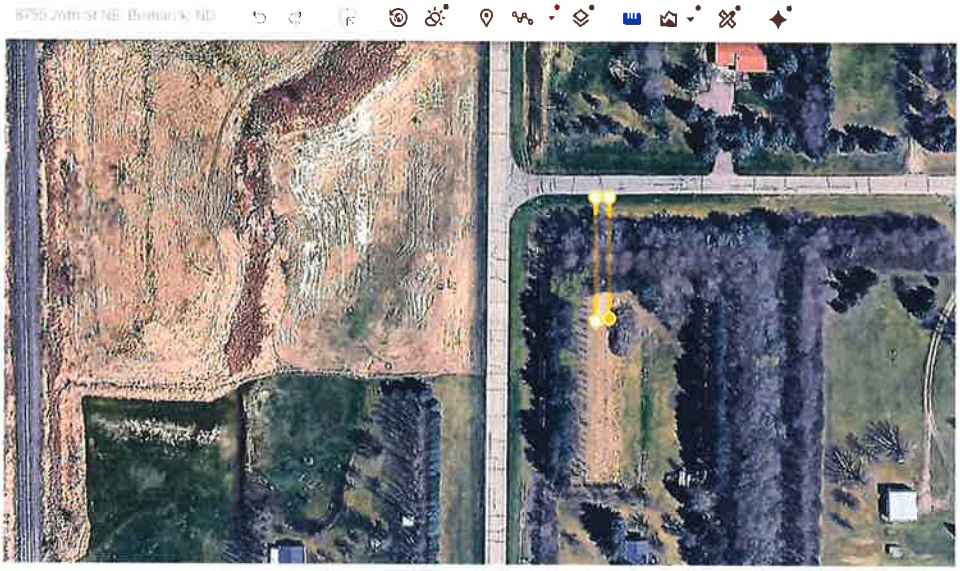
3) The second approach meets standards set out in the existing Burleigh County Zoning Ordinance.

Schriock, Daniel L.

Subject: FW: 8755 26th St NE - 2nd approach -

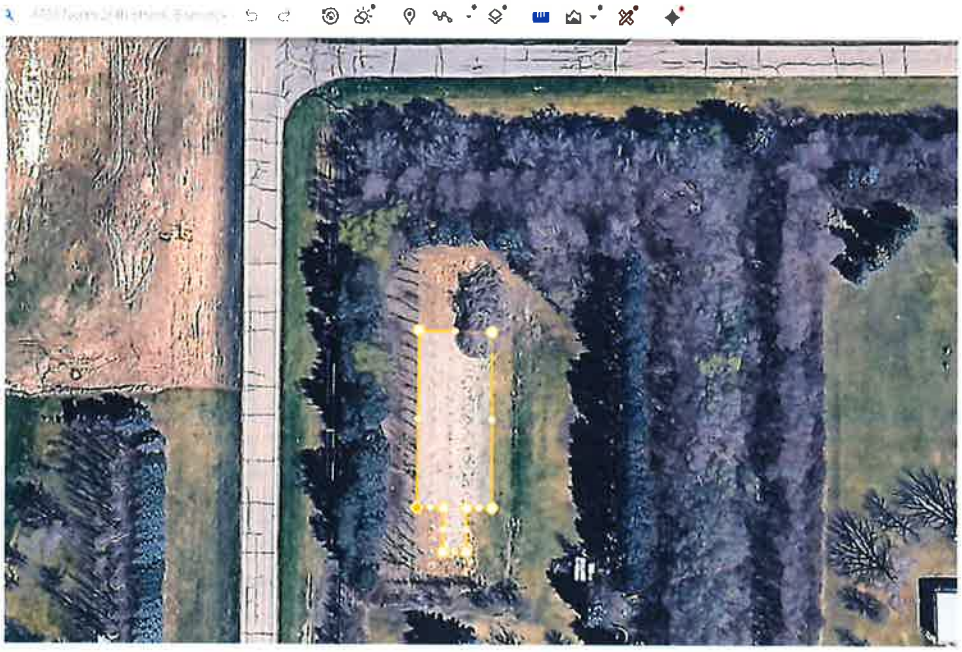
***** **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

Here you are, Thank you



DRIVEWAY LAYOUT ABOVE

SHOP LAYOUT BELOW



--

Tyler Isaackson
Rooftop
6962 Aurora Loop, Unit A. Bismarck ND, 58503

Burleigh County

BURLEIGH COUNTY, NORTH DAKOTA

LOCATION MAP

N

10/26/2026



PARCEL ID: 24-140-80-83-00-090 OWNER: ISAACKSON, TYLER ACRES: 3.87

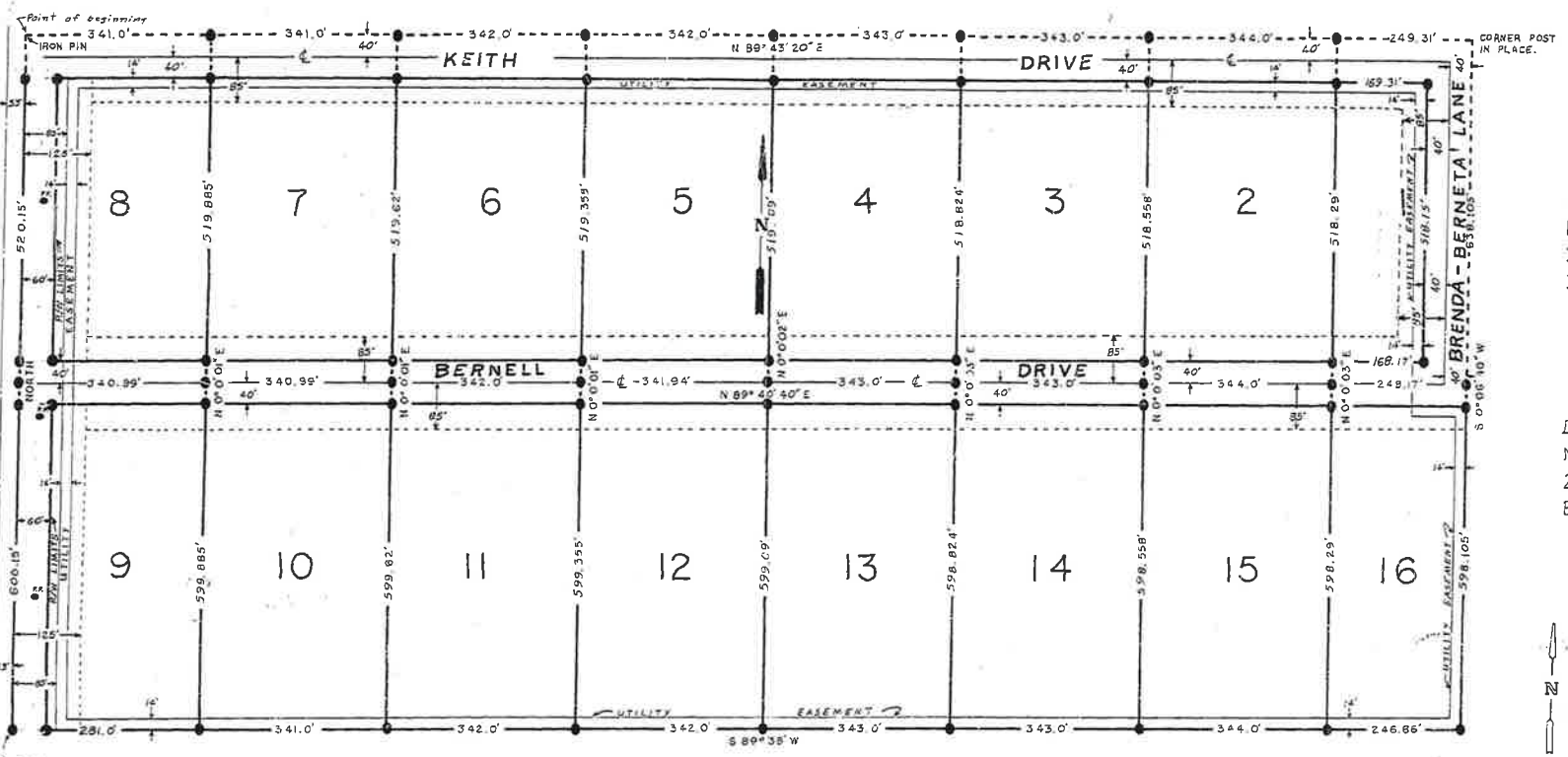
SITE ADDRESS: 8755 NE 26TH ST

MAIL ADDRESS: 8755 26TH ST NE, BISMARCK, ND 58503-6401

LEGAL: SHAMROCK ACRES Block 00 L9 471775

Map created from Burleigh County's web mapping application. This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

...RANGE 80 WEST 5TH P. M.



LEGEND

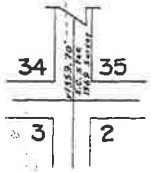
- 1" X 12" Iron pipe with cap
- Lot number
- 80' Proposed public access road
- 125' & 85' Set back line

SCALE: 1" = 100'
JAN. 31, 1973

Developer:
Mr. Bill Morris Jr.
2406 E. Thayer Ave.
Bismarck, N. Dak.



Key Map
Scale 1:62500



SHAMROCK ACRES

Surveyor:
Mr. Lloyd E. Scott
1011 N. 12th ST.
Bismarck, N. Dak.

LLOYD E. SCOTT REGISTERED LAND SURVEYOR 1158 NORTH DAKOTA

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THIS PLAT AND DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF SOUTH DAKOTA.
Lloyd E. Scott

Surveyor's Certificate

I, Lloyd E. Scott, Registered Professional Land Surveyor No. 1158, hereby certify that I have caused to be made by my agents under my supervision the property thereon described, and I have prepared the accompanying plat; further, I have placed steel pipe monuments as shown on said plat. Further, that the distances indicated hereon are in feet and hundredths thereof, and courses are indicated in degrees and minutes and seconds thereof; further, that said plat does truly show the survey as the same all my knowledge and belief.

Lloyd E. Scott
Lloyd E. Scott No. 1158

Land Subdivision Description

A tract of land lying in the NE¼SE¼ of Section 35 Township 140 North, Range 80 West, 5th P. M., said tract being described as follows:

Beginning at the northeast corner of said NE¼SE¼. Thence running N 89° 43' 20" E for a distance of two hundred twenty-five and thirty-one hundredths (225.31') feet, more or less, thence running S 0° 06' 10" W for a distance of two thousand two hundred seventy-eight and thirty-one hundredths (2,278.31') feet, more or less, thence running S 89° 38' W for a distance of two thousand six hundred forty-six and eighty-six hundredths (2,646.86') feet, more or less, thence running North between Section 35 and 26 for a distance of two thousand eight hundred eighty point three four (2,880.3') feet, more or less, to the point of beginning.

Tract contains 77.34 acres, more or less, which includes all that portion lying within 33 feet of the section line.

Owners Consent And Dedication

I, the undersigned, being the sole owner of the land platted hereon, do hereby voluntarily consent to the execution of said plat, and to dedicate all the streets, alleys and public grounds as shown hereon to the public use forever.

William Morris Jr.
William Morris Jr.

State of North Dakota)
County of Burleigh)ss

Be it known that on this 5 day of October 1973, before me, the undersigned, a notary public in and for said County and State, personally appeared William Morris Jr. (Bill) and acknowledged the execution and platting of the foregoing plat to be his voluntary act and deed, in testimony whereof, I have set my hand and notary seal on the day and date written above.

My Commission expires Jan 19, 19 75

Ruth Rausch
Notary Public, Burleigh County, No. Dakota

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON March 1, 1973 AT 2 O'CLOCK P. M. AND RECORDED AS DOCUMENT No. 247909
BY Richard Keller
DEPUTY REGISTER OF DEEDS
#247909

State of North Dakota)
County of Burleigh)ss

On this 1st day of March 1973, there appeared before me Lloyd E. Scott, known to me to be the person whose name is subscribed to the above certificate, and he did acknowledge to me that he executed the same as his own free act and deed.

My Commission expires Jan 19, 19 75

Ruth Rausch
Notary Public, Burleigh County, No. Dakota

County Planning Commission Approval

The subdivision of land as shown on the annexed plat has been approved by the planning commission of Burleigh County on June 5, 1973, in accordance with the laws of the State of North Dakota and regulations adopted by the said planning commission. In witness thereof are the hands of the chairman and secretary of the planning commission of Burleigh County, North Dakota.

Chairman
Secretary

Approval of Board of County Commissioners

The board of County Commissioners of Burleigh County, North Dakota has approved the subdivision of lands shown on the annexed plat, but excepted the dedication of all streets thereon and has approved the granting of platting the annexed plat as an amendment of the master plan of Burleigh County.

The foregoing action of the Board of County Commissioners of Burleigh County, North Dakota was taken by resolution approved this 26th day of March 1973.

Chairman
County Auditor

SHAMROCK ACRES

"FINAL PLAT"

018

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: **Developer Waiver Request**

Please include this item on the next Burleigh County Board Consent Agenda.

ACTION REQUESTED:
Review and Direct the County Highway Department on how to proceed with the Developer's request.

BACKGROUND:
Under the current Pavement Policy, developers (owners of property that is being platted) are required to: "Proposed platted subdivisions will include the construction and paving of all internal roadways and adjacent section line roads, and the construction and paving of at least one roadway that connects into the existing paved highway system."

Highlands Engineering on behalf of the developer of Rock Hill 1st Subdivision, located in the E ½ of Section 6, Rock Hill Township (see attached map), is proposing a two (2) lot subdivision (Rock Hill 1st Subdivision), and are requesting a waiver of the Pavement Policy. Under the Pavement Policy, the platting of this property would require them to pave approximately 0.40 miles of Township roadway.

Waiving the Pavement Policy allows the County Board to approve the proposed plat without the developer re-constructing and paving the required roadways at this time. It does not preclude the County/Township from requiring the property owner from sharing in the cost to construct and pave these roadways (that benefit this property) in the future.

RECOMMENDATION:
It is recommended that the County Board adopt the attached proposed resolution.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

PROPOSED RESOLUTION:
THEREFORE, BE IT RESOLVED: That the County Board of Commissioners do hereby recognize that the waiving of the Pavement Policy at this time is only to allow the proposed plat to be approved and does not preclude the County/Township from requiring the property owner from sharing in the cost to construct and pave these roadways (that benefit this property) in the future, and

THEREFORE, BE IT FURTHER RESOLVED: That the County Board of Commissioners do hereby grant the developer's request to waive the paving requirements *"...paving of all internal roadways and adjacent section line roads, and the construction and paving of at least one roadway that connects into the existing paved highway system."* listed in the Pavement Policy, in conjunction with the approval of the Rock Hill 1st Subdivision.

Request for Paving Waiver:

Rock Hill 1st Subdivision

We are respectfully requesting a waiver from the Burleigh County paving requirements for the proposed subdivision, which splits two lots from an existing, long-standing farmstead. The current property is served by an established gravel approach, and enforcing a paving mandate for this minor split is both impractical and inconsistent with standard county development. In agricultural areas, low-volume rural subdivisions do not generate the traffic density required to justify the high infrastructure and long-term maintenance costs of asphalt or concrete. Forcing a short, isolated segment of pavement to connect to an existing gravel network offers no public safety or logistical benefit. Furthermore, because surrounding properties and access roads in this farming corridor successfully utilize gravel surfaces, maintaining a consistent gravel layout preserves the area's rural character and aligns with how minor agricultural lot splits are traditionally handled in Burleigh County.

Respectfully Submitted,



Andrew Albrecht, PE/LS – Project Manager
Highlands Engineering & Surveying, PLLC
andrew.albrecht@highlandseng.com

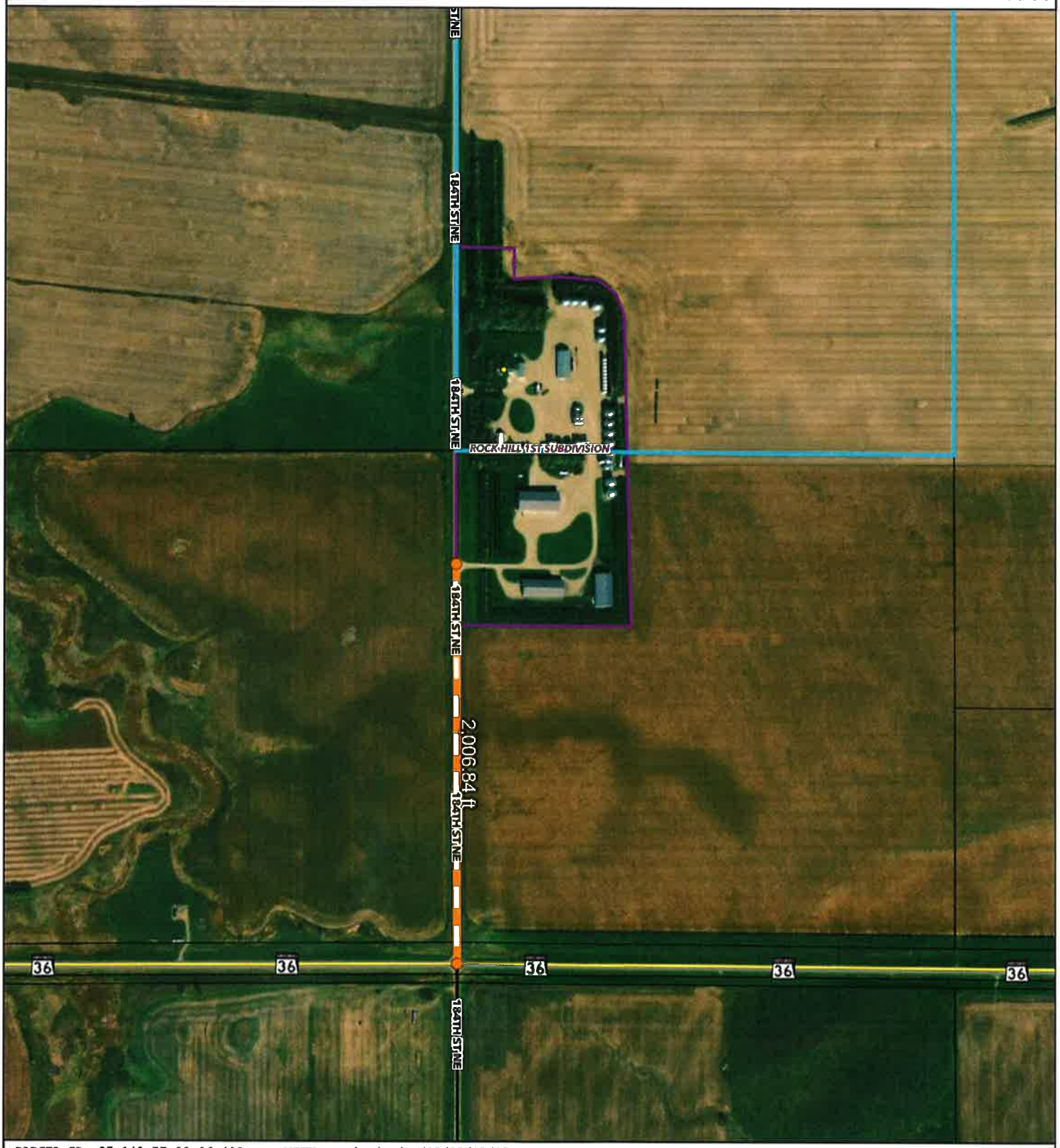
Burleigh County

BURLEIGH COUNTY, NORTH DAKOTA

LOCATION MAP

N

10/26/2026



PARCEL ID: 27-142-77-00-06-400 OWNER: JA/TH/RC/EA/25/25/25/25 PARTNERSHIP ACRES: 135.15

SITE ADDRESS: 31101 NE 184TH ST

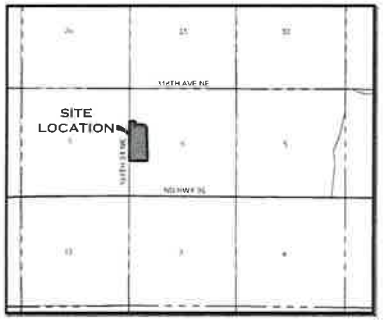
MAIL ADDRESS: PO BOX 1946, MINOT, ND 58702-1946

LEGAL: ROCK HILL TOWNSHIP Section 06 SE1/4NW1/4; GOVERNMENT LOTS 3-5 LESS RD R/2 PLUS RR R/W 501202 759511 06-142-77

Map created from Burleigh County's web mapping application. This map is for representation use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

ROCK HILL 1ST SUBDIVISION

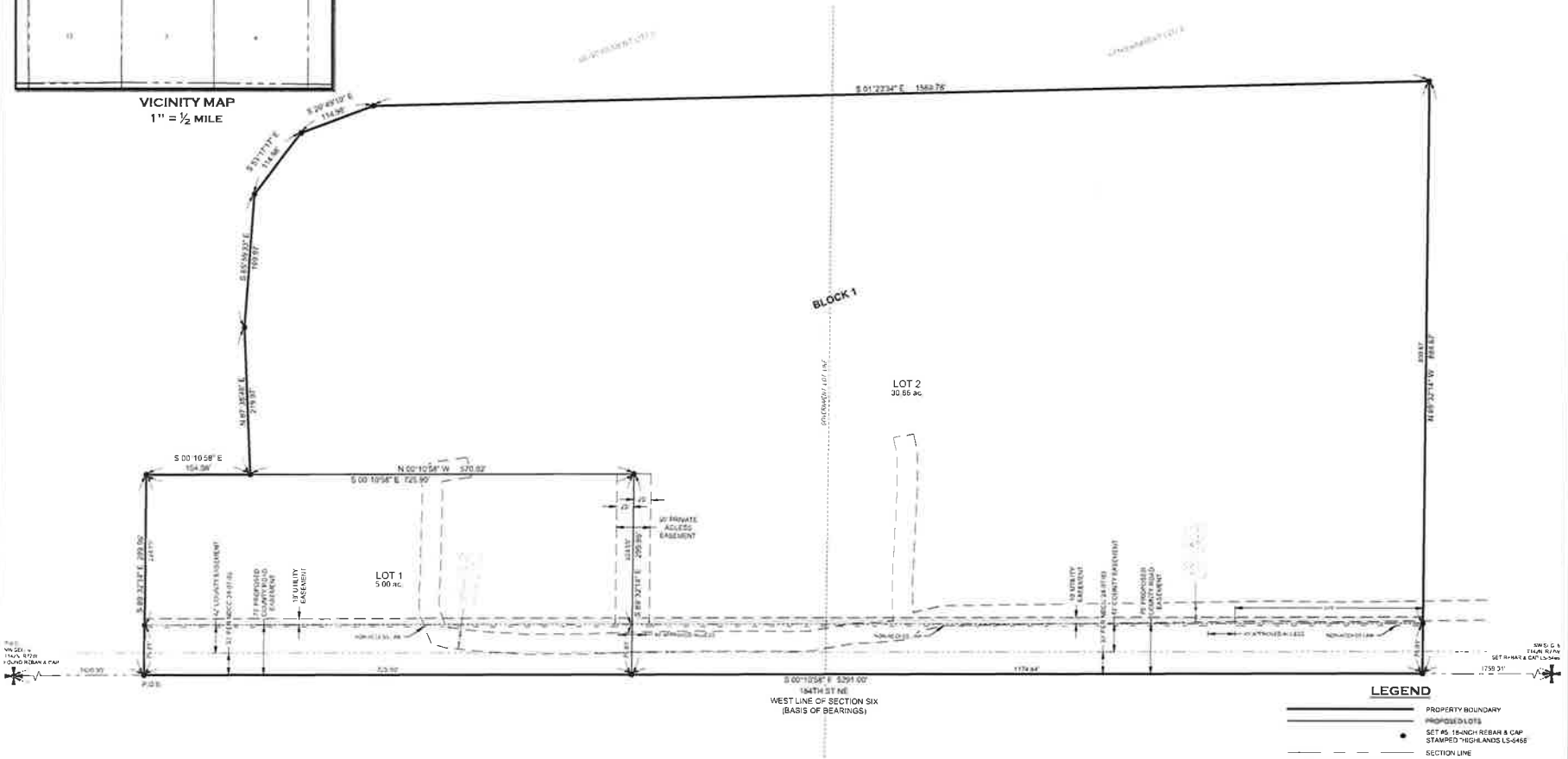
A PARCEL OF LAND LOCATED IN GOVERNMENT LOTS 5 & 6 SECTION 6 T142N, R77W, OF THE 5TH PRINCIPAL MERIDIAN BURLEIGH COUNTY, NORTH DAKOTA



VICINITY MAP
1" = ½ MILE

RESERVED FOR RECORDER'S OFFICE

023



LEGEND

- PROPERTY BOUNDARY
- PROPOSED LOTS
- SET #5 18-INCH REBAR & CAP STAMPED "HIGHLANDS LS-5466"
- SECTION LINE
- GOVERNMENT LOT LINE
- SECTION CORNER
- RIGHT-TO-TRAVEL LINE
- EXISTING EASEMENT
- PROPOSED PRIVATE ACCESS EASEMENTS
- PROPOSED UTILITY EASEMENT
- NON-ACCESS LINE

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN GOVERNMENT LOTS FIVE (5) AND SIX (6) OF SECTION SIX (6), TOWNSHIP ONE HUNDRED FORTY-TWO NORTH, (T142N), RANGE SEVENTY-SEVEN WEST, (R77W) OF THE FIFTH PRINCIPAL MERIDIAN, (5TH P.M.), BURLEIGH COUNTY, NORTH DAKOTA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION SIX (6) BEING A FOUND REBAR AND CAP; THENCE S 00°10'58" E ALONG THE WEST LINE OF SAID SECTION SIX (6) A DISTANCE OF 1630.93 FEET TO A SET REBAR AND CAP LS-5466 AT THE POINT OF BEGINNING; THENCE S 89°32'14" E LEAVING SAID WEST LINE AND PARALLEL TO THE SOUTH LINE OF SAID GOVERNMENT LOT FIVE (5) A DISTANCE OF 299.90 FEET TO A SET REBAR AND CAP LS-5466; THENCE S 00°10'58" E PARALLEL TO SAID WEST LINE, A DISTANCE OF 154.39 FEET TO A SET REBAR AND CAP LS-5466; THENCE N 89°36'48" E, A DISTANCE OF 219.97 FEET TO A SET REBAR AND CAP LS-5466; THENCE S 89°36'32" E, A DISTANCE OF 109.97 FEET TO A SET REBAR AND CAP LS-5466; THENCE S 53°17'17" E, A DISTANCE OF 114.96 FEET TO A SET REBAR AND CAP LS-5466; THENCE S 29°49'10" E, A DISTANCE OF 114.96 FEET TO A SET REBAR AND CAP LS-5466; THENCE S 01°22'34" E, A DISTANCE OF 1562.76 FEET TO A SET REBAR AND CAP LS-5466; THENCE N 89°32'14" W PARALLEL TO SAID SOUTH LINE OF SAID GOVERNMENT LOT FIVE (5), A DISTANCE OF 1864.87 FEET TO A SET REBAR AND CAP LS-5466 ON SAID WEST LINE; THENCE N 00°19'58" W ALONG SAID WEST LINE, A DISTANCE OF 1900.74 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 15.66 ACRES HAVING 17.85 ACRES IN GOVERNMENT LOT FIVE (5) AND 17.81 ACRES IN GOVERNMENT LOT SIX (6), MORE OR LESS, AND IS SUBJECT TO ANY PREVIOUS EASEMENTS, AGREEMENTS, CONVEYANCES AND SURVEYS.

SURVEYOR'S CERTIFICATE

I, KC HOMISTON, REGISTERED PROFESSIONAL LAND SURVEYOR, LS-5466, FOR HIGHLANDS ENGINEERING AND SURVEYING, PLLC, RESIDING AT 319 24TH STREET EAST, DICKINSON, N.D., DO HEREBY CERTIFY THAT THE ROCK HILL 1ST SUBDIVISION PLAT SHOWN HEREON IS A CORRECT REPRESENTATION OF THE SURVEY; THAT ALL DISTANCES ARE CORRECT; MONUMENTS ARE PLACED IN THE GROUND AS SHOWN; THAT THE OUTSIDE BOUNDARY LINES ARE CORRECTLY DESIGNATED ON THE PLAT AND WAS MADE BY ME, OR UNDER MY DIRECTION, AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME.

KC HOMISTON, LS-5466

OWNER'S CERTIFICATE OF DEDICATION

WE, JA/THR/CEA/JS/25/25/25 PARTNERSHIP, MAILING ADDRESS PO BOX 1945 MINOT, ND 58702, BEING OWNERS OF THE LAND PLATTED HEREIN, DO HEREBY VOLUNTARILY CONSENT TO THE EXECUTION OF SAID PLAT AND DO DEDICATE ALL THE EASEMENTS IDENTIFIED HERIN TO BURLEIGH COUNTY, FOREVER. WE ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR GAS, ELECTRIC, TELEPHONE, WATER OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HERON AS "UTILITY EASEMENT".

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY NAME.

BY: _____
JA/THR/CEA/JS/25/25/25 PARTNERSHIP
AUTHORIZED REPRESENTATIVE

STATE OF _____)
SS
COUNTY OF _____)

ON THIS _____ DAY OF _____, 20_____, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED _____ TO ME KNOWN TO BE THE SAME PERSONS DESCRIBED IN AND THAT EXECUTED THE WITHIN AND FOREGOING INSTRUMENT AND SEVERALLY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

_____
NOTARY PUBLIC
MY COMMISSION EXPIRES _____
RESIDING AT COUNTY OF _____
STATE OF _____

APPROVAL OF BOARD OF COUNTY COMMISSION

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON.

THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND ORDINANCES OF THE COUNTY OF BURLEIGH.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA WAS TAKEN BY RESOLUTION APPROVED ON THE _____ DAY OF _____, 20__.

_____ _____
BRIAN BITNER - CHAIRMAN MARK SPLONSKOWSKI - AUDITOR

APPROVAL OF COUNTY PLANNING AND ZONING COMMISSION

THE COUNTY PLANNING AND ZONING COMMISSION OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVES THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT. THIS PLAT WAS DONE IN ACCORDANCE WITH THE LAS OF THE STATE OF NORTH DAKOTA, THE COMPREHENSIVE PLAN AND THE ORDINANCES OF THE COUNTY OF BURLEIGH AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION.

THE FOREGOING ACTION OF THE COUNTY PLANNING AND ZONING COMMISSION OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED ON THE _____ DAY OF _____, 20__.

_____ _____
DENNIS AGNEW - CHAIRMAN MITCH FLANAGAN - SECRETARY

APPROVAL OF THE COUNTY EMGINEER

I, DANIEL SCHRIOCK, COUNTY ENGINEER OF THE COUNTY OF BURLEIGH, NORTH DAKOTA, HEREBY APPROVE THE SUBDIVISION OF LAND AS SHOWN ON THIS PLAT.
DATED THE _____ DAY OF _____, 20__.

_____
DANIEL SCHRIOCK, PE - COUNTY ENGINEER

NOTES

1) THIS SUBDIVISION IS LOCATED IN AN UNDETERMINED FLOOD HAZARD AREA AS SHOWN BY ZONE "D" OF FEMA FLOOD INSURANCE RATE MAP (FIRM) NUMBER 38015C0575C WITH AN EFFECTIVE DATE OF AUGUST 4, 2014.
2) NO VEHICULAR ACCESS TO THESE LOTS SHALL BE ALLOWED ACROSS THE NON-ACCESS LINES AS DEPICTED. ACCESS TO LOTS SHALL BE PROVIDED BY THE INTERNAL PRIVATE ACCESS EASEMENTS.
3) THIS PLAT DEDICATES A TOTAL OF 1.83 ACRES OF COUNTY ROAD EASEMENT FOR 164TH ST NE AS DEPICTED AND DESCRIBED BY THIS DRAWING EXPECTING THE EXISTING 33-FEET PER NDCC 24-07-03. DEDICATED EASEMENT CONSISTED OF 0.70 ACRES IN LOT 1 AND 1.13 ACRES IN LOT 2.
4) AN EASEMENT PER DOC. NO. 379064 FOR CAPITAL ELECTRIC COOPERATIVE, INC IS A BLANK EASEMENT FOR AN UNDERGROUND ELECTRIC LINE IN YARD THAT IS NOT DEPICTABLE ON THIS PLAT.

SURVEY NOTES

1) DISTANCES SHOWN ARE MEASURED GRID DISTANCES, INTERNATIONAL FOOT, DERIVED FROM NORTH DAKOTA STATE PLANE, SOUTH ZONE, NAD83.
2) THE BASIS OF BEARINGS FOR THIS SURVEY IS THE WEST LINE OF SECTION SIX (6) WITH THE BEARING BEING S 00°10'58" E, THAT WAS LOCATED BY A GPS OBSERVATION FROM LAT. NAD 47 47.415317° | LONG. W100°56'10.95252". BEARINGS ARE BASED ON TRUE NORTH AT THIS LOCATION.
3) VERTICAL DATUM: NAVD 88.
4) DATE OF LATEST FIELD WORK: MARCH 11, 2025

SCALE: 1" = 70'

HIGHLANDS ENGINEERING
319 24TH STREET EAST, DICKINSON, ND 58601
OFFICE: (701) 483-2444 | WWW.HIGHLANDSENGINEERING.COM

PROJECT NUMBER	251582	SCALE: 1"=70'
DRAWN BY:	AJA	DATE: 10/20/26

BURLEIGH COUNTY BUILDING, PLANNING, ZONING
221 N 5th Street, Bismarck, ND 58506

701-221-3727 burleighcobuilding@nd.gov

INVOICE/RECEIPT

DATE: February 19, 2026

INVOICE: PL26-010
PL26-011

LGO TRUST
2200 KOCH DRIVE APT 122
BISMARCK ND 58503

Permit	Description	Amount
PL26-010	EAH SUBDIVISION PRELIMINARY PLAT	$200.00
PL26-011	EAH SUBDIVISION ZONING CHANGE	$500.00
	CHECK # 8524 **LGO TRUST**	**<$700.00>**
TOTAL AMOUNT DUE:		$ -0-

All invoices are due within thirty (30) days after invoice date

BURLEIGH COUNTY
BUILDING/PLANNING/ZONING
221 N. 5TH STREET
PO BOX 5518
BISMARCK, ND 58506-5518

701-221-3727

E-Mail Burleighcobuilding@nd.gov

ITEM

7

APPENDIX B
BURLEIGH COUNTY HIGHWAY DEPARTMENT
2027 FEE SCHEDULE (Proposed 10/19/2026)

	2021 Fees	2022 Fees	2023 Fees	2024 Fees	2025 Fees	2026 Fees	2027 Fees
Permits							
Road Approach	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Utility/Right-of-Way	0.00	0.00	0.00	See attached	See attached	See attached	See attached
Oversize/Overweight	Load Pass	Load Pass	Load Pass	Load Pass	Load Pass	Load Pass	Load Pass
Culverts - under 24"							
Spiral CMP - 15" - per foot	**	**	**	**	**	**	**
Spiral CMP - 18" - per foot	**	**	**	**	**	**	**
Riveted CMP - 15" - per foot	**	**	**	**	**	**	**
Riveted CMP - 18" - per foot	**	**	**	**	**	**	**
Culvert Bands - 15" - each	**	**	**	**	**	**	**
Culvert Bands - 18" - each	**	**	**	**	**	**	**
Flared End Sections - 15" - each	**	**	**	**	**	**	**
Flared End Sections - 18" - each	**	**	**	**	**	**	**
Signs							
Speed Limit & Standard Signs - 24 x 30	***	***	***	**	**	**	**
Minimum Maintenance - 30 x 18	***	***	***	**	**	**	**
Truck 40 MPH - 24 x24	***	***	***	**	**	**	**
Stop Signs - 30 x 30	***	***	***	**	**	**	**
Yield Sign - 36 x 36	***	***	***	**	**	**	**
911 Address Material							
4" numbers - each	***	***	***	**	**	**	**
U Posts - each	***	***	***	**	**	**	**
Installation	xxx	xxx	xxx	xxx	xxx	xxx	xxx
Telespar							
Post 2" - per foot	***	***	***	**	**	**	**
Anchor 2 1/4"- per foot	***	***	***	**	**	**	**
Sleeve 2 1/2" - per foot	***	***	***	**	**	**	**
Township Road Maintenance Agreement							
Gravel Roads							
Summer Maintenance (Blading & Weed Mowing)	See Below	See Below	See Below	See Below	See Below	See Below	See Below
Winter Maintenance (Snow Plowing)							
Year-round Maintenance							
Subdivision Summer Maint. (Blading & Weed Mowing)							
Subdivision Winter Maintenance (Snow Plowing)							
Subdivision Year-round Maintenance							
Paved Roads							
Summer Maintenance (Asphalt Maint. & Weed Mowing)							
Winter Maintenance (Snow Plowing & Intersection Sanding)							

** *Based on Bid Price*

*** *Sign charges are based on actual cost of sign at time of purchase*

xxx *Installation costs will be charged per "Township Labor Rates" plus equipment costs*

	2021 Fees	2022 Fees	2023 Fees	2024 Fees	2025 Fees	2026 Fees	2027 Fees
Year-round Maintenance							
Subdivision Summer Maint. (Asphalt Maint. & Weed Mowing)							
Subdivision Winter Maintenance (Snow Plowing)							
Subdivision Year-round Maintenance							
Subdivision Year-round Maintenance (Curbed Roadway)							
Crack Sealing & Asphalt Patching							
Fee to Expense Ratio Goal	50%	50%	50%	50%	50%	50%	50%

Below is the percentage of increase for townships based on the fee to cost ratio for the prior 3 years.

If your township 3 year average Fee to Cost ratio is:

Less than 30%	**0%**
Greater than 30% - less than 40%	**0%**
Greater than 40% - less than 45%	**0%**
Greater than 45% - less than 50%	**0%**
Greater than 50%	**0%**

Maximum Fee charged = 18 mills

Gravel/Scoria/Sand - *2008-2012 Billed for royalty cost only - 2013 and on Billed for royalty & crushing costs per pit*

Pits Depleted in 2026	**Gravel**	**2027**	**Sand**	**2027**
Clausen 2-2024	*Bernhardt*	*$11.93*	*Judy Jo*	*$0.50*
	Clausen 2026	*$15.78*	*Pile 12*	*$18.18*
	Ereth	*$6.00*	*Schock Sand*	*$12.49*
	Glovich 2	*$5.06*	*Sterling*	*$18.18*
	Hoge 2025	*$8.35*		
	Horneman 2026	*$15.37*		
	LeMay 2026	*$15.45*		
	Schock	*$6.65*		
***Cost of gravel & sand is per CY**	*Schock 2-2024*	*$12.49*		

Township Labor Rates

Salary - Hourly Average for Road Personnel	42.88	46.22	49.26	50.98	57.35	62.11	62.65
Fringe Benefits charged for Regular Hours							
Salary-Overtime	41.05	44.86	46.96	47.17	53.06	55.87	56.73
Fringe Benefits not charged for Overtime							
			Actual Cost up to	Actual Cost up to	Actual Cost up to	Actual Cost up to	up to
Engineering & Supervision (% of Total Project Cost)	12.00%	12.00%	12.00%	12.00%	12.00%	12.00%	12.00%

Township Equipment Rates

Township received a 50% discount for 2008-2026 charges

50% discount for 2027

Pick-up	14.88	18.43	24.95	19.94	17.29	18.19	19.05
1 Ton Truck	25.80	32.71	46.75	36.46	32.16	26.47	28.14

	2021 Fees	2022 Fees	2023 Fees	2024 Fees	2025 Fees	2026 Fees	2027 Fees
Single Axle Dump	40.57	43.92	56.30	45.38	46.53	44.92	57.78
winter rate	79.60	97.79	94.50	85.43	76.61	84.83	98.14
Tandem Axle Dump	71.57	84.78	107.06	87.38	90.68	86.57	110.57
winter rate	112.52	129.86	140.14	121.80	125.55	128.66	152.69
Truck Tractor	60.58	72.23	91.48	74.02	76.86	73.57	91.94
Twin Engine Scraper	152.26	223.45	275.63	254.49	239.50	227.43	227.43
Mid-Size 6-way Dozer	76.44	94.55	113.13	106.81	77.12	85.91	92.13
Motorgrader	109.52	122.27	151.52	153.84	154.26	106.16	117.46
winter rate	140.43	153.94	181.09	184.47	185.86	137.45	148.80
Motorgrader V-Plow Attachment	50.35	51.50	49.00	50.63	52.31	50.77	50.75
Ag Tractor	30.00	40.00	40.00	40.00	45.00	45.00	123.60
4 yd Front End Loader	78.12	96.24	94.86	89.94	83.97	83.41	88.62
3 yd Front End Loader	50.92	60.04	70.57	66.32	50.05	51.30	55.88
Skid Steer	29.13	40.90	51.85	50.56	60.53	69.48	68.20
Excavator	87.10	112.85	134.69	133.83	120.30	88.29	104.19
Gravel Pup Trailer	10.38	11.24	8.73	9.13	8.98	10.45	10.50
Belly Dump Trailer	12.66	13.90	11.27	11.96	11.91	13.36	13.42
Side Dump Trailer	16.60	17.61	15.13	15.80	16.80	18.25	18.24
Tandem Bumper Hitch Trailer	6.36	7.73	6.59	7.04	7.07	7.63	7.94
Walk-n-Roller	17.22	19.05	14.49	15.62	16.18	17.80	18.15
13 Wheel Pull Type Roller	31.92	34.92	26.55	28.63	31.12	35.42	36.09
Water Truck	50.18	57.74	68.58	58.47	60.02	59.32	70.94
15' Rotary Mower	14.97	17.47	12.23	12.97	11.08	14.01	14.15
9' Disc Mower	15.58	16.68	11.59	12.22	10.33	13.82	13.94
Off-Set Mower Hitch	5.00	10.00	10.00	10.00	12.00	12.50	13.00
Tandem Taylor Way Disc	20.00	20.00	20.00	20.00	20.00	20.00	20.00
Two Stage Snow Blower	134.70	153.80	170.39	152.13	161.30	156.12	177.06

Inter-Department Charges

Service Work		55.00	55.00	55.00	55.00	55.00	55.00	55.00
Fuel Sur-Charge	Bismarck Shop	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Wing Shop	0.05	0.05	0.05	0.05	0.05	0.05	0.05

Private Work

Driveway Blading - 1/4 hour		44.53	38.10	42.12	50.20	51.21	42.07	45.03
	Winter Rate-Snow Plowing	52.31	45.83	50.04	57.59	58.87	49.89	52.86
Driveway Blading - 1/2 hour		89.06	76.20	84.25	100.40	102.41	84.14	90.06
	Winter Rate-Snow Plowing	104.61	91.66	100.08	115.18	117.73	99.78	105.73
Driveway Blading - 3/4 hour		133.59	114.30	126.36	150.60	153.62	126.20	135.08
	Winter Rate-Snow Plowing	156.92	137.48	150.12	172.77	176.59	149.67	158.59
Driveway Blading - 1 hour		178.12	152.40	168.49	200.78	204.82	168.27	180.11
	Winter Rate-Snow Plowing	209.22	183.31	200.16	230.35	235.45	199.56	211.45

If other than motorgrader used in snow plowing - cost of work will be calculated using the non-discounted township equipment rates plus township labor rate.

In 2013 Burleigh County stopped providing gravel, gravel hauling or use of gravel from a county pit on any private driveway.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: **Annual Fee Schedule**

Please place the following item on the next Burleigh County Board agenda.

ACTION REQUESTED:
The Burleigh County Board sets the 2027 Highway Department fee schedule.

BACKGROUND:
The Highway Department is seeking approval of the 2027 Highway Department fee schedule. This year we have made a few changes to the fee schedule and are asking for County Board approval.

The Highway Department's proposed fee schedule does include changes in the following areas:

1) In 2015 we started a new fee schedule for Township Road Maintenance agreements. Our goal at that time was to collect at least 25% of the actual cost of services for the prior three-year average expense. In 2016 we increased our goal to 50% of the actual cost of service. This year we are proposing to keep our goal at the 50% level. Therefore, we are recommending proposed fee increases for 2027 to be as follows: (keeping in mind there were 0% increases in 2024, 2025, and 2026 due to the Board approved suspension of fees to help minimize exorbitant snow removal costs during the 2022-2023 season that would have been calculated into the three-year average.)

   a) 18 townships at 0% increase
   b) 6 townships at 10% increase
   c) 7 townships at 20% increase
   d) 6 townships at 30% increase
   e) 2 townships at 40% increase
   f) 6 townships at an increase that is no more than the 18 mill maximum

g) As in 2026, we are also keeping a maximum fee charge to any township of 100% of what they would collect if they levied 18 mills.

2) We are also proposing minor changes in equipment rates. These increases/decreases are a result of the Department staying in compliance with Century Code section 24-05-04.1.

RECOMMENDATION:
It is recommended that the Burleigh County Board adopt the attached proposed resolution.

THEREFORE, BE IT RESOLVED: That Burleigh County hereby adopts the attached 2027 Highway Department fee schedule.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: **Award of Bids**

Please include the following item in the next Burleigh County Board packet.

ACTION REQUESTED:
Authorize the proper County officials to accept the low bid for 1 (one) new Mower Tractor.

BACKGROUND:
On October 5, 2026, the County Board authorized the County Auditor and the County Engineer to advertise for bids for 1 (one) new Mower Tractor. Bids were opened on October 22, 2026 and the following bids were received:

Bidder	Total Sum bid
Acme Tools	$173,130.43
RDO Equipment	$181,540.02

Budget Amount $200,000.00

New unit will be 2027 Kubota M7-154K.

RECOMMENDATION:
It is recommended the Board adopt the attached proposed resolution.

PROPOSED RESOLUTION:
THEREFORE, BE IT RESOLVED: That the County Board hereby accepts the following low bid from Acme Tools for 1 (one) Mower Tractors for a total bid amount of $173,130.43 and authorize the proper County officials to enter into a contract with said bidder.

MEMO TO: Chairperson, Board of County Commissioners

FROM: Derek Pfeifer, Local Government Engineer DDP

DATE: October 14, 2026

SUBJECT: Maintenance Certification

Enclosed is the annual Maintenance Certification for county federal aid projects for you to sign and return to my office by **December 18, 2026**. This certification states that your county is properly maintaining the projects that had federal aid for construction.

Also, enclosed is a **sample** "Cost Participation, Construction, and Maintenance Agreement" similar to one you have signed for each federal aid construction project (See pages 3 and 4). This does ***not*** need to be returned as it is for your information only.

If you have any questions, please call me at 701-328-4408.

38/kl/ss
Cc: Road Foreman (letter only)
Enclosures

MAINTENANCE CERTIFICATION
COUNTY FEDERAL AID PROJECT
North Dakota Department of Transportation, Local Government
SFN 51026 (8-2017)

All federal aid highway projects have been inspected and are being maintained in a good and safe condition for general public use. Maintenance is in accordance with the North Dakota Department of Transportation "Construction and Maintenance Agreements".

Approved as to form:

States Attorney (Type or print)	County of
Signature	Date

County Auditor (Type or print)	Chairman, Board of County Commissioners (Type or print)
Signature	Signature

Recommended for approval:

County Engineer/Highway Supervisor (Type or print)
Signature

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: **Maintenance Certification**

Please place the following item on the next Burleigh County Board agenda.

ACTION REQUESTED:
Authorize County Officials to sign Maintenance Certification

BACKGROUND:
Every year the Burleigh County Highway Department reviews all federal aid highway projects and certifies that they are being maintained in a good and safe condition for general public use, and that maintenance is being done in accordance with the North Dakota Department of Transportation “Construction and Maintenance Agreements.”

Under current State and Federal rules, the County Board must approve the certification and direct the proper County officials to sign the certification.

RECOMMENDATION:
It is recommended that the County Board adopt the attached proposed resolution.

PROPOSED RESOLUTION:
THEREFORE BE IT RESOLVED: That the proper County officials are hereby authorized to sign the annual county federal aid projects Maintenance Certification.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: Maintenance Agreement between the County Highway Department and both organized and unorganized Townships.

Please place the following item on the next Burleigh County Board agenda.

ACTION REQUESTED:
Approve the Annual Road Maintenance Agreements

BACKGROUND:
Every year the Burleigh County Highway Department enters into an annual Township Road Maintenance Agreement with each township. The agreement clarifies the roles and responsibilities of each party in the maintenance of township roads. The County Board must approve the agreement and direct the proper County/Township officials to sign the agreement.

RECOMMENDATION:
It is recommended that the County Board adopt the attached proposed resolutions.

PROPOSED RESOLUTION:

As the Burleigh County Board:
THEREFORE, BE IT RESOLVED: That the proper County officials are hereby authorized to enter into an agreement with the County's Townships, assigning the roles and responsibility for maintaining township roads within Burleigh County.

As the Unorganized Township Supervisors:
THEREFORE, BE IT RESOLVED: That the proper Township officials are hereby authorized to enter into an agreement with the County, assigning the roles and responsibility for maintaining township roads within the township.

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
APPLE CREEK TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$50,452.85	$173,769.29	29.03%
2024	$50,452.85	$93,162.29	54.16%
2025	$50,452.85	$96,525.14	52.27%
			45.15% Average

Mowing	$3,585.10
Asphalt	$15,941.46
Blading	$41,876.06
Plowing	$35,122.52
2025 Total	**$96,525.14**

2026	Fee Paid	$50,452.85
10%	Increase	$5,045.29
	2027 Fee	**$55,498.14**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	16.59
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	12.72

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	1.32
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.87
Subdivision Year-round Maintenance	17.83

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
BOYD TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$14,590.13	$71,656.70	20.36%
2024	$14,590.13	$64,549.02	22.60%
2025	$14,590.13	$38,072.36	38.32%
			27.10% Average

Mowing	$2,319.55
Asphalt	$0.00
Blading	$30,010.85
Plowing	$5,741.96
2025 Total	**$38,072.36**

2026	Fee Paid	$14,590.13
40%	Increase	$5,836.05
	2027 Fee	**$20,426.18**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.30
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	24.12
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
BURNT CREEK TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$45,502.94	$94,307.19	48.25%
2024	$45,502.94	$70,136.25	64.88%
2025	$45,502.94	$117,910.07	38.59%
			50.57% Average

Mowing	$2,293.94
Asphalt	$57,168.44
Blading	$33,214.81
Plowing	$25,232.88
2025 Total	**$117,910.07**

2026	Fee Paid	$45,502.94
0%	Increase	$0.00
	2027 Fee	**$45,502.94**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	15.34
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	3.18

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	1.95
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.24
Subdivision Year-round Maintenance	18.76

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
CANFIELD TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$5,360.50	$9,607.65	55.79%
2024	$5,360.50	$9,893.87	54.18%
2025	$5,360.50	$8,912.37	60.15%
			56.71% Average

Mowing	$1,066.16
Asphalt	$0.00
Blading	$6,341.46
Plowing	$1,504.75
2025 Total	**$8,912.37**

2026	Fee Paid	$5,360.50
0.0%	Increase	$0.00
	2027 Fee	**$5,360.50**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	5.98
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	3.88
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
CHRISTIANIA TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$8,477.81	$28,969.94	29.26%
2024	$8,477.81	$19,734.69	42.96%
2025	$8,477.81	$21,222.98	39.95%
			37.39% Average

Mowing	$1,453.40
Asphalt	$0.00
Blading	$15,695.79
Plowing	$4,073.79
2025 Total	**$21,222.98**

2026	Fee Paid	$8,477.81
30%	Increase	$2,543.34
	2027 Fee	**$11,021.15**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.01
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	14.46
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
CLEAR LAKE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$11,036.66	$30,555.86	36.12%
2024	$11,036.66	$28,639.63	38.54%
2025	$11,036.66	$34,871.06	31.65%
			35.44% Average

Mowing	$2,195.03				
Asphalt	$0.00	2026	Fee Paid	$11,036.66	
Blading	$27,264.60	~~30%~~	Increase	~~$3,311.00~~	1,393.71
Plowing	$5,411.43		**2027 Fee**	~~**$14,347.66**~~	
2025 Total	**$34,871.06**	Maximum Fee charged = 18 mills		**$12,430.37**	

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	22.16
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
CROFTE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$15,655.77	$41,675.13	37.57%
2024	$15,655.77	$31,118.44	50.31%
2025	$15,655.77	$29,748.35	52.63%
			46.83% Average

Mowing	$1,040.59
Asphalt	$0.00
Blading	$22,157.06
Plowing	$6,550.70
2025 Total	**$29,748.35**

2026	Fee Paid	$15,655.77
10%	Increase	$1,565.58
	2027 Fee	**$17,221.35**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.39
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	15.98
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
CROMWELL TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$9,766.57	$27,658.21	35.31%
2024	$9,766.57	$17,599.09	55.49%
2025	$9,766.57	$22,053.23	44.29%
			45.03% Average

Mowing	$1,003.44
Asphalt	$0.00
Blading	$17,678.47
Plowing	$3,371.32
2025 Total	**$22,053.23**

2026	Fee Paid	$9,766.57
10%	Increase	$976.66
	2027 Fee	**$10,743.23**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.08
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	13.25
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
DRISCOLL TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$13,480.91	$34,580.66	38.98%
2024	$13,480.91	$29,221.33	46.13%
2025	$13,480.91	$30,232.62	44.59%
			43.24% Average

Mowing	$2,195.03
Asphalt	$0.00
Blading	$21,318.65
Plowing	$6,718.94
2025 Total	**$30,232.62**

2026	Fee Paid	$13,480.91
20%	Increase	$2,696.18
	2027 Fee	**$16,177.09**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	19.51
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
ECKLUND TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$30,912.86	$87,247.23	35.43%
2024	$30,912.86	$81,894.35	37.75%
2025	$30,912.86	$80,088.88	38.60%
			37.26% Average

Mowing	$3,423.76			
Asphalt	$0.00	2026	Fee Paid	$30,912.86
Blading	$58,230.77	30%	Increase	$9,273.86
Plowing	$18,434.35		**2027 Fee**	**$40,186.72**
2025 Total	**$80,088.88**	Maximum Fee Charged = 18 mills		

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.49
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	46.07
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
ESTHERVILLE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$10,993.46	$28,003.08	39.26%
2024	$10,993.46	$20,894.97	52.61%
2025	$10,993.46	$17,392.91	63.21%
			51.69% Average

Mowing	$2,289.10
Asphalt	$0.00
Blading	$11,775.08
Plowing	$3,328.73
2025 Total	**$17,392.91**

2026	Fee Paid	$10,993.46
0%	Increase	$0.00
	2027 Fee	**$10,993.46**

Maximum Fee Charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	21.72
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
FLORENCE LAKE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$5,988.56	$16,947.20	35.34%
2024	$5,988.56	$11,362.25	52.71%
2025	$5,988.56	$10,491.81	57.08%
			48.37% Average

Mowing	$1,485.83				
Asphalt	$0.00	2026	Fee Paid	$5,988.56	
Blading	$6,269.86	~~10%~~	Increase	~~$598.86~~	561.24
Plowing	$2,736.12		**2027 Fee**	~~$6,587.42~~	
2025 Total	**$10,491.81**	Maximum Fee charged = 18 mills		**$6,549.80**	

Gravel Roads

	Total Miles
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	10.52
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads

Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
FORT RICE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,288.31	$17,072.23	42.69%
2024	$7,288.31	$11,388.13	64.00%
2025	$7,288.31	$10,499.01	69.42%
			58.70% Average

Mowing	$419.89
Asphalt	$0.00
Blading	$3,978.88
Plowing	$6,100.24
2025 Total	**$10,499.01**

2026	Fee Paid	$7,288.31
0%	Increase	$0.00
	2027 Fee	**$7,288.31**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.20
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	1.23
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	2.42

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.86
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	2.57

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
FRANCES TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,387.51	$26,824.35	27.54%
2024	$7,387.51	$19,010.80	38.86%
2025	$7,387.51	$18,960.32	38.96%
			35.12% Average

Mowing	$1,784.70
Asphalt	$0.00
Blading	$14,135.48
Plowing	$3,040.14
2025 Total	**$18,960.32**

2026	Fee Paid	$7,387.51	
~~30%~~	Increase	~~$2,216.25~~	1,982.07
	2027 Fee	~~$9,603.76~~	
Maximum Fee charged = 18 mills		**$9,369.58**	

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	12.42
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
GHYLIN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$11,675.17	$30,619.29	38.13%
2024	$11,675.17	$18,454.00	63.27%
2025	$11,675.17	$17,629.60	66.22%
			55.87% Average

Mowing	$1,567.88
Asphalt	$0.00
Blading	$13,278.79
Plowing	$2,782.93
2025 Total	**$17,629.60**

2026	Fee Paid	$11,675.17
0%	Increase	$0.00
	2027 Fee	**$11,675.17**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	16.28
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
GIBBS TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$35,311.80	$97,227.15	36.32%
2024	$32,111.29	$32,111.29	100.00%
2025	$35,311.80	$70,955.15	49.77%
			62.03% Average

Mowing	$3,118.39
Asphalt	$31,253.76
Blading	$11,081.95
Plowing	$25,501.05
2025 Total	**$70,955.15**

2026	Fee Paid	$35,311.80
0%	Increase	$0.00
	2027 Fee	**$35,311.80**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	8.41
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	1.86

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	2.46
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	22.91

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
GLENVIEW TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$10,934.83	$36,521.89	29.94%
2024	$10,934.83	$20,439.41	53.50%
2025	$10,934.83	$25,620.81	42.68%
			42.04% Average

Mowing	$1,516.19
Asphalt	$0.00
Blading	$18,455.74
Plowing	$5,648.88
2025 Total	**$25,620.81**

2026	Fee Paid	$10,934.83
20%	Increase	$2,186.97
	2027 Fee	**$13,121.80**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.22
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	15.00
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.26
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
GRASS LAKE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$12,941.13	$37,377.29	34.62%
2024	$12,941.13	$27,414.81	47.20%
2025	$12,941.13	$30,757.62	42.07%
			41.30% Average

Mowing	$3,261.18
Asphalt	$0.00
Blading	$22,418.31
Plowing	$5,078.13
2025 Total	**$30,757.62**

2026	Fee Paid	$12,941.13
20%	Increase	$2,588.23
	2027 Fee	**$15,529.36**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	3.07
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	23.39
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
HARRIET/LEIN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$13,073.90	$44,249.95	29.55%
2024	$13,073.90	$24,098.97	54.25%
2025	$13,073.90	$28,431.24	45.98%
			43.26% Average

Mowing	$1,868.56
Asphalt	$0.00
Blading	$20,664.82
Plowing	$5,897.86
2025 Total	**$28,431.24**

2026	Fee Paid	$13,073.90
20%	Increase	$2,614.78
	2027 Fee	**$15,688.68**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	6.31
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	17.62
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
HAY CREEK TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$59,131.10	$192,897.96	30.65%
2024	$41,665.90	$41,665.90	100.00%
2025	$59,131.10	$167,205.39	35.36%
			55.34% Average

Mowing	$999.10
Asphalt	$112,986.67
Blading	$7,600.77
Plowing	$45,618.85
2025 Total	**$167,205.39**

2026	Fee Paid	$59,131.10
0.0%	Increase	$0.00
	2027 Fee	**$59,131.10**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	1.33
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.10
Subdivision Winter Maintenance (Snow Plowing)	0.05
Subdivision Year-round Maintenance	3.44

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	3.89
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	48.53

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
HAZEL GROVE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$8,333.06	$44,538.42	18.71%
2024	$8,333.06	$19,431.11	42.89%
2025	$8,333.06	$19,630.44	42.45%
			34.68% Average

Mowing	$2,236.26				
Asphalt	$0.00	2026	Fee Paid	$8,333.06	
Blading	$12,408.37	~~30%~~	Increase	~~$2,499.92~~	813.96
Plowing	$4,985.81		**2027 Fee**	~~$10,832.98~~	
2025 Total	**$19,630.44**	Maximum Fee charged = 18 mills		**$9,147.02**	

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.80
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	22.38
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
LINCOLN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$51,206.58	$138,561.38	36.96%
2024	$51,206.58	$81,046.36	63.18%
2025	$51,206.58	$152,994.13	33.47%
			44.54% Average

Mowing	$3,225.14			
Asphalt	$93,511.28	2026	Fee Paid	$51,206.58
Blading	$16,322.01	20%	Increase	$10,241.32
Plowing	$39,935.70		**2027 Fee**	**$61,447.90**
2025 Total	**$152,994.13**	Maximum Fee charged = 18 mills		

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	1.97
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	5.96

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	11.04
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	21.30

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
LOGAN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$10,220.42	$16,332.51	62.58%
2024	$10,220.42	$15,400.60	66.36%
2025	$10,220.42	$16,536.37	61.81%
			63.58% Average

Mowing	$1,411.09
Asphalt	$0.00
Blading	$11,173.11
Plowing	$3,952.17
2025 Total	**$16,536.37**

2026	Fee Paid	$10,220.42
0%	Increase	$0.00
	2027 Fee	**$10,220.42**

Gravel Roads

	Total Miles
Summer Maintenance (Blading & Weed Mowing)	1.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	16.15
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads

Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
LONG LAKE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,124.50	$11,494.74	61.98%
2024	$7,124.50	$9,702.35	73.43%
2025	$7,124.50	$10,757.74	66.23%
			67.21% Average

Mowing	$1,061.86
Asphalt	$0.00
Blading	$7,553.74
Plowing	$2,142.14
2025 Total	**$10,757.74**

2026	Fee Paid	$7,124.50
0%	Increase	$0.00
	2027 Fee	**$7,124.50**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	6.09
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	6.26
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	1.73
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
LYMAN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$5,493.66	$9,997.88	54.95%
2024	$5,493.66	$6,242.88	88.00%
2025	$5,493.66	$6,750.30	81.38%
			74.78% Average

Mowing	$1,042.53
Asphalt	$0.00
Blading	$4,734.93
Plowing	$972.84
2025 Total	**$6,750.30**

2026	Fee Paid	$5,493.66
0%	Increase	$0.00
	2027 Fee	**$5,493.66**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	6.11
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	5.49
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
MCKENZIE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$12,118.58	$28,294.34	42.83%
2024	$12,118.58	$27,430.12	44.18%
2025	$12,118.58	$20,502.69	59.11%
			48.71% Average

Mowing	$1,155.93
Asphalt	$0.00
Blading	$15,263.85
Plowing	$4,082.91
2025 Total	**$20,502.69**

2026	Fee Paid	$12,118.58
10%	Increase	$1,211.86
	2027 Fee	**$13,330.44**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	16.14
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.05
Year round Maintenance	1.39
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
MENOKEN TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$18,255.22	$64,057.76	28.50%
2024	$18,255.22	$37,873.05	48.20%
2025	$18,255.22	$33,398.73	54.66%
			43.79% Average

Mowing	$2,800.70
Asphalt	$0.00
Blading	$19,077.68
Plowing	$11,520.35
2025 Total	**$33,398.73**

2026	Fee Paid	$18,255.22
20%	Increase	$3,651.04
	2027 Fee	**$21,906.26**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	22.63
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	1.12

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	1.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
MISSOURI TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,827.18	$36,721.99	21.31%
2024	$7,827.18	$33,239.27	23.55%
2025	$7,827.18	$25,579.19	30.60%
			25.15% Average

Mowing	$1,818.74				
Asphalt	$0.00	2026	Fee Paid	$7,827.18	
Blading	$20,233.90	~~40%~~	Increase	~~$3,130.87~~	2,961.26
Plowing	$3,526.55		**2027 Fee**	~~$10,958.05~~	
2025 Total	**$25,579.19**	Maximum Fee charged = 18 mills		**$10,788.44**	

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	6.46
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	7.55
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
MORTON TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,737.43	$21,385.81	36.18%
2024	$7,737.43	$17,330.89	44.65%
2025	$7,737.43	$24,350.72	31.77%
			37.53% Average

Mowing	$1,470.80
Asphalt	$0.00
Blading	$17,394.09
Plowing	$5,485.83
2025 Total	**$24,350.72**

2026	Fee Paid	$7,737.43
30%	Increase	$2,321.23
	2027 Fee	**$10,058.66**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	18.38
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
NAUGHTON TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$16,527.02	$39,389.31	41.96%
2024	$16,527.02	$26,169.70	63.15%
2025	$16,527.02	$31,305.00	52.79%
			52.63% Average

Mowing	$1,818.74
Asphalt	$0.00
Blading	$24,014.03
Plowing	$5,472.23
2025 Total	**$31,305.00**

2026	Fee Paid	$16,527.02
0%	Increase	$0.00
	2027 Fee	**$16,527.02**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	15.73
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
PAINTED WOODS TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$13,467.07	$52,714.39	25.55%
2024	$13,467.07	$45,505.74	29.59%
2025	$13,467.07	$43,205.78	31.17%
			28.77% Average

Mowing	$2,069.60
Asphalt	$0.00
Blading	$36,367.02
Plowing	$4,769.16
2025 Total	**$43,205.78**

2026	Fee Paid	$13,467.07
40%	Increase	$5,386.83
	2027 Fee	**$18,853.90**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	22.10
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
PHOENIX TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$6,014.23	$17,633.99	34.11%
2024	$6,014.23	$8,442.57	71.24%
2025	$6,014.23	$13,826.49	43.50%
			49.61% Average

Mowing	$1,252.15
Asphalt	$0.00
Blading	$10,507.05
Plowing	$2,067.29
2025 Total	**$13,826.49**

2026	Fee Paid	$6,014.23
10%	Increase	$601.42
	2027 Fee	**$6,615.65**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	4.39
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	6.95
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
RICHMOND TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$6,101.03	$9,261.82	65.87%
2024	$6,101.03	$9,213.88	66.22%
2025	$6,101.03	$9,714.69	62.80%
			64.96% Average

Mowing	$1,191.59
Asphalt	$0.00
Blading	$6,212.60
Plowing	$2,310.50
2025 Total	**$9,714.69**

2026	Fee Paid	$6,101.03
0%	Increase	$0.00
	2027 Fee	**$6,101.03**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.43
Year round Maintenance	8.88
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
RIVERVIEW TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$20,934.01	$74,245.71	28.20%
2024	$20,934.01	$45,308.80	46.20%
2025	$20,934.01	$46,608.63	44.91%
			39.77% Average

Mowing	$1,642.12
Asphalt	$12,975.38
Blading	$19,313.71
Plowing	$12,677.42
2025 Total	**$46,608.63**

2026	Fee Paid	$20,934.01
30%	Increase	$6,280.20
	2027 Fee	**$27,214.21**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.54
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	11.79
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.96

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.35
Year round Maintenance	3.67
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	7.10

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
ROCK HILL TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,521.98	$15,707.14	47.89%
2024	$7,521.98	$11,698.05	64.30%
2025	$7,521.98	$11,063.46	67.99%
			60.06% Average

Mowing	$1,031.55			
Asphalt	$0.00	2026	Fee Paid	$7,521.98
Blading	$7,264.64	0%	Increase	$0.00
Plowing	$2,767.27		**2027 Fee**	**$7,521.98**
2025 Total	**$11,063.46**	Maximum Fee charged = 18 mills		

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	6.01
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	8.16
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
SCHRUNK/STEIBER TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$8,171.33	$18,886.29	43.27%
2024	$8,171.33	$12,287.85	66.50%
2025	$8,171.33	$12,609.58	64.80%
			58.19% Average

Mowing	$1,411.09
Asphalt	$0.00
Blading	$7,743.87
Plowing	$3,454.62
2025 Total	**$12,609.58**

2026	Fee Paid	$8,171.33
0%	Increase	$0.00
	2027 Fee	**$8,171.33**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	12.26
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
SIBLEY BUTTE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$5,844.65	$13,060.97	44.75%
2024	$5,844.65	$11,981.76	48.78%
2025	$5,844.65	$11,000.42	53.13%
			48.89% Average

Mowing	$560.14
Asphalt	$0.00
Blading	$8,981.02
Plowing	$1,459.26
2025 Total	**$11,000.42**

2026	Fee Paid	$5,844.65
10%	Increase	$584.47
	2027 Fee	**$6,429.12**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	10.08
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
STERLING TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$12,301.21	$32,629.14	37.70%
2024	$12,301.21	$26,972.93	45.61%
2025	$12,301.21	$41,207.74	29.85%
			37.72% Average

Mowing	$2,033.94
Asphalt	$0.00
Blading	$32,601.41
Plowing	$6,572.39
2025 Total	**$41,207.74**

2026	Fee Paid	$12,301.21
30%	Increase	$3,690.36
	2027 Fee	**$15,991.57**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.99
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	15.08
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.33

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.06
Year round Maintenance	0.71
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
TAFT TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,524.02	$12,834.05	58.63%
2024	$7,524.02	$10,743.43	70.03%
2025	$7,524.02	$10,319.90	72.91%
			67.19% Average

Mowing	$867.27
Asphalt	$0.00
Blading	$7,765.22
Plowing	$1,687.41
2025 Total	**$10,319.90**

2026	Fee Paid	$7,524.02
0%	Increase	$0.00
	2027 Fee	**$7,524.02**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	3.49
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	9.12
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
TELFER TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$7,847.41	$79,804.21	9.83%
2024	$7,847.41	$59,984.19	13.08%
2025	$7,847.41	$39,233.32	20.00%
			14.31% Average

Mowing	$2,757.31				
Asphalt	$0.00	2026	Fee Paid	$7,847.41	
Blading	$30,760.56	~~40%~~	Increase	~~$3,138.96~~	
Plowing	$5,715.45		**2027 Fee**	~~$10,986.37~~	1,035.75
2025 Total	**$39,233.32**	Maximum Fee charged = 18 mills		**$8,883.16**	

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	24.03
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
THELMA TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$3,657.49	$12,266.84	29.82%
2024	$3,657.49	$8,378.32	43.65%
2025	$3,657.49	$8,478.97	43.14%
			38.87% Average

Mowing	$846.65
Asphalt	$0.00
Blading	$5,823.31
Plowing	$1,809.01
2025 Total	**$8,478.97**

2026	Fee Paid	$3,657.49
30%	Increase	$1,097.25
	2027 Fee	**$4,754.74**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.79
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	4.53
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
TRYGG TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$6,830.47	$20,151.24	33.90%
2024	$6,830.47	$8,447.97	80.85%
2025	$6,830.47	$9,953.63	68.62%
			61.12% Average

Mowing	$815.30
Asphalt	$0.00
Blading	$6,797.18
Plowing	$2,341.15
2025 Total	**$9,953.63**

2026	Fee Paid	$6,830.47
0%	Increase	$0.00
	2027 Fee	**$6,830.47**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	2.87
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	9.44
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
WILD ROSE TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$4,348.70	$8,733.16	49.80%
2024	$4,348.70	$7,950.34	54.70%
2025	$4,348.70	$8,651.18	50.27%
			51.59% Average

Mowing	$439.01
Asphalt	$0.00
Blading	$6,935.31
Plowing	$1,276.86
2025 Total	**$8,651.18**

2026	Fee Paid	$4,348.70
0%	Increase	$0.00
	2027 Fee	**$4,348.70**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	0.28
Winter Maintenance (Snow Plowing)	1.00
Year round Maintenance	6.77
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
WILSON TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$8,323.02	$13,777.13	60.41%
2024	$8,323.02	$16,394.76	50.77%
2025	$8,323.02	$11,151.21	74.64%
			61.94% Average

Mowing	$869.42
Asphalt	$0.00
Blading	$7,945.51
Plowing	$2,336.28
2025 Total	**$11,151.21**

2026	Fee Paid	$8,323.02
0%	Increase	$0.00
	2027 Fee	**$8,323.02**

Maximum Fee charged = 18 mills

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.00
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	12.57
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Appendix A
BURLEIGH COUNTY HIGHWAY DEPARTMENT
WING TOWNSHIP
PROPOSED 2027 ROAD MAINTENANCE AGREEMENT

(FOR TOWNSHIP BUDGETING PURPOSES)

If your township 3 year average Fee to Cost ratio is:	Then your increase in Fee from 2025 will be:
Less than 30%	40%
Greater than 30% less than 40%	30%
Greater than 40% less than 45%	20%
Greater than 45% less than 50%	10%
Greater than 50%	0%

Maximum Fee charged = 18 mills

Year	Fee Paid	Actual Cost of Service	Fee to Cost Ratio
2023	$2,917.06	$7,585.34	38.46%
2024	$2,917.06	$5,831.03	50.03%
2025	$2,917.06	$6,897.07	42.29%
			43.59% Average

Mowing	$376.29
Asphalt	$0.00
Blading	$4,392.69
Plowing	$2,128.09
2025 Total	**$6,897.07**

2026	Fee Paid	$2,917.06
20%	Increase	$583.41
	2027 Fee	**$3,500.47**

Gravel Roads	**Total Miles**
Summer Maintenance (Blading & Weed Mowing)	1.14
Winter Maintenance (Snow Plowing)	0.00
Year round Maintenance	3.52
Subdivision Summer Maintenance (Blading & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Paved Roads	
Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Winter Maintenance (Snow Plowing & Intersection Sanding)	0.00
Year round Maintenance	0.00
Subdivision Summer Maintenance (Asphalt Maintenance & Weed Mowing)	0.00
Subdivision Winter Maintenance (Snow Plowing)	0.00
Subdivision Year-round Maintenance	0.00

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: Award of Bids

Please include the following item in the next Burleigh County Board packet.

ACTION REQUESTED:
Authorize the proper County officials to accept the low bid for 3 (three) new Motor Graders.

BACKGROUND:
On October 5, 2026, the County Board authorized the County Auditor and the County Engineer to advertise for bids for 3 (three) new Motor Graders under a 5 year - total cost bid with a guaranteed repurchase price at the end of this period. Bids were opened on October 22, 2026 and the following bids were received:

Bidder	2 Each Standard Spec Machine (No GPS)		
	Total Sum bid	Less Buy Back	Total Bid Cost
RDO Equipment	$434,800.00	$208,600.00	$226,200.00
Butler Machinery	$445,000.00	$195,000.00	$250,000.00

Bidder	1 Each Standard Spec Machine (with GPS)		
	Total Sum bid	Less Buy Back	Total Bid Cost
RDO Equipment	$491,400.00	$224,200.00	$267,200.00
GPS Base Station and Data Collector (Does not affect award):			$17,700.00
Butler Machinery	$501,825.00	$215,000.00	$286,825.00
GPS Base Station and Data Collector (Does not affect award):			$24,255.00

Basis of award is on the Total Bid Cost.

Budget Amount $1,500,000.

New units will be a John Deere 772P.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

RECOMMENDATION:
It is recommended the Board adopt the attached proposed resolution.

PROPOSED RESOLUTION:
THEREFORE, BE IT RESOLVED: That the County Board hereby accepts the following low bid from RDO Equipment for 2 (two) new standard spec Motor Graders and 1 (one) standard spec Motor Grader with GPS and additional GPS Equipment for a total purchase of $1,378,700.00 under a 5 year - total cost bid with a guaranteed repurchase price at the end of this period, and authorize the proper County officials to enter into a contract with said bidder.

Burleigh County Highway Department
8100 43rd Ave NE
Bismarck ND 58503
701.204.7748 | burleigh.gov

Request for County Board Action

DATE: **November 2, 2026**

TO: **Mark Splonskowski**
County Auditor

FROM: **Daniel Schriock**
County Engineer

RE: Authorization to advertise for bids.

Please place the following item on the next Burleigh County Board agenda.

ACTION REQUESTED:
Authorize the proper County officials to advertise for to repair Bridge #08-118-20.0 located 1.75 miles north of Baldwin Road on 132nd Street NE Burleigh County Project No. 0197.

BACKGROUND:
As part of the 2027 Budget discussion the Highway Department included the repair of Bridge No. 08-118-20.0 which had a critical finding during the last round of bridge inspections requiring a year-round restriction to be put in place. The Highway Department has been working with a local engineer to develop plans for repair of this structure to bring it back to full capacity. The plans are nearing completion and the Highway Department is seeking authority to move forward with the bidding of the repair.

RECOMMENDATION:
It is recommended that the County Board adopt the attached proposed resolution.

PROPOSED RESOLUTION:
THEREFORE, BE IT RESOLVED: That the County Auditor and the County Engineer are hereby authorized to advertise repairs for Bridge #08-118-20.0 project No. 0197.

ITEM

8

BURLEIGH COUNTY
SHERIFF'S DEPARTMENT

KELLY LEBEN
SHERIFF

Request for County Commission Action

Date: October 21, 2026

To: Mark Splonskowski
Burleigh County Auditor

From: Kelly Leben
Burleigh County Sheriff

Re: Variance to Burleigh County Policy- Chapter 2 SECTION 10: STARTING SALARY

Please place the following item on the next Burleigh County Commission agenda.

Action Requested:
Approve a variance to the starting salary for Jail Nurse-RN Position.

Background:
BMDC is in the process of hiring a Jail Nurse-RN position. The top applicant has over 18 years of experience in various aspects of nursing. The negotiated step is outside of the allowable steps by Burleigh County policy without County Commission approval. Market analysis shows negotiated salary is comparable with local job market.

Recommendation:
It is recommended that the County Commission approve the variance to the starting salary for the Jail Nurse-RN position at a Grade 9 Step 12.

Proposed Resolution:
THEREFORE BE IT RESOLVED: That the proper County officials are hereby authorized to authorize the variance to Burleigh County Policy Chapter 2 Section 10-Starting Salary.

COURTHOUSE
514 E. Thayer • PO Box 1416
Bismarck, ND 58502-1416
P 701-222-6651 • F 701-221-6899
www.facebook.com/BurleighCountySheriffsDepartment

BURLEIGH MORTON DETENTION CENTER
4000 Apple Creek Road • PO Box 2499
Bismarck, ND 58502-2499
P 701-255-3113 • F 701-258-5319

ITEM

9

STATE OF NORTH DAKOTA **IN DISTRICT COURT**

COUNTY OF BURLEIGH **SOUTH CENTRAL JUDICIAL DISTRICT**

APH Farms, Arden Hagerott, Jonathan Hagerott, Janel Olson, Valera Hayen, Kari Curran, Scott Irmen, Mary Jo Irmen, Leon Mallberg, Staroba Revocable Living Trust, Loren Staroba, Diane Staroba, and James Tiegs,

Appellants,

vs.

North Dakota Public Service Commission, SCS Carbon Transport LLC, John H. Warford, Jr. Revocable Trust, Chad Wachter, Chad Moldenhauer, City of Bismarck, Laborers District Council of Minnesota and North Dakota, Emmons County, and Burleigh County,

Appellees.

Case No. 08-2024-CV-03622

ORDER AFFIRMING IN PART, REVERSING IN PART, AND REMANDING

INTRODUCTION

[¶1] This matter came before the Court pursuant to a *Notice of Appeal and Specifications of Error* filed by the Appellants, APH Farms, Arden Hagerott, Jonathan Hagerott, Janel Olson, Valera Hayen, Kari Curran, Scott Irmen, Mary Jo Irmen, Leon Mallberg, Staroba Revocable Living Trust, Loren Staroba, Diane Staroba, and James Tiegs (collectively the "Landowners"), on December 13, 2024. (R:1-11). The Landowners appeal from the November 15, 2024, *Findings of Fact, Conclusions of Law, and Order* by the North Dakota Public Service Commission (the "PSC"), the February 7, 2024, Order, and the August 4, 2023, *Order on Protection of Information*. (R:1:2).

[¶2] The Landowners assert the PSC incorrectly determined N.D.C.C. § 49-22.1-13(2)(b) automatically superseded and preempted any local land use or zoning regulations for a gas or liquid

transmission facility route permit in its February 7, 2024, Order. *Id.* They also assert the PSC incorrectly determined that ordinances of Emmons County and Burleigh County (the "Counties") requiring a setback that may exceed N.D.C.C. § 49-22.1-03 are unreasonably restrictive because they conflict with state law. *Id.* The Landowners assert the PSC made determinations of fact and conclusions of law based on a secret plume study that SCS Carbon Transport LLC ("Summit") shared only with the PSC and a handful of private individuals, and that neither the Landowners nor the Counties have seen, cross-examined, or had evaluated by an expert. (R:915:20-21:28-29). The Landowners contend neither the ex parte communication procedure under N.D.C.C. § 28-32-37 nor the additional-evidence procedure under N.D.C.C. § 28-32-25 was followed before the PSC considered Summit's carbon dioxide dispersion model (the "Dispersion Model"), and that this noncompliance should be dispositive. (R:915:39-40:54). The Landowners ask this Court to reverse the orders issued by the PSC, remand for further proceedings, and award them costs and attorney's fees under N.D.C.C. § 28-32-50(1). (R:1:5).

[¶3] Emmons County initiated an administrative appeal arising out of the PSC's above-mentioned orders, identified as *Emmons County vs. North Dakota Public Service Commission and SCS Carbon Transport LLC* (Case No. 08-2024-CV-00624). On January 31, 2025, counsel for Emmons County filed a *Notice of Appearance* on behalf of Emmons County, as the County was named an appellee in this action. (R:28). The same day, Emmons County voluntarily dismissed its administrative appeal. (R:19) (08-2024-CV-00624).

[¶4] On June 25, 2025, the PSC filed a *Motion to Consolidate* the administrative appeal identified as *Burleigh County vs. North Dakota Public Service Commission and SCS Carbon Transport LLC* (Case No. 08-2024-CV-03614) with the present case. (R:97-101). Burleigh County joined the PSC's *Motion to Consolidate*. (R:102). The Honorable Pamela Nesvig granted the PSC's *Motion*

to Consolidate the two administrative appeals into the present case. (R:114).

[¶5] On November 20, 2025, the PSC filed a *Certificate of Record* along with the record from the administrative proceeding. (R:122-123); (R:124-146, 149-476, 493-912).

[¶6] On February 19, 2026, Emmons County filed its *Brief*. (R:913). Emmons County argues the PSC erred because N.D.C.C. § 49-22.1-13(2)(c) requires factual findings and a conclusion of law that a local ordinance is unreasonably restrictive before the PSC can supersede or preempt local land use laws. (R:913:4:10-27). Emmons County further contends its ordinance cannot be superseded under N.D.C.C. § 49-22.1-13(2)(c) because the record contains no evidence to support the required findings. (R:913:12:28-30). Finally, Emmons County maintains the PSC's decision to reconsider Summit's Application after denial was illegal because the "reconsideration" was in fact an amendment to the Application. (R:913:13:31-37). Accordingly, Emmons County asks the Court to reverse the PSC because it misinterpreted the applicable law, failed to make findings before attempting to preempt or supersede the Emmons County Ordinance, and allowed Summit to amend its application under the guise of requesting "reconsideration." (R:913:15:38-39).

[¶7] The Landowners submitted their *Appellants' Brief* on February 20, 2026. (R:915). The Landowners argue that N.D.C.C. § 49-22.1-13(2) does not allow for "automatic preemption" of local ordinances or regulations. (R:915:22:31-40). The Landowners maintain a certificate of corridor compatibility is a prerequisite for a route permit, and an applicant must comply with all local requirements timely submitted to the PSC. (R:915:23:32-35). In contrast, they argue, a route permit may only preempt local ordinances upon limited findings of fact by the PSC under N.D.C.C. § 49-22.1-13(2)(c). (R:915:25:36-40). The Landowners contend the PSC's finding of fact is impermissibly vague. (R:915:28:41-44). The Landowners assert the PSC's finding does not explain which statutory elements the local ordinances trigger or identify any evidence supporting its

finding. (R:915:30:43). Regarding the PSC's conclusion that a setback in excess of 500 feet conflicts with N.D.C.C. § 49-22.1-03, the Landowners claim that conclusion is a mistake of law. (R:915:30:44). The Landowners argue the PSC's finding of "unreasonable restrictions" lacks evidentiary support. (R:915:32:45-54). Accordingly, the Landowners ask the Court to reverse and remand for further proceedings to allow appropriate disclosure, discovery, and a hearing that creates a record as the Administrative Agencies Practice Act ("AAPA") requires. (R:915:40:55).

[¶8] On February 23, 2026, Burleigh County filed its *Brief*. (R:918). Burleigh County argues Summit was required to perform appropriate dispersion modeling of the release of carbon dioxide because carbon dioxide is an asphyxiant. (R:918:14:19-23). Burleigh County contends the PSC erred by protecting Summit's Dispersion Model from release to the public. (R:918:17:24-48). Burleigh County asserts it was inappropriate for the PSC to consider the Dispersion Model without giving the parties and the public an opportunity to challenge its reliability. (R:918:19:27). Burleigh County claims that while Summit advanced its sensitive-security argument for concealing the Dispersion Model, it abandoned that argument in Minnesota, and thus advanced a false narrative before the PSC. (R:918:26:39). Burleigh County maintains the PSC's decision to protect the Dispersion Model was an abuse of discretion. (R:918:27:40). Further, Burleigh County argues North Dakota law does not protect the Dispersion Model. (R:918:27:41-48).

[¶9] Burleigh County contends the PSC erred in finding that Burleigh County ordinances are superseded and preempted by state law, and that they are unreasonably restrictive on their face. (R:918:32:49-65). Burleigh County asserts Summit failed at the hearings to identify a viable southern route or eastern route around Bismarck, North Dakota. (R:918:39:66-76). It claims the southern-route "analysis" presented at the rehearing was no analysis at all, but rather an affront to the PSC's prior order. (R:918:41:68-69).

[¶10] Further, Burleigh County argues the PSC erred by refusing to consider public health and welfare and other relevant considerations that are not preempted by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"). (R:918:45:77). Burleigh County also contends the PSC erred by issuing its November 15, 2024, Order without waiting for expected new PHMSA regulations. (R:918:46:78). Burleigh County asserts the November 15, 2024, Order fails to address issues with Summit's liability insurance, which fails to adequately protect affected landowners. (R:918:46:79-81). Finally, Burleigh County maintains it should be awarded its reasonable attorney's fees and costs under N.D.C.C. § 28-32-50(1). (R:918:48:82-88). Accordingly, Burleigh County asks the Court to reverse the PSC. (R:918:51:89-91).

[¶11] On March 20, 2026, Summit filed its *Response Brief*. (R:928). Summit argues the PSC's treatment of its Dispersion Model did not deprive Burleigh County of a fair hearing and that the PSC correctly maintained confidentiality under North Dakota law. (R:928:11:17-35). Summit contends the PSC did not rely on the Dispersion Model as a basis for its decision, and that any use of the Dispersion Model to litigate safety would have been futile because the PSC expressly disclaimed jurisdiction over pipeline safety. (R:928:11-12:18-19). Summit maintains the North Dakota Supreme Court's decision in *Williams Elec. Co-op., Inc. v. Montana-Dakota Utilities Co.*, 79 N.W.2d 508 (N.D. 1956), controls and forecloses the fair-hearing claim. (R:928:13:22-25). It also asserts Burleigh County cannot show prejudice. (R:928:14:26).

[¶12] Further, Summit contends the PSC correctly concluded that the Burleigh and Emmons County ordinances are superseded and preempted. (R:928:18:36-62). Summit argues N.D.C.C. § 49-22.1-13(2)(b) provides the general rule, while subdivisions (c) through (e) address distinct subjects and do not convert the categorical supersession and preemption in subdivision (b) into a discretionary, ordinance-by-ordinance mechanism. (R:928:19:38). Summit maintains the PSC's

interpretation of N.D.C.C. § 49-22.1-13(2) is reasonable and entitled to deference. (R:928:19:39-48). It asserts both Counties read the statute in a manner that disregards the structure of the subsection, ignores the Legislature's use of mandatory language, and attempts to preserve local safety regulation in an area where federal law and the statute do not permit it. (R:928:19:40-47). Next, Summit claims the distinction between a certificate of corridor compatibility and a route permit, raised by the Landowners, is moot because the PSC issued a route permit. (R:928:22:48). It contends the county ordinances are independently preempted because they regulate interstate pipeline safety and federal law prohibits state and local entities from adopting safety standards for interstate pipeline facilities. (R:928:23:50-53). It argues the ordinances directly conflict with N.D.C.C. § 49-22.1-03 and state law. (R:928:25:54-57). Summit maintains the ordinances are unreasonably restrictive and operate as an effective ban. (R:928:27:58-62).

[¶13] Next, Summit asserts Burleigh County's argument regarding "no viable southern or eastern route" misstates Summit's legal obligations, the record, the standard of review, and the PSC's findings. (R:928:29:63-73). Summit contends Burleigh County's routing and development claims ask the Court to reweigh evidence. *Id.* Summit maintains the Appellants' other arguments have no merit. (R:928:36:74-99). Specifically, Summit argues the PSC did not err by declining to adjudicate interstate pipeline safety, and that Burleigh County's attempt to repackage safety objections as "public welfare" considerations is legally untenable because such considerations are reserved to PHMSA under the Pipeline Safety Act ("PSA"). (R:928:36-37:74-77). Summit contends the PSC was not required to delay its decision in anticipation of future PHMSA regulations, and that Burleigh County's "wait for rulemaking" theory is contrary to N.D.C.C. ch. 49-22.1 and administrative finality. (R:928:37:78-81). Summit asserts the PSC adequately addressed the insurance issue before it. (R:928:38:82-86). Summit maintains its application and petition for

reconsideration complied with N.D.C.C. ch. 49-22.1. (R:928:40:87-92). Finally, Summit argues Burleigh County's request for attorney's fees should be denied because the PSC's decision was substantially justified. (R:928:42:93-99). Accordingly, Summit asks the Court to affirm the PSC's order and deny the request for attorney's fees. (R:928:47:108).

[¶14] The PSC also filed its *Response Brief* on March 20, 2026. (R:930). The PSC contends its November 15, 2024, Order is supported by the weight of the evidence. (R:930:8:12-16). Like Summit, the PSC argues the questions regarding safety and the Dispersion Model are preempted by federal regulation under PHMSA and the PSA. (R:930:10:17-32). The PSC maintains reconsideration was appropriate and that the PSC's decision granting reconsideration should be affirmed. (R:930:17:33-39). Finally, the PSC argues its decision that the Burleigh and Emmons County ordinances are superseded and preempted was correct. (R:930:20:40-49). The PSC asserts it interpreted N.D.C.C. § 49-22.1-13(2)(c) as creating only an exception for road use agreements, not a conditional preemption that requires findings. (R:930:21:42). The PSC further contends its order contains additional, independent findings on whether the setbacks of both counties were unreasonably restrictive on their face, supporting its conclusions of law. (R:930:21:44-46). Accordingly, the PSC asks the Court to affirm its November 15, 2024, Order. (R:930:23:50).

[¶15] On April 6, 2026, Emmons County filed its *Reply*. (R:950). Emmons County argues its ordinance is unique and its arguments should not be merged with those of other parties. (R:950:3:1-4). Emmons County contends Summit has created confusion rather than clarity by merging Emmons County's and Burleigh County's arguments into one. *Id.* Emmons County asserts its ordinance is not "tailored" to hazardous liquid pipelines but rather broadly applies to "[e]lectric transmission facilities and non-potable water, gas, oil, coal slurry, CO2, or any other substance deemed to be hazardous by PHMSA transmission pipelines." *Id.* Thus, it maintains, merging the

two counties' arguments into one creates a misleading picture. *Id.* Emmons County asserts the PSC's and Summit's arguments about Summit's late-filed amendment to its application are nonresponsive because they do not address the primary issue raised – whether the PSC can consider a new application under the guise of reconsidering an application. (R:950:5:5). Further, Emmons County contends federal preemption was not a basis for preempting the Emmons County Ordinance and cannot become one on appeal. (R:950:6:6-16). Alternatively, Emmons County argues its ordinance does not conflict with federal law. *Id.* Finally, Emmons County asserts the issue it raised before the Court is purely one of statutory interpretation, so the "appreciable deference" standard does not apply. (R:950:9-10:17). Emmons County maintains the PSC's and Summit's interpretations of N.D.C.C. § 49-22.1-13(2) contradict clear and unambiguous statutory language, while Emmons County's interpretation harmonizes all the provisions. (R:950:10:18-19). Accordingly, Emmons County argues the PSC committed legal error by accepting Summit's position that the statute automatically supersedes local ordinances, rather than requiring Summit to first prove the ordinances unreasonably restrictive. (R:950:11:20).

[¶16] The Landowners also filed their *Reply* on April 6, 2026. (R:953). The Landowners contend the holding of *Williams Elec. Co-op.* is distinguishable because the PSC has possession of Summit's Dispersion Model. (R:953:1-2:1-3). The Landowners argue the PSA does not excuse the PSC's violation of the AAPA. (R:953:3:4-11). The Landowners distinguish between the PSC's ability to consider technical safety standards and its ability to consider safety generally. (R:953:4:7-9). The Landowners claim the Appellees' argument ignores the preemption analysis in N.D.C.C. § 49-22.1-13(2)(c), which required the PSC to make findings supported by a preponderance of the evidence. (R:953:7:11). The Landowners assert the PSC is not entitled to deference on fact-finding where it has not disclosed material evidence in violation of the AAPA. (R:953:7:12). Finally, the

Landowners assert the Appellees incorrectly treat the 500-foot avoidance area in N.D.C.C. § 49-22.1-03 as the only permissible setback. (R:953:8:13-14). Accordingly, they ask the Court to remand the matter for further proceedings. (R:953:9:15).

[¶17] Burleigh County filed its *Reply* on April 13, 2026. (R:955). Burleigh County asserts the PSC and Summit mischaracterize the record, the issues on appeal, and the applicable law. (R:955:5:2-7). Burleigh County contends the PSC's withholding of the Dispersion Model violated the AAPA and denied it a fair hearing. (R:955:7:8-22). Burleigh County maintains the PSC's error was prejudicial. (R:955:11:16-18). It argues neither state nor federal preemption excuses the errors; specifically, it contends its ordinances were not superseded by state law and were not unreasonably restrictive. (R:955:15:23-34). Additionally, Burleigh County argues federal preemption was not, and cannot be, a basis for preempting its ordinances. (R:955:21:35-40). Burleigh County contends Summit's failure to conduct a meaningful southern-route analysis requires reversal. (R:955:24:41-47). It asserts Summit provided no evidence to support its claims that the carbon dioxide pipeline would cause no adverse impacts on property, including property value. (R:955:28-29:48-49). Burleigh County asserts the Court may remand for further proceedings now that new PHMSA regulations are in place. (R:955:30:50). Regarding insurance, Burleigh County asserts its concerns are even more important in light of the recent Eighth Circuit case *North Star Mut. Ins. Co. v. Rodin*, 171 F.4th 1136 (8th Cir. 2026). (R:955:30:51-57). It argues the PSC's reliance on Summit's asserted insurance coverage, without addressing the scope of pollution exclusions under North Dakota law, fails to ensure that affected landowners and the public would be adequately protected in the event of a release. (R:955:30-31:52). It also maintains the PSC's finding addressing insurance concerns is inadequate and not supported by the evidence. (R:955:32:55). Finally, Burleigh County argues the PSC's findings are not supported by the record. (R:955:33:58-59). Accordingly, Burleigh

County asks the Court to reverse the PSC, deny Summit's certificate of corridor compatibility and route permit, and award costs and attorney's fees. (R:955:33:61).

[¶18] The Court held a hearing on the issues on July 14, 2026, and heard oral argument from the parties. (R:957, 967, 969). The Court then took the matter under advisement.

FACTUAL BACKGROUND

[¶19] On October 17, 2022, Summit filed with the PSC a *Consolidated Application for a Certificate of Corridor Compatibility and Route Permit and Application for Waiver or Reduction of Procedures and Time Schedules*, seeking a certificate of corridor compatibility, a route permit, and a waiver of procedures and time schedules. (R:124-125, 132-135, 143-146, 149-156). The Application was for an approximately 320-mile carbon dioxide pipeline ranging from 4.5 to 24 inches in diameter and associated facilities (the "Project") in Burleigh, Cass, Dickey, Emmons, Logan, McIntosh, Morton, Oliver, Richland, and Sargent counties, North Dakota. (R:908:1).

[¶20] The PSC deemed Summit's Application complete on February 1, 2023, issued a *Notice of Filings and Public Hearings*, and identified the issues to be considered, including whether the Project would produce minimal adverse effects on the environment and public welfare, remain compatible with environmental preservation and efficient resource use, and minimize adverse impacts while ensuring reliability and orderly fulfillment of energy needs. (R:168).

[¶21] On February 17, 2023, Emmons County provided the PSC a copy of its zoning ordinances governing setbacks for all hazardous pipelines. (R:179). On March 6, 2023, Burleigh County adopted an ordinance requiring hazardous liquid pipeline companies to share their safety protocols and emergency plans. (R:423:5-6). The PSC held five hearings from March 14, 2023, to June 2, 2023, on the merits of Summit's Application, at which intervenors appeared through counsel, made arguments, and presented witnesses in opposition to Summit's Application. Burleigh County was

not yet a party. (R:209-210, 226, 325-326, 426-427, 493-496). At the March 14, 2023, hearing, counsel for John H. Warford, Jr. questioned Summit's witness about a proposed Burleigh County zoning ordinance that was then pending before the Burleigh County Commission. (R:209:97). On March 20, 2023, the Burleigh County Board of Commissioners adopted the ordinance. (R:523:2:1). On March 29, 2023, the proposed version was filed with the PSC. (R:271). It regulates the transport of hazardous liquids, including crude oil, anhydrous ammonia, liquid fertilizers, and liquefied carbon dioxide. *Id.* Burleigh County filed its adopted ordinances with the PSC on March 30, 2023. (R:423:7); (R:536:6). It later attached the adopted zoning ordinance to its July 31, 2023, petition to intervene. (R:523:5-17).

[¶22] On June 1, 2023, Summit moved for an order declaring the Burleigh and Emmons County ordinances superseded and preempted by N.D.C.C. § 49-22.1-13(2). (R:423). On June 30, 2023, Emmons County filed a *Petition to Intervene and Response in Opposition to Summit's Motion to Declare the Emmons County and Burleigh County Ordinances Superseded and Preempted.* (R:512). Administrative Law Judge ("ALJ") Hope L. Hogan granted Emmons County's *Petition to Intervene* on July 10, 2023. (R:516). The order permitted Emmons County to appear "to respond to Summit's *Motion to Declare Emmons County and Burleigh County Ordinances Superseded and Preempted.*" (R:516:3:8). On July 31, 2023, Burleigh County filed a *Petition to Intervene*, which was later denied as moot. (R:523); (R:542:1:1).

[¶23] After the merits hearings, the PSC issued *Findings of Fact, Conclusions of Law, and Order* on August 4, 2023, denying Summit's applications. (R:530). Among other findings, the PSC found that Summit "has not provided sufficient evidence to demonstrate that the location, construction, operation and maintenance of the Project will produce minimum adverse impacts upon the welfare of the citizens of North Dakota with the existing record." (R:530:11-12:42).

[¶24] On August 18, 2023, Summit filed a *Petition for Reconsideration, Notice of Route Adjustment, and Request for Limited Rehearing.* (R:531).

[¶25] On August 30, 2023, Burleigh County filed a second *Petition to Intervene*, which ALJ Hogan granted in an order filed September 6, 2023. (R:536); (R:542).

[¶26] On September 15, 2023, the PSC issued its *Order on Petition for Reconsideration*, granting Summit's petition for reconsideration and a rehearing. (R:549). Commissioner Sheri Haugen-Hoffart dissented from the PSC's order granting reconsideration. (R:549:3).

[¶27] On September 29, 2023, Summit renewed its motion to declare the Burleigh and Emmons County ordinances superseded and preempted. (R:552). Burleigh County opposed the original motion in briefing and opposed the renewed motion at the December 21, 2023, hearing before the PSC. (R:523:19); (R:536:6-8); (R:568:33-45).

[¶28] On February 7, 2024, the PSC issued an interlocutory order concluding that N.D.C.C. § 49-22.1-13(2)(b) automatically supersedes and preempts any local land use or zoning regulations for a gas or liquid transmission facility route permit. (R:586:3). The PSC stated:

> The issue before the Commission is not whether it may preempt local land use or zoning regulations, but whether preemption is automatic. N.D.C.C. § 49-22.1-08 provides that a utility may combine an application for a certificate or permit. SCS's Application is a consolidated application for a certificate of corridor compatibility and for a route permit. The Commission concludes that, based on the plain language of N.D.C.C. § 49-22.1-13, the approval of a route permit for a gas or liquid transmission facility automatically supersedes and preempts local land use or zoning regulations, except for road use agreements, even though local ordinances may be filed for Commission review and consideration. By function of the consolidated application, local land use and zoning regulations are automatically superseded and preempted in the present case.

Id.

[¶29] The PSC then held three public hearings on the route adjustments and four days of technical hearings. The first public hearing was on April 22, 2024, in Mandan, and focused on adjustments

in Oliver, Morton, and Burleigh counties. (R:666-669). On May 16, 2024, ALJ Hogan held a telephonic prehearing conference to discuss the upcoming technical hearing. (R:679:2). At the conference, ALJ Hogan stated the PSC intended to limit evidence to the deficiencies noted in its original order and to siting issues related to the supplemental reroute filings. (R:679:6). The second public hearing was on May 24, 2024, in Wahpeton, and focused on adjustments in Dickey, Sargent, Cass, and Richland counties. (R:726-729). The PSC held technical hearings in Bismarck on May 28, 29, and 30, and June 3, 2024. (R:740-750); (R:908:7). The technical hearings gave intervenors who could not attend the April 22, 2024, public hearing an opportunity to participate in a technical hearing. (R:908:7). The third public hearing was on June 4, 2024, in Linton, and focused on adjustments in Emmons, Logan, and McIntosh counties. (R:751-753); (R:908:6).

[¶30] On November 15, 2024, the PSC issued its final order, finding with respect to the county ordinances:

> Upon further review, the Commission finds the ordinances of Emmons County and Burleigh County contain setbacks that are more restrictive than state law setback requirements. Emmons County Ordinance number 23-01-01 subsection B(2)(b)(i) of Article VI mandates a setback distance of 7,920 feet from an established residence. Burleigh County Ordinance number 23-003 Section 27(VI)(4) mandates a setback distance of two miles (10,560 feet) from any occupied structure. The Commission finds the ordinances of Emmons County and Burleigh County are unreasonably restrictive on their face under NDCC 49-22.1-13(2)(c) and are in direct conflict with state law under NDCC Section 49-22.1-03.

(R:908:11:19).

[¶31] Further, in its Findings of Fact, the PSC stated the following regarding liability insurance:

> SCS asserted that it will have not less than $100 million of liability insurance for the Project and that it will have not less than an additional $25 million of general liability insurance for the North Dakota portion of the Project.

(R:908:15:47).

Order on Protection of Information

[¶32] On April 21, 2023, Summit filed an *Application to Protect Information* seeking to protect

certain security system plans from disclosure under N.D.C.C. § 44-04-24(1). (R:340). Summit stated it would also seek protection from PHMSA under the Freedom of Information Act. (R:340:3). Specifically, Summit sought to protect from disclosure its Dispersion Model and the risk assessment associated with the release of carbon dioxide from the pipeline. (R:340:4). Summit requested that the information be available only to the ALJ, the PSC, the PSC's counsel, and the PSC's siting analysts. (R:340:5). John H. Warford, Jr. objected to the Application and requested a hearing, and the Landowners joined the objection. (R:346, 348). Summit responded to the objections on May 5, 2023. (R:352).

[¶33] The PSC held a hearing on the *Application to Protect Information* on June 27, 2023. (R:508). On August 4, 2023, the PSC issued an *Order on Protection of Information* granting Summit's application in full. (R:526:4). The order protected from public disclosure, as a security system plan for critical infrastructure under N.D.C.C. § 44-04-24(1) and (2)(b), the outputs of Summit's Dispersion Model, the associated risk assessment, and other information prepared for the emergency response plan and integrity management plan PHMSA requires. (R:340:3-5); (R:526:1, 3).

[¶34] On May 27, 2024, Burleigh County filed a *Motion for Reconsideration of the Order on Protection of Information, or in the Alternative, for Leave to Question Re: Dispersion Model,* requesting that the Dispersion Model be made available to the public. (R:695). Burleigh County requested that, to the extent the PSC concluded any portion of the Dispersion Model actually constituted protectable information, that limited information be redacted and the remainder of the Dispersion Model disclosed to the public. (R:695:2). In the alternative, Burleigh County requested leave to question Summit and its witnesses about the Dispersion Model's results and the criteria it used, to help the PSC and the public gauge the reliability of those results. (R:695:3).

[¶35] At the May 30, 2024, technical hearing, Chad Wachter testified about two meetings at which Summit's dispersion modeling was presented or discussed. (R:746). He testified that on January 24, 2024, he attended a meeting at the North Dakota Petroleum Council office in Bismarck, where he was shown a PowerPoint presentation of the dispersion modeling. (R:746:10-11, 40-41). Wachter identified Ron Ness, Justin Kringstad, Brady Peyton (phonetic), and Summit representative Wade Boeshans as also attending. (R:746:11). He later described those present as Ness, "somebody who works for him," Boeshans, and "the person who was presenting the information." (R:746:43). Wachter testified that on February 21, 2024, he met with Bruce Rastetter and Boeshans at the University of Mary, where they discussed the dispersion modeling. (R:746:19-20). He testified he was greeted there by Andrew Feist and Jerome Richter and saw Scott Hennen in the entryway. (R:746:19).

[¶36] Throughout the proceedings, counsel for Burleigh County and others questioned witnesses about the Dispersion Model; however, the ALJ sustained objections to questions about its specific contents. On May 28, 2024, the ALJ ruled that coordination with local emergency management was not an issue for which the matter was reopened, that the subject had been generally covered, and that the PSC had stated safety compliance with PHMSA was outside its jurisdiction. (R:741:22-26). On May 29, 2024, the ALJ limited testimony about Summit's presentation to emergency managers because of the *Order on Protection of Information*, the pending motion for reconsideration, and the PSC's lack of jurisdiction over safety standards. (R:743:98-106). On May 30, 2024, the ALJ ruled that the PSC had to decide Burleigh County's pending motion before that questioning could go further. (R:746:12-16). On June 3, 2024, the ALJ again sustained objections to questions about the specifics of Summit's presentations, because "there's a pending motion to revisit that protective order, and until that analysis has been made, that order does stand and protect

that information." (R:748:123). She allowed witnesses to answer in general terms. *Id.* At the June 4, 2024, public hearing in Linton, she sustained Summit's objection to questions about the plume modeling Summit showed Morton County officials. (R:752:56-57). The same day, the Landowners moved for a "mishearing" because they had been denied access to the Dispersion Model. The PSC denied the motion. (R:752:130-137).

[¶37] In its November 15, 2024, Order, the PSC denied Burleigh County's *Motion for Reconsideration* of the order protecting the Dispersion Model from public disclosure. (R:908:18). The PSC made various additional findings and conclusions and granted Summit's certificate of corridor compatibility, route permit, and application for a waiver of procedures and time schedules. (R:908).

STANDARD OF REVIEW

[¶38] A party aggrieved by a decision or final order of the PSC has the right to appeal under N.D.C.C. § 49-05-12. A party must bring the appeal in the manner prescribed in N.D.C.C. ch. 28-32, the AAPA. N.D.C.C. § 49-05-12. Section 28-32-46, N.D.C.C., governs the Court's review and instructs:

> A judge of the district court must review an appeal from the determination of an administrative agency based only on the record filed with the court. After a hearing, the filing of briefs, or other disposition of the matter as the judge may reasonably require, the court must affirm the order of the agency unless it finds that any of the following are present:
> 1. The order is not in accordance with the law.
> 2. The order is in violation of the constitutional rights of the appellant.
> 3. The provisions of this chapter have not been complied with in the proceedings before the agency.
> 4. The rules or procedure of the agency have not afforded the appellant a fair hearing.
> 5. The findings of fact made by the agency are not supported by a preponderance of the evidence.
> 6. The conclusions of law and order of the agency are not supported by its findings of fact.
> 7. The findings of fact made by the agency do not sufficiently address the evidence

presented to the agency by the appellant.

8. The conclusions of law and order of the agency do not sufficiently explain the agency's rationale for not adopting any contrary recommendations by a hearing officer or an administrative law judge.

If the order of the agency is not affirmed by the court, it must be modified or reversed, and the case shall be remanded to the agency for disposition in accordance with the order of the court.

[¶39] The Court must affirm the PSC's decision unless one of these grounds for reversal exists under N.D.C.C. § 28-32-46(1)-(8). *Wano Twp. v. North Dakota Pub. Serv. Comm'n*, 2026 ND 146, ¶ 13, 38 N.W.3d 280. The North Dakota Supreme Court has described the standard of review as follows:

> The [PSC's] decision on questions of law is fully reviewable. In reviewing the [PSC's] findings of fact, however, we do not substitute our judgment for that of the [PSC] or make independent findings. Rather, in reviewing the [PSC's] findings of fact, "'[w]e determine only whether a reasoning mind reasonably could have determined that the factual conclusions reached were proved by the weight of the evidence from the entire record.'" "Agency expertise is entitled to appreciable deference if the subject matter is highly technical."

Capital Elec. Coop., Inc. v. North Dakota Pub. Serv. Comm'n, 2016 ND 73, ¶ 6, 877 N.W.2d 304 (cleaned up).

LAW AND ANALYSIS

Whether the PSC's Order Granting Reconsideration Was an Improper Amendment to Summit's Application?

[¶40] Emmons County argues Summit's *Petition for Reconsideration* was, in substance, an improper amendment to an already denied application. Emmons County argues the PSC's August 4, 2023, Order denying Summit's application was a final decision that closed the proceeding. (R:913:13:31). Summit's *Petition for Reconsideration*, filed August 18, 2023, proposed extensive route adjustments and an entirely new route map, which Summit's own petition described as intended to "amend and replace" the map book filed with the original application. (R:913:13:33); (R:531:11-12). Emmons County argues wholesale amendments of this kind are not permitted in a

petition for reconsideration under N.D.C.C. § 28-32-40, and that Summit was instead required to file a new application. (R:913:13-14:33-34). By analogy, Emmons County relies on the PSC's rule for energy conversion facility siting. (R:913:14:34-36). That rule allows an applicant to amend its application "at any time during the pendency of an application." N.D.A.C. § 69-06-04-01(5). If a certificate is denied and the PSC specifies an acceptable modification, the applicant may reapply. N.D.A.C. § 69-06-04-01(6). Emmons County argues these provisions show that once an application is denied, the applicant's remedy is reapplication. (R:913:14:36). Commissioner Sheri Haugen-Hoffart dissented from the order granting reconsideration on this basis, reasoning that Summit's evidence and route adjustments could have been presented "during the multiple hearings held over six months" on the original application, and that "[d]ue to the breadth of changes provided in its petition, a new application was appropriate to address the material changes to the project." (R:549:3). The PSC's order granting reconsideration gave one sentence of reasoning. It stated the PSC believed a "...just, speedy, and inexpensive determination of the issues presented" required granting Summit's petition, citing N.D.A.C. § 69-02-01-10, a general rule directing liberal construction of the PSC's own procedural rules. (R:549:1). Commissioner Haugen-Hoffart's dissent addressed that same provision directly. She wrote that "[p]er N.D. Admin. Code § 69-02-01-10, there still needs to be reasonable justification to grant reconsideration," and that Summit had not met that burden. (R:549:3).

[¶41] The PSC responds that N.D.C.C. § 28-32-40 is itself sufficient authority for what occurred. (R:930:17:33). The statute allows a petition for reconsideration to rest on "a statement of any further showing to be made in the proceeding," not only a claim of legal error. N.D.C.C. § 28-32-40(3). Once the agency grants the petition, it "may dissolve or amend the final order and set the matter for further hearing." N.D.C.C. § 28-32-40(4). The PSC argues the question is not whether the petition

resembles an amendment, but whether it fits the statute's authorized mechanism, and that it does. (R:930:18:36). Treating the petition as unlawful, it argues, would only require Summit to re-file and recreate a record already before the PSC. (R:930:19:38). Summit also argues that offering an alternative route under N.D.C.C. § 49-22.1-09(5) is not an amendment, and that the PSC may grant reconsideration "on such terms as it may prescribe" under N.D.C.C. § 28-32-40(4). (R:928:41:90-91).

[¶42] Summit raises two threshold arguments. First, it argues Emmons County cannot raise this issue because the ALJ allowed Emmons County to intervene only to address whether its ordinance is preempted under N.D.C.C. § 49-22.1-13(2). (R:928:40:88). Second, it argues the issue is outside the scope of this appeal because no appellant listed it in the specifications of error. (R:928:40-41:89).

[¶43] The Court addresses the threshold arguments first. A party appeals an agency order by serving and filing "a notice of appeal and specifications of error specifying the grounds on which the appeal is taken[.]" N.D.C.C. § 28-32-42(4). The specifications of error must be "reasonably specific" so they alert the agency, the other parties, and the court to the particular errors claimed. *Beam v. N.D. Workforce Safety & Ins. Fund*, 2020 ND 168, ¶ 7, 946 N.W.2d 486. Boilerplate specifications "general enough to apply to any administrative agency appeal" are not tolerated. *Id.* The North Dakota Supreme Court has stated "[w]hen a party does not enumerate an issue in their specifications of error, we will not consider the issue on appeal." *Id.*

[¶44] No appellant's specifications of error raise this issue. The Landowners' specifications challenge the PSC's preemption rulings, its finding that the county ordinances are unreasonably restrictive, and the protection of the Dispersion Model. (R:1:2-5). Burleigh County's specifications challenge the ordinance finding, the protection of the Dispersion Model, the southern and eastern

routes, public welfare, the timing of new PHMSA rules, and liability insurance. (R:1:3-5:12(a)-(g)) (08-2024-CV-03614). Neither appellant claims the PSC erred by granting Summit's petition for reconsideration or by letting Summit amend its application through that petition. Burleigh County's last specification lists "[o]ther issues identified upon review of the record and hearing transcript once prepared." (R:1:5:12(h)) (08-2024-CV-03614). That language could apply to any agency appeal. It does not alert the agency or the parties to this issue.

[¶45] Emmons County raised the issue, but Emmons County is technically not an appellant. It voluntarily dismissed its own appeal. (R:19) (08-2024-CV-00624). It participates in this appeal as an appellee. (R:28). Its intervention before the PSC was also limited. The ALJ allowed Emmons County to intervene "to respond to Summit's *Motion to Declare Emmons County and Burleigh County Ordinances Superseded and Preempted.*" (R:516:3:8). An agency may impose conditions and limitations on intervention. N.D.C.C. § 28-32-28. Because no appellant specified this issue as error, it is not properly before the Court.

[¶46] However, even if the Court reached the merits, it would not find reconsideration improper. Section 28-32-46(1), N.D.C.C., makes an order that is not in accordance with the law a ground for reversal. If the Court does not affirm the order, it must modify or reverse the order and remand the case. N.D.C.C. § 28-32-46. Under the AAPA, "[a]n adjudicative proceeding includes reconsideration, rehearing, or reopening." N.D.C.C. § 28-32-01(1). Any party aggrieved by a final order may petition for reconsideration within fifteen days. N.D.C.C. § 28-32-40(1). The petition must state its grounds for relief or any further showing to be made, and whether rehearing is requested. N.D.C.C. § 28-32-40(3). The agency may grant the petition on such terms as it prescribes, allow a new or limited hearing, and dissolve or amend the final order. N.D.C.C. § 28-32-40(4). The PSC's own rule governing petitions for reconsideration tracks this framework and

does not limit the subject matter of a further showing. N.D.A.C. § 69-02-06-02. The PSC's general procedural rules direct that they be liberally construed to secure a just, speedy, and inexpensive determination of the issues presented. N.D.A.C. § 69-02-01-10.

[¶47] Emmons County's argument assumes reconsideration and a new application are mutually exclusive, so that once the PSC denied Summit's application, only a fresh application could bring the route adjustments back before the PSC. The statute does not support that assumption. Section 28-32-01(1), N.D.C.C., treats reconsideration, rehearing, and reopening as part of the same adjudicative proceeding. Section 28-32-40(4), N.D.C.C., goes further, expressly allowing the PSC, once it grants a petition for reconsideration, to dissolve the final order and set the matter for further hearing, which is what happened in this matter.

[¶48] The rule Emmons County invokes by analogy, N.D.A.C. § 69-06-04-01(5)-(6), does not govern this application. That rule is adopted under the PSC's authority over energy conversion facilities found in N.D.C.C. ch. 49-22. Emmons County's own brief acknowledges the PSC has adopted no comparable rule for amendments to route permits or corridor certificates under N.D.C.C. ch. 49-22.1, the chapter that actually governs this application. (R:913:14:34). Absent such a rule, the general reconsideration mechanism in N.D.C.C. § 28-32-40(3)-(4) controls, and its terms are broad enough to reach a petition proposing route adjustments as a further showing.

[¶49] The PSC's own stated reason for granting reconsideration was brief. It cited only the general liberal-construction rule in N.D.A.C. § 69-02-01-10, without addressing Emmons County's amendment concern directly. Elsewhere in this order, the Court finds the PSC's one-sentence denial of Burleigh County's motion to reconsider the protection of the Dispersion Model inadequate, because that denial stood by the PSC's own earlier finding that the Dispersion Model had not been disclosed to unauthorized persons, without addressing new contradictory evidence. The order

granting Summit's petition for reconsideration is different. It did not stand by any finding the record had since undercut. It opened the case to a further hearing where the parties could test Summit's proposed route adjustments, which is what the reconsideration process exists to do. The PSC's citation to N.D.A.C. § 69-02-01-10 is thin, and Commissioner Haugen-Hoffart's dissent says so directly. But thin reasoning for opening a hearing is not the same defect as thin reasoning for standing by a finding the record no longer supports. Under N.D.C.C. § 28-32-46(1), the question is whether granting reconsideration was in accordance with the law, and for the reasons already given, it was.

[¶50] Commissioner Haugen-Hoffart's dissent raises a separate fair point. Summit could have sought to present its route adjustments before the PSC ruled the first time. But the question under N.D.C.C. § 28-32-46(1) is not whether the PSC could have required a stricter process. It is whether the process actually used was in accordance with the law. The Legislature committed the decision to grant or deny a petition for reconsideration to the PSC's discretion, subject to the statute's own limits on timing, content, and procedure. Those limits were met here. Summit's petition was timely, stated the further showing it intended to make, and requested a rehearing.

[¶51] That process was also not a formality. After granting reconsideration, the PSC held three public hearings, beginning April 22, 2024, addressing the route adjustments and supplemental filings, and technical hearings on May 28, 29, and 30, and June 3, 2024, held to give intervenors who could not attend the April hearing an opportunity to participate, cross-examine witnesses, and present their own testimony. (R:666-669); (R:740-750). Emmons County intervened before the PSC denied Summit's application, for the purpose of responding to Summit's preemption motion, and has remained a party throughout. (R:512); (R:516). Whatever additional process a formal reapplication might have supplied, Emmons County received notice of Summit's petition for

reconsideration and filed a written response opposing it. (R:908:5).

[¶52] The issue is not properly before the Court because no appellant specified it as error. Even if it were, the Court finds the PSC's order granting Summit's petition for reconsideration was in accordance with N.D.C.C. § 28-32-40(1), (3)-(4) and was not an unlawful amendment requiring a new application. This ground for reversal is rejected.

Whether the PSC's Orders Satisfied the Requirements of N.D.C.C. § 49-22.1-13(2)?

[¶53] "A judge of the district court must review an appeal from the determination of an administrative agency based only on the record filed with the court." N.D.C.C. § 28-32-46. "[T]he court must affirm the order of the agency unless it finds that…[t]he order is not in accordance with the law." N.D.C.C. § 28-32-46(1). "If the order of the agency is not affirmed by the court, it must be modified or reversed, and the case shall be remanded to the agency for disposition in accordance with the order of the court." N.D.C.C. § 28-32-46.

[¶54] In its February 7, 2024, Order, the PSC held a route permit automatically "supersedes and preempts" local land use and zoning regulations, subject only to a carve-out for road use agreements. (R:586:3). The PSC made no finding that any ordinance was "unreasonably restrictive" or "in direct conflict with state or federal laws or rules." It treated preemption as automatic under the statute. In its November 15, 2024, Order, the PSC found the Burleigh County and Emmons County setback ordinances were "unreasonably restrictive" on their face under N.D.C.C. § 49-22.1-13(2)(c), and directly conflicted with state law. (R:908:11:19).

[¶55] Burleigh County, Emmons County, and the Landowners all challenge these orders as legal error under N.D.C.C. § 28-32-46(1). They argue the PSC's automatic-preemption reading ignores the qualifying "[e]xcept as provided in this section" language in N.D.C.C. § 49-22.1-13(2)(b) and skips over subdivisions (c) through (e) entirely. (R:913:4:10-27); (R:915:22:31-40); (R:918:32:49-65). They argue that when the PSC later addressed the county ordinances directly, it still failed to

make the finding the statute requires – specifically, a finding, by a preponderance of the evidence, that the ordinances are unreasonably restrictive under one of three specific factors, or that they directly conflict with state or federal law. (R:915:28:41-44); (R:915:32:45-54). The PSC and Summit defend both orders on the merits. They argue the statute's plain language supports their reading. (R:930:21:42); (R:928:19:39-48).

[¶56] Burleigh County, Emmons County, and the Landowners argue a review of the PSC's interpretation of section 49-22.1-13(2), N.D.C.C., is a pure question of law that is fully reviewable. (R:918:32:49); (R:915:21:30); (R:950:9-10:17). The PSC acknowledges the Court fully reviews its direct-conflict conclusion as a question of law. (R:930:23:49). Otherwise, the PSC urges deference to its decision. (R:930:6-7:10); (R:930:22:47). Summit argues "North Dakota courts 'generally defer to an administrative agency's reasonable interpretation of its governing statutes,'" quoting *Black Hills Trucking, Inc. v. N.D. Industrial Comm'n*, 2017 ND 284, ¶ 19, 904 N.W.2d 326. (R:928:19:39-48).

[¶57] "'Questions of law, including the interpretation of a statute, are fully reviewable on appeal from an administrative decision.'" *Industrial Contractors, Inc. v. Workforce Safety & Ins.*, 2009 ND 157, ¶ 6, 772 N.W.2d 582 (quoting *Stein v. Workforce Safety & Ins.*, 2006 ND 34, ¶ 6, 710 N.W.2d 364). "No deference is called for when the regulating language is clear." *Martin v. Stutsman Co. Social Services*, 2005 ND 117, ¶ 13, 698 N.W.2d 278. However, deference is given "...to an administrative agency's construction of a statute in administering the law when that interpretation does not contradict clear and unambiguous statutory language." *Industrial Contractors*, 2009 ND 157, ¶ 6. "In technical matters involving agency expertise, an agency decision is entitled to appreciable deference." *North Dakota State Bd. of Medical Examiners–Investigative Panel B v. Hsu*, 2007 ND 9, ¶ 42, 726 N.W.2d 216. "A statute is ambiguous when it is subject to different, but

rational meanings." *Northern Excavating Co., Inc. v. Sisters of Mary of the Presentation Long Term Care*, 2012 ND 78, ¶ 4, 815 N.W.2d 280.

[¶58] The North Dakota Supreme Court has stated, "[o]ur primary goal in interpreting statutes is to ascertain the Legislature's intentions." *State v. Laib*, 2002 ND 95, ¶ 13, 644 N.W.2d 878 (citing *State v. Brossart*, 1997 ND 119, ¶ 14, 565 N.W.2d 752). Courts must give the words used in the statute their plain, ordinary, and commonly understood meaning, unless the terms are specifically defined or a contrary intention plainly appears. *State v. Ness*, 2009 ND 182, ¶ 8, 774 N.W.2d 254. "Statutes relating to the same subject matter shall be construed together and should be harmonized, if possible, to give meaningful effect to each, without rendering one or the other useless." *Public Serv. Comm'n v. Minnesota Grain, Inc.*, 2008 ND 184, ¶ 20, 756 N.W.2d 763. "When engaging in statutory interpretation...it must be presumed the legislature intended all that it said, said all that it intended to say, and meant what it has plainly expressed." *Estate of Christeson v. Gilstad*, 2013 ND 50, ¶ 12, 829 N.W.2d 453. Section 49-22.1-13(2), N.D.C.C., reads, in relevant part:

> a. A certificate of site compatibility for a gas or liquid energy conversion facility may not supersede or preempt any local land use; zoning; or building rules, regulations, or ordinances, and a site may not be designated which violates local land use; zoning; or building rules, regulations, or ordinances.
> b. Except as provided in this section, a permit for the construction of a gas or liquid transmission facility within a designated corridor supersedes and preempts any local land use or zoning regulations.
> c. Before a gas or liquid transmission facility is approved, the commission shall require the applicant to comply with the road use agreements of the impacted political subdivision. A permit may supersede and preempt the requirements of a political subdivision if the applicant shows by a preponderance of the evidence the regulations or ordinances are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers regardless of their location, or are in direct conflict with state or federal laws or rules.
> d. When an application for a certificate for a gas or liquid transmission facility is filed, the commission shall notify the townships with retained zoning authority, cities, and counties in which any part of the proposed corridor is located. The commission may not schedule a public hearing sooner than forty-five days from the date notification is sent by mail or electronic mail. Upon notification, a

political subdivision shall provide a listing to the commission of all local requirements identified under this subsection. The requirements must be filed at least ten days before the hearing or the requirements are superseded and preempted.

e. An applicant shall comply with all local requirements provided to the commission pursuant to subdivision d, which are not otherwise superseded by the commission.

[¶59] The PSC's February 7, 2024, Order held "based on the plain language of N.D.C.C. § 49-22.1-13, the approval of a route permit for a gas or liquid transmission facility automatically supersedes and preempts local land use or zoning regulations, except for road use agreements, even though local ordinances may be filed for Commission review and consideration." (R:586:3).

[¶60] All parties agree that subdivision (c) has two sentences. The first requires the applicant "to comply with the road use agreements of the impacted political subdivision." The second says a permit "may supersede and preempt the requirements of a political subdivision" if the applicant proves, by a preponderance of the evidence, that its regulations or ordinances are "unreasonably restrictive" or "in direct conflict with state or federal laws or rules." The dispute is about what the second sentence covers.

[¶61] The PSC and Summit argue the second sentence is still talking about road use agreements because it immediately follows the road-use-agreement sentence and is within the same lettered subdivision. Under this reading, subdivision (b)'s "except as provided in this section" is fully satisfied by this one carve-out for road use agreements. Zoning ordinances are not covered by the exception at all. Rather, they are superseded automatically the moment a route permit issues, with no finding required. (R:930:21:42); (R:928:21:45).

[¶62] Burleigh County, Emmons County, and the Landowners argue the second sentence is doing something different from the first. They suggest the first sentence is narrow and mandatory. It forces compliance with road use agreements with impacted political subdivisions. The term "road use

agreement" is separately defined, in the same chapter, at N.D.C.C. § 49-22.1-01(11), to mean "...permits required for extraordinary road use, road access points, approach or road crossings, public right-of-way setbacks, building rules, physical addressing, dust control measures, or road maintenance and any repair mitigation plans." The Counties and Landowners argue the second sentence is broader and conditional. They assert it sets the evidentiary standard for superseding any "requirements of a political subdivision," a phrase the statute never limits to road use agreements and that naturally includes zoning and land-use regulations. (R:915:25:36-40); (R:913:6-10:14-24); (R:918:32:49-65).

[¶63] Read as a whole, the statute does not support the PSC's interpretation. The PSC read the statute to mean that approval of a route permit for a gas or liquid transmission facility automatically supersedes and preempts local land use or zoning regulations, except for road use agreements. First, subdivision (b) states "[e]xcept as provided in this section, a permit for the construction of a gas or liquid transmission facility within a designated corridor supersedes and preempts any local land use or zoning regulations." The "except as provided in this section" language signals that the Legislature contemplated real situations in which a permit would not supersede local zoning, and pointed the reader to the rest of the section to find them. Further, if the Legislature had intended every permit for the construction of a gas or liquid transmission facility to automatically supersede and preempt "any local land use or zoning regulations," the "except as provided in this section" language would be surplusage.

[¶64] Second, the Legislature made different word choices within subdivision (c) itself. The Legislature used the words "road use agreements" in the first sentence and the words "requirements of a political subdivision" and "regulations or ordinances" in the second. Courts presume the Legislature said all that it intended to say and meant what it has plainly expressed. *Estate of*

Christeson, 2013 ND 50, ¶ 12. If the Legislature intended to keep talking about road use agreements in the second sentence, it had the vocabulary to do so. It did not. The Legislature also chose different verbs. The first sentence says the PSC "shall require" the applicant to comply with road use agreements. The second says a permit "may supersede and preempt the requirements of a political subdivision," and only if the applicant makes the required showing. The word "may" shows the Legislature did not intend every permit to supersede every local requirement. If supersession were automatic, the Legislature would have had no reason to say a permit "may" supersede local requirements upon proof.

[¶65] Third, subdivisions (d) and (e) confirm the second sentence in subdivision (c) is not limited to road use agreements. Subdivision (d) obligates the PSC to notify local governments and requires those governments to file "a listing ... of all local requirements" at least ten days before the hearing, on pain of automatic supersession for lateness. The words "road use agreement" never appear in subdivision (d). Subdivision (e) then requires the applicant to comply with everything on that list that the PSC has not otherwise superseded. Both subdivisions are written around the broad term "local requirements," which parallels the "requirements of a political subdivision" language in the second sentence of subdivision (c).

[¶66] If granting a permit automatically superseded and preempted "any local land use or zoning regulations," both subdivisions (d) and (e) would be meaningless. A political subdivision's "local requirements" would be automatically superseded and preempted regardless of whether it timely filed them with the PSC. Similarly, the language of subdivision (e) stating an applicant "shall comply with all local requirements ... which are not otherwise superseded" shows that not all local requirements are automatically superseded when a permit is issued.

[¶67] Summit argues this reading turns subdivision (b) into surplusage. It argues that if timely

filed ordinances survive until the PSC makes findings under subdivision (c), subdivision (b) merely restates a power already found in subdivision (c). (R:928:21-22:46). Summit also argues subdivision (d) is only a procedural backstop for late filings. (R:928:22:47). The Court is not persuaded. Subdivision (b) states the general rule: a route permit supersedes local land use and zoning regulations. Subdivisions (c), (d), and (e) explain how that rule applies. A general rule does not become surplusage because the Legislature made it subject to exceptions. The Legislature itself made subdivision (b) subject to the rest of the section. Summit's reading, by contrast, would give no effect to the second sentence of subdivision (c), the listing requirement in subdivision (d), or the compliance requirement in subdivision (e) when a political subdivision files a zoning ordinance. Subdivision (d) would require political subdivisions to list requirements that are superseded whether or not they are listed. Subdivision (e) requires compliance with listed requirements "not otherwise superseded by *the commission*." (emphasis added). That language describes action by the PSC, not supersession by operation of law. The Court must harmonize the subdivisions to give meaningful effect to each. *Minnesota Grain*, 2008 ND 184, ¶ 20. The Court's reading does so. Summit's does not.

[¶68] The Court finds N.D.C.C. § 49-22.1-13(2) is not subject to different rational meanings and is not ambiguous. Interpreting the statute is a pure question of law, and the PSC's construction is not entitled to deference. The Court finds the PSC incorrectly interpreted N.D.C.C. § 49-22.1-13(2) in its February 7, 2024, Order, and again in Conclusion of Law 4 of its November 15, 2024, Order.

[¶69] The PSC made additional findings in its November 15, 2024, Order. Specifically, the PSC found:

> SCS requested the Commission find that a permit automatically supersedes and preempts zoning ordinances, and even if they do not, that the Emmons and Burleigh County ordinances are superseded and preempted because they are unreasonably restrictive and conflict with state and federal law. The request was opposed by

> Intervenor Burleigh County, Intervenor Emmons County, and Landowner Intervenors. The Commission issued an Order dated February 7, 2024, finding that, except for road use agreements, ordinances of both Emmons and Burleigh Counties are preempted and superseded. Further testimony and evidence on this issue was received by the Commission. Upon further review, the Commission finds the ordinances of Emmons County and Burleigh County contain setbacks that are more restrictive than state law setback requirements. Emmons County Ordinance number 23-01-01 subsection B(2)(b)(i) of Article VI mandates a setback distance of 7,920 feet from an established residence. Burleigh County Ordinance number 23-003 Section 27(VI)(4) mandates a setback distance of two miles (10,560 feet) from any occupied structure. The Commission finds the ordinances of Emmons County and Burleigh County are unreasonably restrictive on their face under NDCC 49-22.1-13(2)(c) and are in direct conflict with state law under NDCC Section 49-22.1-03.

(R:908:11:19).

[¶70] In its Conclusions of Law, the PSC restated its automatic-preemption holding and carried forward only the "unreasonably restrictive" part of this finding:

> Based on the above Findings of Fact, and its February 7, 2024, Order in this proceeding, the Commission concludes that NDCC Section 49-22.1-13 automatically supersedes and preempts any local land use or zoning regulations for a gas or liquid transmission facility route permit except for road use agreements. The Commission further concludes that the Ordinances of Burleigh County and Emmons County are unreasonably restrictive on their face under NDCC Section 49-22.1-13(2)(c).

(R:908:16:4).

[¶71] "In an adjudicative proceeding an administrative agency shall make and state concisely and explicitly its findings of fact and its separate conclusions of law and the order of the agency based upon its findings and conclusions." N.D.C.C. § 28-32-39(1). "A finding of fact is necessary to dispose of a factual issue." *Evans v. Backes*, 437 N.W.2d 848, 850 (N.D. 1989). "The need for a finding is particularly pressing where the disputed issue is material, indeed, dispositive of the case." *Id.*

[¶72] The North Dakota Supreme Court has stated "[a]n administrative agency's findings of fact must be adequate for a reviewing court to understand the factual basis upon which the agency reached its conclusion." *Aggie Invs. GP v. Pub. Serv. Comm'n of N. Dakota*, 470 N.W.2d 805, 813

(N.D. 1991) (citing *Walter v. North Dakota State Highway Commissioner*, 391 N.W.2d 155 (N.D. 1986)). "An agency's findings are adequate when they enable a reviewing court to understand the agency's decision." *WSI v. Sandberg*, 2021 ND 39, ¶ 11, 956 N.W.2d 342. The North Dakota Supreme Court has stated "[w]hen an agency fails to prepare an essential finding of fact, the appeal process is seriously impeded and we may remand to the agency with instructions to prepare proper findings." *Evans*, 437 N.W.2d at 851. "An administrative agency must adequately explain the basis for the agency's decision to facilitate appellate review." *Schoch v. N. Dakota Workforce Safety & Ins.*, 2010 ND 25, ¶ 19, 778 N.W.2d 542 (citing *Singha v. North Dakota State Bd. of Medical Exam'rs*, 1998 ND 42, ¶ 23, 574 N.W.2d 838; *Evans*, 437 N.W.2d at 850-51). "An agency's findings must sufficiently address the evidence presented by the appellant and must correctly apply the law." *Id.* (citing N.D.C.C. § 28-32-46(1) and (7)).

[¶73] "A permit may supersede and preempt the requirements of a political subdivision if the applicant shows by a preponderance of the evidence the regulations or ordinances are unreasonably restrictive *in view of existing technology, factors of cost or economics, or needs of consumers regardless of their location, or are in direct conflict with state or federal laws or rules.*" N.D.C.C. § 49-22.1-13(2)(c) (emphasis added). Those factors are the yardstick. The PSC's finding must show which of them it found satisfied and the reason for the finding.

[¶74] Here, in a single sentence, the PSC found the Emmons County and Burleigh County ordinances were "...unreasonably restrictive on their face." (R:908:11:19). There was a heightened need for adequacy on this finding, as it was dispositive of the supersession issue. Nevertheless, the PSC's finding does not address "existing technology, factors of cost or economics, or needs of consumers" as section 49-22.1-13(2)(c) requires. It is a conclusion with no analysis. At the December 21, 2023, hearing on Summit's motion, the parties presented argument but no testimony.

Summit argued the unreasonableness was "clear on the face of the ordinances" and relied on maps in its briefs. (R:568:15). The PSC did receive evidence on the ordinances at the June 4, 2024, hearing in Linton. Emmons County presented testimony from Erin Magrum, the chair of its county commission. (R:751:11-56). Magrum testified the ordinance includes a variance that allows a landowner and a company to reach their own agreement on setbacks. (R:751:22). Magrum also testified that Summit had not applied to Emmons County for any zoning approval, and that no one had requested a variance. (R:751:27, 36). Summit's brief cross-examination did not address existing technology, cost or economics, or the needs of consumers. (R:751:28-29, 48). The PSC's finding does not mention this evidence. The PSC argues testimony from Magrum and from Brian Bitner, a Burleigh County Commissioner, supports its finding, and that the setback distances themselves show the ordinances are unreasonable. It asks the Court to decide only whether a reasoning mind could reach that finding. (R:930:21-22:45-47). The reasoning-mind standard applies to findings the PSC actually made. It does not supply a finding the PSC did not make. The PSC's finding cites none of this testimony. It does not tie the testimony, or the setback distances, to existing technology, cost or economics, or the needs of consumers. The PSC's finding is inadequate for a reviewing court to understand the factual basis for the decision.

[¶75] Additionally, the PSC found the county zoning ordinances were "...in direct conflict with state law under NDCC Section 49-22.1-03." (R:908:11:19). Unlike the "unreasonably restrictive" finding, the PSC did not restate the direct-conflict finding in its legal conclusions. The state law the PSC relied on for the direct-conflict finding, N.D.C.C. § 49-22.1-03, reads, in relevant part:

> The commission shall develop criteria to be used in identifying exclusion and avoidance areas and to guide the site, corridor, and route suitability evaluation and designation process. Except for oil and gas transmission lines in existence before July 1, 1983, areas within five hundred feet [152.4 meters] of an inhabited rural residence must be designated avoidance areas. This criterion does not apply to a water pipeline. The five hundred foot [152.4 meter] avoidance area criteria for an

> inhabited rural residence may be waived by the owner of the inhabited rural residence in writing.

N.D.C.C. § 49-22.1-03. Both county setbacks significantly exceed the five-hundred-foot figure in this statute.

[¶76] Burleigh County and the Landowners argue the PSC's direct-conflict finding is legally wrong. They argue N.D.C.C. § 49-22.1-03 sets a floor, not a ceiling. They assert the statute requires the PSC to treat land within five hundred feet of an inhabited rural residence as an avoidance area but says nothing about capping what a county may require in its own zoning ordinance. Burleigh County argues a direct conflict exists only when a party cannot comply with both the state statute and the local ordinance at the same time, and that compliance with both the County's setback and the State's five-hundred-foot figure is entirely possible here. (R:955:19-20:31-33); (R:953:8:13-14).

[¶77] The PSC argues the five-hundred-foot figure the Legislature set is itself evidence that a longer county setback is unreasonable. (R:930:22:46). On direct conflict, the PSC argues the county setbacks conflict with the state siting framework the PSC is charged to apply, and that the setbacks rest on safety, which federal law preempts. (R:930:22-23:48-49). Summit acknowledges Burleigh County's and the Landowners' floor-versus-ceiling argument but responds that the ordinances conflict with the broader allocation of authority to the PSC in N.D.C.C. ch. 49-22.1 (the "Siting Act"). Summit argues an ordinance that forecloses the PSC's approved route across large areas of the state undermines the statutory scheme, regardless of whether N.D.C.C. § 49-22.1-03 itself sets an explicit ceiling. (R:928:25-27:55-57). Summit also argues the ordinances directly conflict with federal law, because the PSA preempts local safety standards for interstate pipelines. (R:928:23-25:50-53). The Court addresses federal preemption below.

[¶78] "[North Dakota] caselaw addressing preemption in the context of state and local laws and

ordinances mirrors federal preemption analysis." *Env't Driven Sols., LLC v. Dunn Cnty.*, 2017 ND 45, ¶ 7, 890 N.W.2d 841. "The three forms of federal preemption are express preemption, field preemption, and conflict preemption." *Id.* (quoting *State ex rel. Stenehjem v. FreeEats.com, Inc.*, 2006 ND 84, ¶ 23, 712 N.W.2d 828). Express preemption exists "'when there is an explicit state law or rule restraining the county's authority...'" *Id.* (quoting *State v. Brown*, 2009 ND 150, ¶ 21, 771 N.W.2d 267). Here, N.D.C.C. § 49-22.1-03 contains no language restraining county zoning authority. It speaks only to the PSC's own siting criteria. Express preemption does not exist.

[¶79] Field preemption exists "'when the industry or activity involved is already subject to substantial state control through broad, encompassing statutes or rules.'" *Id.* The North Dakota Supreme Court has explained:

> Field preemption occurs when [the Legislature] intends [state] law to occupy the entire field covered by the [state] statute, to the exclusion of [local] regulation of the same subject matter. Such an intent may be inferred when the scheme of [state] regulation is so pervasive as to create an inference that [the Legislature] left no room for the [local governing bodies] to supplement it, or when the [state] interest in the field is so dominant that it will be assumed to preclude enforcement of [local] laws on the same subject.

Id. ¶ 14 (quoting *FreeEats*, 2006 ND 84, ¶ 25).

[¶80] Counties have general authority to enact zoning ordinances. *See* N.D.C.C. § 11-33-01; *Shaw v. Burleigh County*, 286 N.W.2d 792, 795 (N.D. 1979). The Legislature built section 49-22.1-13(2), N.D.C.C., around a conditional, case-by-case preemption standard, not a blanket one. It requires the PSC to make a specific finding before an ordinance yields, rather than displacing local zoning outright. That structure shows the Legislature did not intend to occupy this field the way it occupied the field of oil and gas waste-treatment siting under a comprehensive statutory scheme. *See Env't Driven Sols.*, 2017 ND 45, ¶ 15 (agreeing with the district court's conclusion that the North Dakota Legislature intended that the North Dakota Industrial Commission would "occupy the field" of the

regulation of oil and gas waste treatment plants). Field preemption does not exist in this case.

[¶81] That leaves conflict preemption, which appears to be the basis of the PSC's finding – specifically, that the county zoning ordinances conflict with the five-hundred-foot avoidance area limitation in N.D.C.C. § 49-22.1-03. Conflict preemption comes in two forms. *Zyla Life Scis., L.L.C. v. Wells Pharma of Houston, L.L.C.*, 134 F.4th 326, 328–29 (5th Cir. 2025). "The first is impossibility preemption." *Id.* "It arises when it is impossible to obey both [local and state] requirements." *Id.* (citing *Fla. Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142–43, 83 S. Ct. 1210 (1963)). "The second is obstacles-and-purposes preemption…" *Id.* "It arises when [local] law 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of [the Legislature].'" *Id.* (quoting *Hines v. Davidowitz*, 312 U.S. 52, 67, 61 S. Ct. 399 (1941)). "'What is a sufficient obstacle is a matter of judgment, to be informed by examining the [state statute] as a whole and identifying its purpose and intended effects….'" *MD Mall Assocs., LLC v. CSX Transp., Inc.*, 715 F.3d 479, 495 (3d Cir. 2013) (quoting *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 372–73, 120 S. Ct. 2288 (2000)). "'The mere fact of "tension" between [state] and [local] law is generally not enough to establish an obstacle supporting preemption….'" *Id.* (quoting *Madeira v. Affordable Housing Found., Inc.*, 469 F.3d 219, 241 (2d Cir. 2006)). "In all these types of preemption, however, '[e]vidence of pre-emptive purpose [must be] sought in the text and structure of the [state provision] at issue.'" *Zyla*, 134 F.4th at 329 (quoting *CSX Transp., Inc. v. Easterwood*, 507 U.S. 658, 664, 113 S. Ct. 1732 (1993)).

[¶82] Section 49-22.1-03, N.D.C.C., directs the PSC to "develop criteria to be used in identifying exclusion and avoidance areas and to guide the site, corridor, and route suitability evaluation and designation process." It directs that "areas within five hundred feet [152.4 meters] of an inhabited rural residence must be designated avoidance areas." Emmons County Ordinance number 23-01-

01 subsection B(2)(b)(i) of Article VI requires a setback distance of 7,920 feet from an established residence, subject to a variance. (R:751:22). Burleigh County Ordinance number 23-003 Section 27(VI)(4) mandates a setback distance of two miles (10,560 feet) from any occupied structure. Both distances exceed five hundred feet. Any pipeline route that satisfies either county's setback automatically satisfies the five-hundred-foot minimum under N.D.C.C. § 49-22.1-03. It is possible to comply simultaneously with both the county ordinances and the statute. There is no impossibility preemption.

[¶83] Regarding obstacles-and-purposes preemption, had the Legislature intended to make five hundred feet the maximum "avoidance area," it could have included language such as "no more than" or "not exceeding." It did not do so. The statute does not prevent the PSC from adopting a greater distance as an avoidance area. The statute does not set a maximum. The purpose and intended effect of the limiting language was to prevent a transmission facility from being placed closer than five hundred feet to an "inhabited rural residence." The county zoning ordinances do not create an obstacle to accomplishing this objective. Nor do they stand in the way of the Siting Act's allocation of routing authority to the PSC. The Legislature provided that a permit supersedes "local requirements" only when the applicant makes the showing required by N.D.C.C. § 49-22.1-13(2)(c). A local requirement that the Legislature expected to remain in force unless that showing is made is not an obstacle to the Legislature's purpose. Notably, the PSC did not reference the direct-conflict finding in its Conclusions of Law. Nevertheless, the Court finds the PSC's determination that the county zoning ordinances directly conflict with N.D.C.C. § 49-22.1-03, as set out in its November 15, 2024, Order, is incorrect as a matter of law.

[¶84] Emmons County argues the record contains no evidence that its ordinance is unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers.

(R:913:12:28-30). It asks the Court to reverse the PSC's decision or remand it for the PSC to apply the correct interpretation of the law. (R:913:15:38). It argues Summit's only submission on that point was a map in Summit's brief to the PSC, which Emmons County objected to as lacking foundation. (R:913:12:30). Summit responds that the ordinances are unreasonably restrictive on their face, and that the record contains testimony about their purpose and their effect on the route. (R:928:27:58-59).

[¶85] The PSC never weighed the evidence on those statutory factors. It first treated supersession as automatic, and it later found the ordinances unreasonably restrictive on their face. Weighing the evidence is the PSC's job, not this Court's. The Court does not make independent findings of fact. *Evans*, 437 N.W.2d at 850. When an agency fails to make an essential finding, the usual remedy is to remand for that finding. *Id.* at 851. The statute also directs that a reversed order be remanded to the agency. N.D.C.C. § 28-32-46. The Court therefore does not decide whether the existing record could support a finding that either ordinance is "unreasonably restrictive." Summit bears the burden of proving that by a preponderance of the evidence. N.D.C.C. § 49-22.1-13(2)(c). The PSC must answer that question on remand with sufficient findings for a court to review.

[¶86] In summary, the Court finds the PSC incorrectly found in its February 7, 2024, Order, and again in its November 15, 2024, Order, that a route permit automatically "supersedes and preempts" local land use and zoning regulations. The Court further finds the PSC failed to make sufficient findings in its November 15, 2024, Order to establish that the Emmons County and Burleigh County zoning ordinances were "...unreasonably restrictive on their face." Finally, the PSC's finding that the county zoning ordinances directly conflict with N.D.C.C. § 49-22.1-03 is incorrect as a matter of law. The appropriate remedy is to remand the matter to the PSC with instructions to decide, for each county, whether its zoning ordinance is unreasonably restrictive under N.D.C.C. § 49-22.1-

13(2)(c), and to prepare proper findings on that question. *See Evans*, 437 N.W.2d at 851 (stating "[w]hen an agency fails to prepare an essential finding of fact, the appeal process is seriously impeded and we may remand to the agency with instructions to prepare proper findings").

Whether Conflict with Federal Law Supports Superseding the County Ordinances?

[¶87] Summit argues that even under the Counties' reading of N.D.C.C. § 49-22.1-13(2), the ordinances are superseded because they conflict with federal law. (R:928:23-25:50-53). It argues the ordinances impose safety standards on hazardous liquid pipelines, including two-mile setbacks, emergency response obligations, and abandonment requirements. (R:928:23-24:50). Summit points to testimony at the March 14, 2023, hearing by Mitchell Flanagan, Burleigh County's planning director. (R:928:23-24:50). Flanagan testified that the County's first ordinance, the safety ordinance adopted on March 6, 2023, "is based on -- primarily on life safety," and that it was "directed towards public safety and public life's -- the protection of life safety." (R:209:416-17). That ordinance addresses safety protocols and emergency plans, not setbacks. (R:423:5-6). Summit also attributes the phrase "specifically related to safety" to that testimony, but the phrase does not appear on the cited pages. (R:209:416-17). Summit notes PHMSA has adopted regulations on setbacks, emergency response, and abandonment. (R:928:24-25:52) (citing 49 C.F.R. §§ 195.210, 195.402(c)(10), (e)). The PSC argues the county setbacks are premised on safety, which federal law preempts. (R:930:23:49).

[¶88] Emmons County and Burleigh County respond that the PSC never found or concluded that federal law preempts their ordinances, so Summit and the PSC cannot rely on that ground for the first time on appeal. (R:950:6-7:6-11); (R:955:21-22:35-36). Both Counties point to a September 15, 2023, letter from PHMSA to the chief executive officer of Summit Carbon Solutions stating that "[l]ocal governments have traditionally exercised broad powers to regulate land use, including setback distances and property development that includes development in the vicinity of pipelines."

(R:834:3); (R:950:7-8:12); (R:955:22:37). Emmons County argues its ordinance does not purport to regulate pipeline safety and differs from the PSC's own five-hundred-foot criterion in N.D.C.C. § 49-22.1-03 only in distance. (R:950:6:6); (R:950:8:13). Burleigh County also argues the PSC applies the five-hundred-foot setback in state law without treating it as preempted. (R:955:23:39).

[¶89] Under the PSA, "[a] State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." 49 U.S.C. § 60104(c). At the same time, the PSA does not authorize the Secretary of Transportation "to prescribe the location or routing of a pipeline facility." 49 U.S.C. § 60104(e). In *Couser v. Shelby Cnty.*, 139 F.4th 664 (8th Cir. 2025), the Eighth Circuit applied these provisions to county ordinances that imposed setbacks and other requirements on a carbon dioxide pipeline. The court explained that Congress intended "to preclude states from regulating in any manner whatsoever with respect to the safety of interstate transmission facilities." *Id.* at 669 (quoting *ANR Pipeline Co. v. Iowa State Com. Comm'n*, 828 F.2d 465, 470 (8th Cir. 1987)). To decide whether a setback is a safety standard, the court "looks beyond the rationale offered to evidence of the law's purpose" and asks whether safety is the law's primary motivation. *Id.* at 670-71.

[¶90] The Eighth Circuit held: "This court holds that the Counties' setbacks are safety standards." *Id.* at 671. It relied on three features of the ordinances. First, the setbacks applied "alike to economically developed and remote areas," and "[t]his blanket application undercuts aesthetic, land-use, and development rationales." *Id.* Second, one ordinance required larger setbacks from buildings with vulnerable populations, such as "a church, school, nursing home, long-term care facility, or hospital." *Id.* Third, one ordinance's preamble stated that "there are several factors that would influence human safety in the event of a rupture of such a pipeline." *Id.* at 670. The court also held the ordinances' emergency response and abandonment provisions were preempted. *Id.* at

672-73. But the Eighth Circuit cautioned that its holding "does not prohibit local governments from considering safety, nor prevent them from enacting all zoning ordinances." *Id.* at 671. It emphasized "the distinction between safety standards—which the PSA preempts—and safety considerations—which the PSA does not preempt." *Id.*

[¶91] Burleigh County argues *Couser* is distinguishable. It notes *Couser* addressed trenchless construction, enhanced permitting, setback, emergency response, and abandonment requirements, and that it "has nothing to do with plume modeling." (R:955:22-23:38). But the setback, emergency response, and abandonment provisions in *Couser* are the same kinds of provisions found in Burleigh County's ordinance. The adopted ordinance defines a "Blast Zone," a "Fatality Zone" in which residents "would face a significant risk of loss of life due to a rupture," and a "Hazard Zone" in which residents would likely suffer "significant adverse health impacts." (R:523:5-6). It states that it is designed "to secure safety from fire, flood, panic, and other dangers." (R:523:8). It applies to land "regardless of the zone or area." (R:523:8). It requires a pipeline to be at least two miles from any occupied structure, ten miles from a city's extraterritorial line, and four miles from "a church, school, nursing home, long-term care facility, or hospital," the same list of vulnerable buildings the Eighth Circuit noted. (R:523:9). It requires an emergency response and hazard mitigation plan, a public safety plan, and abandonment and removal measures. (R:523:14-17). A landowner's agreement cannot reduce its separation distances. (R:523:14-15). The ordinance also states that it is meant to protect agricultural productivity, property values, and future development. (R:523:8-9). But *Couser* looked past stated rationales to the ordinance's purpose and effect. 139 F.4th at 670-71.

[¶92] Emmons County's ordinance shares fewer of those features. The amendment revises one subsection of a general conditional-use ordinance first adopted in 1982. (R:179:2); (R:751:16-18,

30). It covers "[e]lectric transmission facilities and non-potable water, gas, oil, coal slurry, CO2, or any other substance deemed to be hazardous by PHMSA transmission pipelines." (R:179:2). It contains no statement of purpose, no blast or fatality zones, no emergency response or abandonment provisions, and no larger setbacks for schools, hospitals, or similar buildings. *Id.* It requires a pipeline to be two miles from the corporate boundaries of a city, a mile and a half from an established residence, and five hundred feet from any other building or surface water body. *Id.* The residence setback may be waived by "a signed and notarized waiver of setback from each established residence." *Id.* Emmons County's commission chair testified the residence setback is not "a safety issue," and that safety did not drive the distances "because none of us are safety experts." (R:751:43, 49). Other evidence points the other way. The same witness testified that public input focused on "property rights and safety concerns." (R:751:49). The ordinance exempts potable water pipelines from the residence setback, and its other setbacks cannot be waived. (R:179:2).

[¶93] Conflict with federal law is a basis for supersession under state law. Under N.D.C.C. § 49-22.1-13(2)(c), a permit "may supersede and preempt the requirements of a political subdivision if the applicant shows by a preponderance of the evidence the regulations or ordinances … are in direct conflict with state or federal laws or rules." But the PSC never addressed or relied on that ground. Its February 7, 2024, Order noted Summit's federal-law argument but rested on automatic supersession. (R:586:2-3). Its November 15, 2024, Order recited Summit's request, then found the ordinances unreasonably restrictive and in direct conflict with state law under N.D.C.C. § 49-22.1-03. (R:908:11:19). Its conclusions of law do not mention federal law. (R:908:16:4). The PSC made no finding that either ordinance, or any part of either ordinance, is a safety standard preempted by 49 U.S.C. § 60104(c).

[¶94] Whether a county requirement is a preempted safety standard turns on its purpose and effect, which must be determined from the evidence. *Couser*, 139 F.4th at 670-71. The PSC must make findings on that question. N.D.C.C. § 28-32-39(1). It did not. The Court cannot make those findings for the PSC on appeal. *See Evans*, 437 N.W.2d at 850-51. The Court therefore does not decide whether federal law preempts either ordinance. On remand, the PSC may address whether Summit has shown that any requirement in either ordinance is "in direct conflict with … federal laws or rules" under N.D.C.C. § 49-22.1-13(2)(c). If the PSC addresses that question, it must consider each county's ordinance separately and state findings that explain its decision.

Whether the PSC Improperly Restricted Access to the Dispersion Model and Denied a Fair Hearing?

[¶95] Burleigh County argues the PSC erred by protecting Summit's Dispersion Model from disclosure to the public. (R:918:17:24-48). It argues the PSC should not have considered the Dispersion Model without giving the parties and the public an opportunity to challenge its reliability. (R:918:19:27). Burleigh County argues that while Summit relied on a sensitive-security rationale to justify concealing the Dispersion Model before the PSC, Summit abandoned that same rationale in Minnesota, advancing what Burleigh County calls a false narrative. (R:918:26:39). Burleigh County argues the PSC's decision to protect the Dispersion Model was an abuse of discretion, and that North Dakota law does not protect it in any event. (R:918:27:40-48).

[¶96] The Landowners argue the PSC made determinations of fact and conclusions of law based on a secret plume study that Summit shared only with the PSC and a handful of private individuals, and that neither the Landowners nor the Counties have seen, cross-examined, or had evaluated by an expert. (R:915:20-21:28-29). They argue neither the ex parte communication procedure under N.D.C.C. § 28-32-37 nor the additional-evidence procedure under N.D.C.C. § 28-32-25 was

followed before the PSC considered the Dispersion Model, and that this noncompliance should be dispositive. (R:915:39-40:54).

[¶97] The PSC responds that the questions Burleigh County and the Landowners raise about safety and the Dispersion Model are preempted by federal regulation under PHMSA and the PSA. (R:930:10:17-32). The PSC also asserts, without extensive elaboration, that its confidentiality ruling was properly made under N.D.A.C. § 69-02-09-01. (R:930:16-17:31).

[¶98] Summit responds that the PSC's treatment of the Dispersion Model did not deprive Burleigh County of a fair hearing, and that the PSC properly maintained its confidentiality under North Dakota law. (R:928:11:17-35). Summit argues the PSC did not rely on the Dispersion Model in reaching its decision, and that any use of the Dispersion Model to litigate safety would have been futile in any event, because the PSC expressly disclaimed jurisdiction over pipeline safety. (R:928:11-12:18-19). Summit argues *Williams Elec. Co-op.* controls and forecloses the fair-hearing claim. (R:928:13:22-25). Summit argues Burleigh County cannot show prejudice. (R:928:14:26).

[¶99] In its *Reply*, Burleigh County argues the PSC's withholding of the Dispersion Model violated the AAPA and denied it a fair hearing, and that the error was prejudicial. (R:955:7:8-22); (R:955:11:16-18). In their *Reply*, the Landowners argue *Williams Elec. Co-op.* is distinguishable, because the PSC has actual possession of Summit's Dispersion Model. (R:953:1-2:1-3). They argue the PSA does not excuse the PSC's violation of the AAPA, and distinguish between the PSC's authority to consider technical safety standards and its authority to consider safety generally. (R:953:3-4:4-9). The Landowners argue the PSC is not entitled to deference on its fact-finding where it has not disclosed material evidence in violation of the AAPA. (R:953:7:12).

[¶100] Emmons County does not join this argument. In its *Reply*, Emmons County expressly disclaims any request that the PSC or this Court consider the Dispersion Model or assess issues

within PHMSA's purview, stating that its own challenge is limited to whether its ordinance is unreasonably restrictive. (R:950:3:2).

[¶101] "A security system plan kept by a public entity, and records regarding disaster mitigation, preparation, response, vulnerability, or recovery, or for cybersecurity planning, mitigation, or threat, are exempt from [public disclosure]." N.D.C.C. § 44-04-24(1). A "[s]ecurity system plan" includes "[r]ecords, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, communications, or consultations relating directly to the physical or electronic security of … any privately owned or leased critical infrastructure if the plan or a portion of the plan is in the possession of a public entity." N.D.C.C. § 44-04-24(2)(b)(1). "Critical infrastructure" includes "systems related to … hazardous liquid, natural gas, … so vital to the state that the incapacity or destruction of these systems would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters." N.D.C.C. § 44-04-24(2)(a).

[¶102] On August 4, 2023, the PSC granted Summit's *Application to Protect Information* after notice, a contested hearing, and briefing from objecting parties. (R:526:1). Burleigh County had not yet intervened, although it had asked the PSC to make the plume modeling public. (R:908:4). Emmons County intervened in July 2023, after the June 27, 2023, hearing. (R:516). Landowner intervenors appeared and were represented by counsel. (R:526:1).

[¶103] In its *Order on Protection of Information*, the PSC found that refrigerated carbon dioxide is a hazardous material under PHMSA's regulations, that Summit's pipeline meets the definition of "critical infrastructure" under N.D.C.C. § 44-04-24(2)(a), and that disclosing the Dispersion Model could show where an attack on the pipeline would have a debilitating impact on security and public health. (R:526:2-3:6-7). Those findings apply the statutory security-system-plan definition directly

to the Dispersion Model. (R:526:2-3). Burleigh County argues the Dispersion Model had nothing to do with a security system plan, and that the concern about bad actors relates to the location of valves, not to the model's results. (R:918:18-19:26); (R:918:30-31:45-47); (R:955:13-14:21-22). The statute defines a security system plan broadly. It includes "surveys, recommendations, communications, or consultations relating directly to the physical or electronic security of" critical infrastructure, as well as "[v]ulnerability and capability assessments" and "[t]hreat response plans." N.D.C.C. § 44-04-24(2)(b)(1), (4), (5). The PSC found that disclosing the plume modeling could show a bad actor where damaging the pipeline would have a debilitating impact on security and public health. (R:526:2-3:7). The order does not support Burleigh County's argument that no showing was made connecting the Dispersion Model to the security of critical infrastructure. (R:918:28-29:43-44). The Court finds the PSC's classification of the Dispersion Model as a security system plan was supported by the evidence and in accordance with N.D.C.C. § 44-04-24(1), (2)(b).

[¶104] Burleigh County separately argues the PSC should have ordered a redacted public version of the Dispersion Model rather than withholding it entirely. (R:918:28:42). The PSC's own rule allows an applicant to request a waiver of the redacted-version requirement if it is not possible to file a redacted version. N.D.A.C. § 69-02-09-01(5). Summit made that request in its *Application to Protect Information*. (R:340:5). PSC staff counsel recommended granting Summit's application "for the reasons outlined in the petition." (R:391:1). The recommendation does not separately address the waiver or the redaction requirement. *Id.* The intervenors who objected to Summit's application argued that state law required Summit to file a redacted version, and acknowledged that some of the information likely should be protected. (R:346:2, 4-5); (R:348:2); (R:526:2:3). At the June 27, 2023, hearing, counsel for the Landowners agreed there was "a legitimate interest in keeping some of that confidential," but argued the entire model should not be kept confidential.

(R:508:21, 23). The PSC's order granted Summit's application in full. (R:526:4). But the order contains no finding on the redaction requirement or on Summit's request for a waiver. It does not decide whether a redacted public version was possible. It does not explain why a waiver was appropriate. It does not respond to the objectors' argument that only the protected portions should be withheld. Finding 3 notes the objectors' position that some, but not all, of the information should be protected. (R:526:2:3). No other part of the order returns to that point. The rule requires a redacted public version unless the PSC waives the requirement, and "[t]he amount redacted must be as minimal as possible." N.D.A.C. § 69-02-09-01(5). An applicant who claims a redacted version is not possible must file "a specific written request for waiver of the requirement and the reasons for requesting a waiver." *Id.* Burleigh County raised redaction again in its May 27, 2024, motion. (R:695:2). The PSC denied that motion in a single sentence. (R:908:18). The Court cannot tell from the PSC's orders whether the PSC decided a redacted version was not possible, or never reached the question. The PSC's findings do not sufficiently address this issue. N.D.C.C. § 28-32-46(7). The Court does not decide whether a redacted version is possible. That question is for the PSC to decide. The Court includes the redaction issue in the remand ordered below.

[¶105] The PSC also found that "[n]o party has demonstrated that the information has been disclosed to the public or to persons other than employees or authorized agents who need to know the information to fulfill their responsibilities in connection with the subject matter of the information." (R:526:3:10). That finding no longer matched the record by the time the PSC ruled on Burleigh County's motion. At the May 30, 2024, hearing, Burleigh County called Chad Wachter as a witness. (R:746:4). Wachter testified that Ron Ness of the North Dakota Petroleum Council invited him to Ness's office after Ness "negotiated with Carbon Summit Solutions so we could take a look at the dispersion modeling." (R:746:10). Wachter testified that at the January 24, 2024,

meeting, he was shown a PowerPoint presentation of the dispersion modeling. (R:746:10-11, 40-41). Wachter identified Ness, Justin Kringstad, Brady Peyton (phonetic), and Summit representative Wade Boeshans as also attending. (R:746:11). Ness is not employed by Summit. (R:746:12). Wachter further testified that at a follow-up meeting on February 21, 2024, at the University of Mary, he discussed the dispersion modeling with Boeshans and Bruce Rastetter, whom Wachter agreed was a major investor in the Project. (R:746:19-20). At the June 4, 2024, hearing, Patrick Martin, the Morton County emergency manager, testified that Summit presented plume modeling at a meeting attended by the mayor of Mandan, the chairman of the Morton County Commission, and the Morton County sheriff. (R:752:52). Some of these officials may fall within the emergency-planning audience the order allowed. But the PSC did not address this testimony either. Burleigh County moved for reconsideration of the *Order on Protection of Information* on May 27, 2024, before this testimony was given, so its motion does not address it. (R:695). The motion did argue that Summit had already shared its dispersion modeling methodology and generic model outputs with emergency responders and county officials, and that Summit's disclosure "was not limited to emergency personnel." (R:695:8). Summit and the Landowners filed their responses to the motion after Wachter's testimony. (R:908:7). The PSC did not rule on the motion until it issued its November 15, 2024, Order, more than five months after Wachter's testimony became part of the record. It denied the motion in a single sentence without addressing whether the finding it was defending still held up against that testimony. (R:908:18).

[¶106] An agency's findings must sufficiently address the evidence before it, and the agency must adequately explain the basis for its decision. N.D.C.C. § 28-32-46(7); *Schoch*, 2010 ND 25, ¶ 19. By the time the PSC denied Burleigh County's motion, the record contained direct testimony that the Dispersion Model had been shown to or discussed with persons not shown to be Summit

employees or authorized agents, including Wachter and Ness. This testimony showed that the PSC's earlier finding that no such disclosure had occurred no longer reflected the record. The PSC's single-sentence denial does not acknowledge that testimony, does not explain why its earlier finding still stood despite it, and does not explain why continued full protection remained consistent with the record actually before the PSC. The Court does not disturb the PSC's classification of the Dispersion Model as the kind of information N.D.C.C. § 44-04-24(1) protects. But this matter should be remanded to the PSC to reconcile its finding with the evidence in the record and to state findings that sufficiently address that evidence. N.D.C.C. § 28-32-46(7). On remand, the PSC must also address the redaction requirement in N.D.A.C. § 69-02-09-01(5). It must decide whether a redacted public version of the Dispersion Model is possible. If it is not, the PSC must explain why a waiver is warranted.

[¶107] Burleigh County and the Landowners argue suppression of the Dispersion Model denied them a fair hearing. If the rules or procedures of an administrative agency do not afford a fair hearing, the order of the agency must be modified or reversed, and the case remanded. N.D.C.C. § 28-32-46(4). "A person is denied due process or a fair hearing when the defects in the hearing process might lead to a denial of justice." *Erovick v. Job Serv. N. Dakota*, 409 N.W.2d 629, 631 (N.D. 1987) (citing *Schadler v. Job Service North Dakota*, 361 N.W.2d 254 (N.D. 1985)). "[The North Dakota Supreme Court has] stated that the minimal due process that must be afforded participants before an administrative board is not synonymous with the minimal requirement of due process in a court of law." *First Am. Bank & Tr. Co. v. Ellwein*, 221 N.W.2d 509, 517 (N.D. 1974). "The fundamental requirement of due process is the opportunity to be heard." *Id.* (citing *Goldberg v. Kelly*, 397 U.S. 254, 90 S. Ct. 1011 (1970)).

[¶108] Summit cites *Williams Elec. Co-op.* in opposition to the fair-hearing claim. In *Williams*

Elec. Co-op., the North Dakota Supreme Court summarized:

> As applied to administrative officials, agencies, and bodies, due process of law is not a term of fixed and invariable content, and greater flexibility has been given to the term when applied to administrative agencies than when applied to a judicial tribunal. No particular form of proceeding is required to constitute due process in administrative proceedings; all that is required is that the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play. Its requirements include the revelation of the evidence on which a disputed order is based, an opportunity to explore that evidence, and a conclusion based on reason; and its essential requirements are met where the administrative body is required to determine the existence or nonexistence of the necessary facts before any decision is made.
>
> Whether a person or party has been deprived of due process of law by the action of an administrative agency or body depends on whether it acted contrary to the statutes and rules and with arbitrary and unreasonable discrimination. A study of the evidence and the applicable statutes involved in this proceeding indicates that all the evidence and the applicable statutes were thoroughly considered by the Public Service Commission. The trial court, after comprehensive study of the record reached the same result as the Commission. The appellant has had a fair hearing.

Williams Elec. Co-op., 79 N.W.2d at 523 (citations omitted).

[¶109] Here, Burleigh County and the Landowners had notice of the proceedings, the general nature of the issues, and the ability to be heard. Fair play requires the opportunity to explore evidence that was relied upon by the PSC in reaching its decision. The appellants were denied access to Summit's Dispersion Model and could not question Summit's witnesses about its contents. The record establishes the PSC had access to the Dispersion Model but does not establish it relied upon the Dispersion Model to reach its conclusions. It is not mentioned in the February 7, 2024, Order. The November 15, 2024, Order mentions it only in the recitation of the procedural history and in the one-sentence denial of Burleigh County's motion for reconsideration. (R:908:4, 7, 18). None of the PSC's findings of fact refer to it. The PSC also removed plume-modeling language from Finding 42 of its August 4, 2023, Order before approving that order. (R:530:1). The Court recognizes that Summit's witness wanted the PSC to rely on the Dispersion Model. At the June 3, 2024, hearing,

Alex Lange testified it was his intent as a Summit employee that the PSC rely on the data Summit provided in confidence. (R:749:7). On June 4, 2024, when the PSC denied the Landowners' motion for a "mishearing," Commissioner Christmann stated that "[t]he dispersion modeling was presented to the Commission. It's subject to a protective order." (R:752:136). This testimony and statement show that Summit wanted the PSC to rely on the model and that the PSC received it. They do not show the PSC used it to reach its results. A witness's wish that the decision maker rely on evidence does not prove the decision maker did so. The PSC's findings do not cite the Dispersion Model, and its stated reasons do not rely on it. The PSC's decision on the county ordinances rested on its reading that a route permit automatically superseded local zoning ordinances, a finding that the county zoning ordinances were unreasonably restrictive on their face, and a perceived conflict with state law. The Court cannot find the appellants were deprived of a fair hearing because the record does not establish the PSC used the Dispersion Model in reaching its decision.

[¶110] In summary, the Court does not find the PSC erred in classifying the Dispersion Model as a security system plan under N.D.C.C. § 44-04-24(1), (2)(b). The Court does not find the appellants were denied a fair hearing by the failure to provide access to the Dispersion Model. However, remand is appropriate as the PSC's findings regarding the denial of Burleigh County's request for reconsideration do not adequately explain the rationale for the decision, particularly in light of the information that came to light regarding disclosure of the Dispersion Model and that the PSC's earlier finding was no longer consistent with the evidence in the record. On remand, the PSC must also decide whether a redacted public version of the Dispersion Model is possible under N.D.A.C. § 69-02-09-01(5), and explain its decision.

Whether the PSC Violated N.D.C.C. §§ 28-32-37 or 28-32-25 by Considering the Dispersion Model?

[¶111] Beyond the fair-hearing claim addressed above, the Landowners argue the PSC based its

decision on the Dispersion Model that Summit shared only with the PSC and a handful of private individuals, and that neither the Landowners nor the Counties have seen, cross-examined, or had evaluated by an expert. (R:915:20-21:28-29). They argue neither the ex parte communication procedure under N.D.C.C. § 28-32-37 nor the additional-evidence procedure under N.D.C.C. § 28-32-25 was followed before the PSC considered the Dispersion Model, and that this noncompliance should be dispositive. (R:915:39-40:54).

[¶112] Section 28-32-37, N.D.C.C., bars an agency head or hearing officer from communicating, directly or indirectly, about any issue in a pending proceeding with a party or an interested person, without notice and an opportunity for all parties to participate. N.D.C.C. § 28-32-37(1). It places the same limit on parties and interested persons. N.D.C.C. § 28-32-37(3). Section 28-32-25, N.D.C.C., provides that an agency "may avail itself of competent and relevant information or evidence in its possession or furnished by members of its staff, or secured from any person in the course of an independent investigation conducted by the agency, in addition to the evidence presented at the hearing." N.D.C.C. § 28-32-25. The agency may do so only after it first sends a copy or an abstract of the information to each party. *Id.* On written request, each party must have an opportunity to examine the information, present its own information, and cross-examine the person who furnished it. *Id.*

[¶113] Section 28-32-37, N.D.C.C., does not apply. It addresses communications made without notice to the other parties. The Dispersion Model did not reach the PSC that way. The PSC requested it, and Summit submitted it with an *Application to Protect Information* filed April 21, 2023. (R:292:1); (R:340:4). The parties had notice of the application. Warford objected, the Landowners joined the objection, and the PSC granted the application after a contested hearing and briefing. (R:346); (R:348); (R:526:1). The parties could not see the model's contents, but they knew

the PSC had it. Commissioner Christmann's statement that "[t]he dispersion modeling was presented to the Commission" acknowledges possession. He stated in the same breath that "[i]t's subject to a protective order." (R:752:136). Whether the PSC properly protected the model is the question the Court addressed above. It is not an ex parte communication.

[¶114] Section 28-32-25, N.D.C.C., presents a closer question. The Landowners assert the Dispersion Model is not part of the evidentiary record. (R:915:20-21:28). If so, it is information in the PSC's possession outside the hearing evidence, which is the kind of information the statute covers. But the statute's requirements apply when an agency "avail[s] itself" of that information "in addition to the evidence presented at the hearing." N.D.C.C. § 28-32-25. The statute does not bar an agency from having information in its possession. It controls the agency's use of that information to decide the case.

[¶115] The same gap that defeats the fair-hearing claim defeats this argument. Nothing in the PSC's findings shows it used the Dispersion Model to reach its decision. The February 7, 2024, Order does not mention it. The November 15, 2024, Order mentions it only in the procedural history and in the denial of Burleigh County's motion. (R:908:4, 7, 18). Lange's testimony and Commissioner Christmann's statement show the PSC had the model. (R:749:7); (R:752:136). They do not show the PSC used it to decide the case. Because the record does not show the PSC availed itself of the Dispersion Model in deciding the case, N.D.C.C. § 28-32-25 did not require the PSC to send it to the parties.

[¶116] The Court rejects the Landowners' argument that the PSC's handling of the Dispersion Model violated N.D.C.C. § 28-32-37(1), (3) or § 28-32-25. This conclusion is separate from, and does not disturb, the Court's holding above that remand is required regarding the adequacy of the PSC's finding on Burleigh County's motion to reconsider the protection of the Dispersion Model.

Whether Federal Law Preempts the PSC's Consideration of Public Welfare?

[¶117] Burleigh County argues the PSC erred by refusing to consider public health and welfare because it treated the PSA as preempting that entire topic. (R:918:45:77). Burleigh County points to ALJ Hogan's remarks at the PSC's August 4, 2023, special meeting, at the conclusion of the initial hearings on Summit's original application, where the PSC rejected that application for several unaddressed issues, including safety issues. *Id.* It argues Summit never addressed those issues at the later hearing on its petition for reconsideration, that a carbon dioxide release is extremely dangerous, and that the PSC did not address that danger at the reconsideration hearing. *Id.* It also argues the PSC denied Burleigh County access to Summit's Dispersion Model and prevented it from exploring these issues. *Id.*

[¶118] Summit and the PSC respond that these are safety considerations, not public-welfare considerations, and that the PSA gives PHMSA exclusive control over safety standards for an interstate pipeline. Summit argues Burleigh County cannot relabel safety objections as "public welfare" to avoid that preemption. (R:928:36-37:74-77). The PSC takes the same position. It argues it may consider welfare impacts that are not safety standards, but it cannot adjudicate or impose safety requirements for an interstate facility, because Congress reserved that role to PHMSA. (R:930:15-16:29).

[¶119] In their reply briefs, Emmons County and Burleigh County raise a related but separate point: they argue federal preemption was never the PSC's actual basis for its decision, so Summit and the PSC cannot rely on it for the first time on appeal. Emmons County argues the PSC's orders refer to federal law only in recounting Summit's argument, and rely instead on N.D.C.C. § 49-22.1-13(2) to supersede the county ordinances. (R:950:6-7:6-11). Burleigh County makes the same argument: the PSC's orders never address federal preemption, so Summit and the PSC cannot introduce that basis for the first time in this Court. (R:955:21-22:35-36). The Court addresses that argument above,

in its discussion of the county ordinances.

[¶120] As the Court has already explained, "[t]he three forms of federal preemption are express preemption, field preemption, and conflict preemption." *Env't Driven Sols.*, 2017 ND 45, ¶ 7 (quoting *FreeEats*, 2006 ND 84, ¶ 23).

[¶121] The PSC argues Congress has clearly spoken and created a complete scheme for regulating the safety of interstate pipelines, so state and local safety regulation violates the PSA's express preemption. (R:930:10:17-32). The PSC argues it followed the correct procedure because safety considerations were outside its control. *Id.*

[¶122] Under 49 U.S.C. § 60102(a), the PSA governs hazardous liquid pipelines. Its purpose is "to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities." 49 U.S.C. § 60102(a)(1). Section 60102(a)(2) gives the Secretary of Transportation, acting through PHMSA, the power to "prescribe minimum safety standards for pipeline transportation and for pipeline facilities." Those standards "may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities." 49 U.S.C. § 60102(a)(2)(B).

[¶123] "A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." 49 U.S.C. § 60104(c). This is an express preemption clause. The Eighth Circuit has recognized how broad it is. Congress gave the federal government exclusive authority over the safety of interstate pipelines, a state cannot regulate that safety in any manner, and a state cannot even interpret PHMSA's own safety standards on its own account. *ANR Pipeline*, 828 F.2d at 470, 472; *Kinley Corp. v. Iowa Utilities Bd., Utilities Div., Dep't of Commerce*, 999 F.2d 354, 358-59 (8th Cir. 1993). As the Eighth Circuit put it, this grant of exclusive federal authority "precludes state decision-making in this area altogether and leaves no regulatory

room for the state to either establish its own safety standards or supplement the federal safety standards." *Couser*, 139 F.4th at 669 (quoting *Kinley*, 999 F.2d at 359).

[¶124] That preemption, though, has an important limit. Although the PSA expressly precludes state regulation of interstate pipeline safety, it limits federal authority over the location and routing of a pipeline. The PSA explicitly states that it "does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility." 49 U.S.C. §.60104(e). This limit on the federal government's authority has led several courts to conclude that Congress reserved to the States the power to determine the "location or routing of [pipeline] facilities." *Enbridge Energy, Ltd. P'ship v. Whitmer*, 813 F. Supp. 3d 777, 795-96 (W.D. Mich. 2025) (citing *Portland Pipe Line Corp. v. City of S. Portland*, 288 F. Supp. 3d 321, 430-31 (D. Me. 2017); *Olympic Pipe Line Co. v. City of Seattle*, No. C03-2343L, 2003 WL 27392855, at *4 (W.D. Wash. 2003)). As the Court explained above, the Eighth Circuit drew a line between safety standards, which the PSA preempts, and safety considerations, which it does not. *Couser*, 139 F.4th at 671. A state can weigh safety-related facts in deciding where a pipeline goes or whether a project serves the public welfare, because that is a consideration folded into a routing or welfare judgment. What it cannot do is adopt, interpret, or enforce its own rule governing how safe the pipeline must be, and framing that rule in terms of location or distance does not save it. *Id.* at 671-72.

[¶125] The PSC's position tracks the first half of that line correctly. The PSC found the Project will be designed, constructed, and operated in accordance with PHMSA regulations, and that PHMSA regulates the safety of this interstate pipeline. (R:908:14-15:39, 41). The PSC did not go further and independently evaluate whether the dispersion modeling study, which the PSC says PHMSA will review, satisfies PHMSA's requirements. (R:930:10-11:17). Because the PSC cannot lawfully adjudicate or interpret PHMSA's own safety standards, it correctly declined to referee the technical

adequacy of safety measures subject to PHMSA review.

[¶126] That still leaves the rest of public welfare for the PSC to weigh. Black's Law Dictionary defines public welfare as "a society's well-being in matters of health, safety, order, morality, economics, and politics." Black's Law Dictionary 1625 (8th ed. 2004). Safety is part of that definition, but only the standard-setting piece of safety is preempted. The PSC remains free to weigh the other parts of public welfare, along with the safety-related facts already before it that do not require the PSC to set or referee a safety standard of its own. In evaluating a route, the PSC is guided by "[a]vailable research and investigations" on the effects of the facility "on public health and welfare." N.D.C.C. § 49-22.1-09(1).

[¶127] The PSC made findings on several specific welfare issues, including drain tile, property values, and liability insurance. (R:908:10-11:15-18). But its findings do not show it weighed public welfare as a whole, apart from the safety standards reserved to PHMSA. Its conclusion states: "Based on the above Findings of Fact, the Commission concludes the location, construction, operation, and maintenance of the Project will produce minimal adverse effects on the environment and upon the welfare of the citizens of North Dakota." (R:908:16:7). That conclusory statement does not inform the Court whether the PSC separated two different things: correctly declining to relitigate the safety standards the PSA reserves to PHMSA, and actually weighing the parts of public welfare that were never preempted at all. The Court cannot tell whether the PSC weighed the evidence on the parts of public welfare that are not preempted. The Court remands this issue to the PSC for express findings on whether public welfare, apart from the safety standards reserved to PHMSA, supports its decision to grant the certificate and route permit.

Whether the PSC Was Required to Wait for New PHMSA Regulations?

[¶128] Burleigh County argues the PSC should have postponed its decision until PHMSA issued new safety regulations for carbon dioxide pipelines. (R:918:46:78). It points to the testimony of

James Powell, Summit's Chief Operating Officer, that the PHMSA regulations in place date to the early 1990s, and to PHMSA's May 26, 2022, announcement that it was "initiating a new rulemaking to update standards for CO2 pipelines." (R:918:46:78); (R:209:99, 101-102); (R:294:1). Burleigh County asserts the new rules have since become final. (R:918:46:78 n.5). In its *Reply*, it argues the Court may remand now that the new rules are in place. (R:955:30:50). Summit responds that the Siting Act requires the PSC to decide applications within the time the Legislature set, that PHMSA's rulemaking is continuous, and that Summit must comply with PHMSA's rules as they exist now and as they are later amended. (R:928:37-38:78-81).

[¶129] The Siting Act sets the time for the PSC's decision. A route designation "must be made in a timely manner no later than six months after the filing of a completed application." N.D.C.C. § 49-22.1-07(5). The PSC may extend that time "for just cause." *Id.* In evaluating a route, the PSC is guided by "[a]vailable research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment." N.D.C.C. § 49-22.1-09(1). The PSC's authority is limited to the authority the Legislature gave it. *Envtl. L. & Policy Ctr. v. N.D. Pub. Serv. Comm'n*, 2020 ND 192, ¶ 11, 948 N.W.2d 838. A state authority "may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation." 49 U.S.C. § 60104(c).

[¶130] Burleigh County cites no statute, rule, or case that required the PSC to postpone its decision for federal rulemaking. The Siting Act points the other way. It directs the PSC to act "in a timely manner." Missing the six-month deadline does not divest the PSC of jurisdiction, but the direction to act promptly remains. N.D.C.C. § 49-22.1-07(5). It guides the PSC by "available" research, meaning the information that exists when the PSC decides, not rules a federal agency might adopt later. Nothing in N.D.C.C. ch. 49-22.1 directs the PSC to hold a siting decision open until PHMSA

completes a rulemaking.

[¶131] Waiting also would not have given the PSC any role in those rules. As the Court explained above, the PSA reserves safety standards for interstate pipelines to PHMSA. 49 U.S.C. § 60104(c). The PSC cannot adopt, change, or enforce those standards. The PSC found the Project will be designed, constructed, and operated in accordance with PHMSA regulations. (R:908:14-15:39, 41). A state route permit does not freeze the federal safety standards in place on the day the PSC acts. If PHMSA adopts new safety requirements for carbon dioxide pipelines, those requirements would apply to Summit according to their own terms, regardless of when the PSC acted. Burleigh County does not explain how it was harmed by the PSC deciding first.

[¶132] Burleigh County's request for a remand because new rules are now in place fares no better. The Court reviews the PSC's order "based only on the record filed with the court." N.D.C.C. § 28-32-46. Whether PHMSA has since finalized new rules is not part of that record. Even if the Court took notice of a rule PHMSA has since finalized, a federal rule adopted after the PSC acted would not make the PSC's order "not in accordance with the law" under N.D.C.C. § 28-32-46(1), and it would not be one of the other grounds for reversal in that section. In its *Reply*, Burleigh County acknowledges that Summit's point about the Siting Act's time limits "may be true." (R:955:30:50).

[¶133] The Court finds the PSC was not required to postpone its decision until PHMSA issued new regulations. This ground for reversal is rejected.

Whether Summit Failed to Identify a Viable Southern or Eastern Route Around Bismarck?

[¶134] On August 4, 2023, the PSC denied Summit's original application, finding Summit "has not provided sufficient evidence to demonstrate that the location, construction, operation and maintenance of the Project will produce minimum adverse impacts upon the welfare of the citizens of North Dakota with the existing record." (R:530:11-12:42). The denial specifically identified the absence of an analysis of a southern alternate route around Bismarck as part of that deficiency. *Id.*

At the rehearing that followed, Burleigh County elicited testimony that Summit still had not made a genuine attempt to find a viable southern or eastern route. Powell testified that Summit never reached out to the City of Bismarck or Burleigh County to discuss where an appropriate southern reroute should go. (R:741:88). He testified that Summit did not contact any township boards, Emmons County, the North Dakota State Water Commission, the City of Mandan, the Standing Rock Sioux Tribe, the Army Corps of Engineers, Energy Transfer Partners, or landowners about a southern alignment. He also testified that Summit conducted no independent geological survey on the south side of Bismarck. (R:918:41-42:70); (R:741:88-98). Commissioner Bitner testified that Summit could not have picked a worse route if it tried. (R:918:42:71); (R:744:40). He further testified that when a Summit representative was asked why Summit did not choose a southern route farther from Bismarck, he answered, "We don't want to have another DAPL." (R:918:42:71); (R:744:47). Burleigh County argues this record shows Summit's southern-route work was, in its words, "no analysis at all" but rather an affront to the PSC's own prior order. (R:918:41:69).

[¶135] Summit responds that Burleigh County's argument misstates the record and asks the Court to reweigh the evidence. (R:928:29:63-73). In support, Summit points to a document titled "Bismarck Route Analysis," filed with the PSC on January 24, 2024, in response to the PSC's October 17, 2023, request for "a comprehensive analysis of a southern route around Bismarck" that would "compare relative adverse effects to the proposed route." (R:572:1). The document compares a single southern alignment Summit developed (the "Southern Alternative") against Summit's preferred route, across categories it labels geohazard and constructability risk, environmental risk, tribal risk, encroachment risk, and permitting risk, supported by a detailed data table. (R:572:2-18). Summit designed that alignment, by its own account, to be sited "in a location that avoided crossing federal lands, maximized the distance from the Dakota Access Pipeline crossing, and maximized

the distance from the City of Bismarck." (R:572:13). The PSC's November 15, 2024, Order states, in one sentence of a paragraph that also addresses five other Commission requests, that Summit "adequately addressed the specified Commission requests, including the south Bismarck route impacts." (R:908:15:45).

[¶136] In its *Reply*, Burleigh County disputes that this document cures the deficiency the PSC identified in 2023. It argues the Bismarck Route Analysis is "a single southern route hand selected by Summit to show its northern route is preferable," not a genuine comparison of the southern route options actually available. (R:955:24-27:41-47).

[¶137] An agency must state findings of fact and conclusions of law adequate for a reviewing court to understand the factual basis for its decision, and the need for an adequate finding is greatest where the disputed issue is material or dispositive. N.D.C.C. § 28-32-39(1); N.D.C.C. § 28-32-46(1), (7); *Evans*, 437 N.W.2d at 850; *Aggie Invs. GP*, 470 N.W.2d at 813; *Sandberg*, 2021 ND 39, ¶ 11.

[¶138] The Bismarck Route Analysis is not a token filing. It is an eighteen-page analysis with two exhibits, supported by a data table with more than fifty rows drawn from state geographic information system records, federal land-cover data, soil surveys, and cultural resource records, comparing floodplain width at the Missouri River crossings, wetland and waterbody crossings, residential encroachments, and permitting risk at Lake Oahe. (R:572:7-19). On its face, it is the kind of detailed comparison the PSC requested. Summit's own data table shows what was at stake: the Southern Alternative would put 26 residences or places of business within 500 feet, compared to 3 on the preferred route, and 190 structures of any kind within 1,000 feet, compared to 100. (R:572:15).

[¶139] But it compares only one southern alignment. Summit developed that alignment itself. Its

filing evaluates the Southern Alternative through desktop datasets and states that "no field-collected data was utilized." (R:572:15). By contrast, the preferred route was shaped by field surveys and stakeholder input. (R:572:4-5, 18, 22). The filing also acknowledges that none of the landowners south of Bismarck had been approached or contacted. (R:572:22). The record contains testimony, unanswered by anything in the Bismarck Route Analysis, that Summit never consulted the City of Bismarck, Burleigh County, the affected township boards, Emmons County, the State Water Commission, the City of Mandan, the Standing Rock Sioux Tribe, the Army Corps of Engineers, Energy Transfer Partners, or landowners about a southern alignment, and conducted no independent geological survey of one. (R:918:41-42:70); (R:741:88-98). That testimony goes to the same question the PSC's October 2023 data request asked: whether Summit had genuinely explored a southern route. The PSC's finding does not mention this testimony. It does not explain why an alignment Summit designed on its own, without the outreach the record shows was missing, answers the deficiency the PSC identified in its August 4, 2023, Order. It does not address Burleigh County's argument that the Bismarck Route Analysis reflects one route selected to make the preferred route look better, rather than a genuine survey of alternatives. The PSC's finding states a conclusion without the requisite analysis.

[¶140] Burleigh County also argues Summit did not identify a viable eastern route. It asserts the reroute actually moved the pipeline west in some places, closer to Bismarck and the Silver Ranch development, and under an Interstate 94 rest area. (R:918:40:66). Burleigh County offered evidence that the reroute moved the line about 0.15 miles west just north of Interstate 94 and placed the crossing near the rest areas. (R:743:55-58). Summit rebutted that evidence. Wade Boeshans testified that Burleigh County's map used preliminary routing information and was not accurate. (R:749:56). He testified the current route is about four miles from the eastern edge of Silver Ranch.

Id. He also testified the change near Interstate 94 did not move the route any closer to Bismarck. (R:749:57-58). Commissioner Christmann agreed the distance on Summit's map appeared to be "just short of four miles." (R:749:75). Wachter testified Summit told him the eastern portion of the route would not move. (R:746:6-9). Summit responds that it had no duty to prove an eastern route that eliminated every proximity concern, and that Burleigh County simply disagrees with where the route was placed. (R:928:33-34:70). Burleigh County did not return to this argument in its *Reply*.

[¶141] Neither the PSC's August 4, 2023, Order nor its October 17, 2023, request asked Summit to analyze an eastern alternative. The August 4, 2023, Order faulted Summit for not addressing the request for an analysis of a southern route around Bismarck, and the October 17, 2023, request asked for that analysis. (R:530:11-12:42); (R:572:1). The eastern-route argument therefore does not rest on an unanswered request from the PSC, as the southern-route argument does. The competing evidence on where the reroute lies goes to the weight of the evidence on where the route should be placed. The Court does not reweigh that evidence. *Capital Elec. Coop.*, 2016 ND 73, ¶ 6. Burleigh County's eastern-route argument does not provide a separate ground for reversal. On remand, the PSC may consider this evidence along with the southern-route evidence when it states its findings.

[¶142] The PSC's finding that Summit adequately addressed the request for a southern route analysis does not sufficiently address the evidence Burleigh County presented, and does not explain why the single southern alignment provided by Summit answers that evidence. This matter should be remanded to the PSC to state findings that account for this testimony and explain its conclusion in a way a reviewing court can evaluate. N.D.C.C. § 28-32-46(1), (7).

Whether the PSC's Finding on Property Value Requires Reversal?

[¶143] Burleigh County argues Summit provided no evidence to support its claim that the carbon dioxide pipeline would cause no adverse impacts on property, including property value. (R:955:28-29:48-49). It argues Jeff Olson performed no appraisals and did not consider any carbon dioxide

pipeline, and that Wade Becker submitted only a letter and never appeared for cross-examination. *Id.* Burleigh County makes this argument as a separate challenge to the PSC's property value finding for the first time in its *Reply*. In its opening brief, Burleigh County raised property value only as part of its southern-route and eastern-route argument. It argued the PSC approved the reroutes "without addressing substantial testimony regarding impacts on public safety, future development, and property values." (R:918:9:7); (R:918:45:76). Summit responded to that argument by pointing to the PSC's property value finding. (R:928:34:71). No other appellant challenges the property value finding.

[¶144] A party appealing an agency order must file specifications of error that are "reasonably specific" and detail which matters are at issue. *Beam*, 2020 ND 168, ¶ 7. "When a party does not enumerate an issue in their specifications of error, we will not consider the issue on appeal." *Id.* The North Dakota Supreme Court also "will not address issues raised for the first time in a reply brief, because the reply brief is limited to issues raised in the appellee's brief." *Koehly v. Levi*, 2016 ND 202, ¶ 9, 886 N.W.2d 689.

[¶145] Burleigh County's specifications of error do not list the PSC's property value finding. Items (a) through (g) challenge the ordinance finding, the protection of the Dispersion Model, the southern and eastern routes, public welfare, the timing of new PHMSA rules, and liability insurance. (R:1:3-5:12(a)-(g)) (08-2024-CV-03614). None of them mention property value or Findings 16 and 17. The only language that could reach the finding is general. Paragraph 12 recites several grounds from N.D.C.C. § 28-32-46, "including but not limited to" the items that follow, and item (h) lists "[o]ther issues identified upon review of the record and hearing transcript once prepared." (R:1:3-5:12, 12(h)) (08-2024-CV-03614). That language could apply to any agency appeal. It does not alert the agency or the parties to a challenge to the property value finding. Burleigh County's *Reply*

does respond in part to Summit's reliance on the property value finding. But a reply brief cannot supply an issue the specifications of error did not raise. A separate challenge to the PSC's property value finding is not properly before the Court.

[¶146] The property value testimony still matters to an issue Burleigh County did specify. Burleigh County's specifications challenge the southern and eastern routes, and its opening brief relies on the developers' testimony about future development and property values to support that challenge. (R:918:9:7); (R:918:45:76). The PSC found that intervenors and developers had not sufficiently demonstrated the Project would cause significant adverse impacts on future property values and development. (R:908:10:16-17). In reaching that finding, it relied on Wade Becker's market research letter and Jeff Olson's testimony. (R:908:10:16). At the May 30, 2024, hearing, Chad Wachter testified that lots encumbered by pipelines are usually the last lots to sell, that five buyers declined his lots because of a pipeline, and that in 80 percent of his sales of encumbered property he had to accept a lower price. (R:746:27-28, 36-37). On cross-examination, Olson testified he had not appraised any of the properties he discussed, had never appraised property near a carbon dioxide pipeline, and that Becker's report is not an appraisal. (R:740:23-24, 26, 30). On remand, the PSC may consider this testimony when it states its findings on the southern route.

[¶147] Burleigh County's separate challenge to the PSC's property value finding is not properly before the Court, and the Court does not disturb that finding. This ground for reversal is rejected.

Whether the PSC's Finding on Liability Insurance Requires Reversal?

[¶148] Burleigh County argues the PSC's November 15, 2024, Order fails to address problems with Summit's liability insurance. (R:918:46-47:79-81). It argues the PSC did not consider that insurers treat carbon dioxide as a pollutant, so a landowner's own policy may not cover a release caused by someone other than Summit. *Id.* It argues Summit's easements protect landowners only from leaks a landowner can prove Summit caused, and that Summit has not agreed to name landowners as

additional insureds on its own policy. *Id.*

[¶149] Summit responds that the PSC adequately addressed the insurance issue before it. (R:928:38-40:82-86). Summit argues the Siting Act does not make the PSC a regulator of private insurance and does not authorize the PSC to require Summit to negotiate a separate insurance endorsement for each landowner as a condition of approval. (R:928:39:83). Summit argues the PSC did address the insurance concerns in the record: the PSC acknowledged landowners' difficulty obtaining insurance and found no additional requirements necessary, given Summit's commitment to maintain substantial liability coverage and to bear liability for a rupture unless a third party struck the line. (R:928:39:84). Summit argues the easement's indemnity language is a private contract term the PSC has no role in rewriting, and that Burleigh County's concern about future litigation is speculative. (R:928:39-40:85). Summit argues a landowner's protection against a pipeline release comes from liability rules and Summit's own obligations, not from the landowner's private insurance policy. (R:928:40:86).

[¶150] In reply, Burleigh County cites a recent Eighth Circuit Court of Appeals case, which it describes as holding that a standard pollution exclusion bars coverage for a carbon dioxide release. (R:955:30-31:52) (citing *North Star Mut. Ins. Co. v. Rodin*, 171 F.4th 1136 (8th Cir. 2026)). That description does not match. *Rodin* involved carbon monoxide emitted from a portable heater in a farm shop, not carbon dioxide, and did not involve a pipeline. 171 F.4th at 1137-38. The Eighth Circuit held that carbon monoxide is a "pollutant" under the policy's definition and predicted North Dakota would treat the exclusion as absolute. *Id.* at 1141-43. Burleigh County argues this authority confirms that a release from the pipeline may fall outside ordinary liability coverage, and that the PSC's finding does not address that gap. (R:955:31:52). It argues Summit's commitments do not protect landowners, because Summit has not named them as additional insureds and has not agreed

to unqualified indemnity. (R:955:32-33:55-56). Burleigh County argues the PSC's finding on insurance is not supported by the evidence. (R:955:33:57-58).

[¶151] Commenters raised the liability insurance issue at the hearing. (R:908:10:18). The PSC's November 15, 2024, Order addressed it directly:

> A number of commenters provided that the Project will make them unable to purchase liability insurance due to the risk of a release. In the pre-filed testimony of Micah Rorie on June 1, 2023, SCS testified that it would hold the liability for a rupture of the Project unless the rupture was caused by a third-party line strike. Based upon this testimony, the Commission finds that no additional requirements are needed to ensure the Project will have minimal adverse impacts on the liability insurance requirements of the landowners.

(R:908:10-11:18). Rorie's pre-filed testimony appears in the record. (R:432). The PSC's findings of fact also state:

> SCS asserted that it will have not less than $100 million of liability insurance for the Project and that it will have not less than an additional $25 million of general liability insurance for the North Dakota portion of the Project.

(R:908:15:47).

[¶152] The PSC's finding does not quote Rorie's testimony exactly. His June 1, 2023, pre-filed testimony does not use the words "rupture" or "third-party line strike." It addresses the indemnification clause in Summit's easements. Under that clause, Summit agrees to "indemnify and hold Landowner harmless from and against any claim or liability or loss from personal injury or property damage resulting from or arising out of the use of the Easements by Company, its servants, agents or invitees." (R:432:3). The indemnity reaches only claims arising out of Summit's use of the easements. It provides no coverage for a release caused by anyone other than Summit or those acting for it. It also expressly excludes claims caused by the landowner or the landowner's servants, agents, or invitees. *Id.* Rorie testified that "use" of the easement includes any entry onto the land for survey, construction, or operation. *Id.* He also testified that, after meeting with Farmers

Union Insurance, Summit was confident landowners would still be able to secure farm policies and that the indemnification language would provide adequate coverage. (R:432:4). He attached a letter from Farmers Union Insurance. The letter warns Farmers Union policyholders that their liability policies contain exclusions for losses caused by pollutants, and that "there may be no coverage from your policy in the event that there is a release of pollutants." (R:432:6).

[¶153] The PSC also heard evidence that landowners may have difficulty obtaining coverage. At the June 2, 2023, hearing, Marilyn Bryan testified that her insurer told her carbon dioxide from the pipeline would be treated as a pollutant. She testified her policy would provide no liability coverage or legal defense for a release, and that no endorsement or rider was available to provide that coverage. (R:493:101-104, 110-112). At the May 29, 2024, hearing, Howard Malloy testified that his insurer told him his farm policy provides no coverage for carbon dioxide as a pollutant. (R:743:24-25). Other landowners gave similar testimony. They testified their insurers told them their policies would not cover a release, in most cases because carbon dioxide would be treated as a pollutant. (R:226:91); (R:325:287-288, 351-352); (R:426:131-132); (R:748:75); (R:751:63-64). The PSC acknowledged these concerns in its findings. (R:908:9:12); (R:908:10-11:18).

[¶154] The Court must modify or reverse a PSC order, and remand the case, if its findings of fact are not supported by a preponderance of the evidence. N.D.C.C. § 28-32-46(5). In reviewing whether a finding is supported by a preponderance of the evidence, the Court does not make independent findings or substitute its own judgment for the PSC's judgment. The Court determines only whether a reasoning mind reasonably could have determined that the finding was proved by the weight of the evidence in the record. *Capital Elec. Coop.*, 2016 ND 73, ¶ 6. Rorie did not use the words the PSC attributed to him. But a reasoning mind could draw the same meaning from his testimony. The indemnity covers claims arising out of Summit's use of the easements, and Rorie

testified that use includes operating the pipeline. A claim for a release from the pipeline during its operation could reasonably be read as a claim arising out of Summit's use of the easement. The indemnity provides no coverage for a release caused by anyone other than Summit or those acting for it. The PSC's summary is not a precise quotation, but a reasoning mind could read the testimony the same way: Summit bears the liability for a release from its pipeline unless someone other than Summit, or those acting for it, causes the release. Other testimony supports the same reading. At the April 11, 2023, hearing, James Powell testified for Summit about his understanding of the indemnity. He answered from his own understanding, not as a legal opinion. He testified that landowners are indemnified "unless the landowner intentionally damages the pipeline." He testified that landowners remain indemnified when "a piece of equipment sinks and sits on the pipeline and damages it" and when they "accidentally strike the pipeline." (R:325:191-192). At the May 9, 2023, hearing, Doug Goehring testified he was once president of the state's largest domestic insurance company. He testified that "Summit's responsible and liable for their pipeline." (R:426:93). He also testified that his own insurer has not denied him liability coverage because pipelines cross his land. *Id.* At the June 3, 2024, hearing, Wade Boeshans testified that Summit was working on an agreement to give one landowner family indemnification "for any loss related to our use of our easement and installation of our pipeline." (R:749:59). Rorie also testified that landowners would still be able to secure farm policies. (R:432:4).

[¶155] The PSC weighed that testimony against the landowners' concerns about insurance and found no additional requirements were needed. (R:908:10-11:18). It also found that Summit asserted it will carry at least $100 million in liability insurance for the Project, plus another $25 million for the North Dakota portion. (R:908:15:47). Summit's counsel provided those figures after the hearing, in letters answering a PSC staff request that followed a September 9, 2024, work

session. (R:899:2); (R:902:2-3). That finding reports what Summit asserted. The Court does not treat counsel's letters as evidence of Summit's coverage. The PSC's finding that no additional requirements were needed rests on the testimony discussed above. Burleigh County argues the indemnity still requires a landowner to show Summit caused a release, and that ordinary policies exclude pollution losses. Those arguments go to the weight of the evidence, not to whether evidence supports the finding. Weighing conflicting evidence is the PSC's role. The Court does not reweigh it. *Capital Elec. Coop.*, 2016 ND 73, ¶ 6.

[¶156] Nor does the Siting Act require the PSC to demand that Summit file its insurance policy, or name landowners as additional insureds, as a condition of approval. The PSC's authority to regulate is limited to the authority the Legislature gave it. *Envtl. L. & Policy Ctr.*, 2020 ND 192, ¶ 11. The Legislature did not give the PSC that authority. The PSC's finding on liability insurance was reasonable on this record.

[¶157] Burleigh County also argues the PSC's finding on insurance is inadequate and does not address the evidence. (R:918:46-47:79-81); (R:955:32:55). The PSC's findings must sufficiently address the evidence presented to it by the appellant. N.D.C.C. § 28-32-46(7). Much of the insurance evidence came from the Landowners and the witnesses they called. Two of the Landowners, Loren Staroba and Jonathan Hagerott, testified that their insurers treat carbon dioxide as a pollutant excluded from coverage. (R:325:351-352); (R:748:75). The PSC's findings address that evidence. They acknowledge the concern that landowners may be unable to obtain liability insurance because of the risk of a release. (R:908:9:12); (R:908:10-11:18). They also explain why the PSC imposed no additional requirements: relying on Rorie's testimony, the PSC found that Summit would hold the liability for a release unless a third party caused it. (R:908:10-11:18). The findings need not discuss each witness's testimony. They show what evidence the PSC considered

and why it decided as it did. That sets this finding apart from the PSC's finding on the southern route, which did not address Burleigh County's evidence or explain why the PSC rejected it. The PSC's finding on liability insurance sufficiently addresses the evidence.

[¶158] The Court finds the PSC's finding on liability insurance is supported by a preponderance of the evidence. This ground for reversal is rejected.

Whether the Landowners and Burleigh County Are Entitled to Attorney's Fees and Costs?

[¶159] The Landowners ask for costs and attorney's fees under N.D.C.C. § 28-32-50(1) in their *Notice of Appeal*. (R:1:5). They do not address the request in their briefs. Burleigh County asks for its costs and attorney's fees under the same statute. (R:918:48-51:82-88); (R:955:33:61). It argues the PSC acted without substantial justification because it misread N.D.C.C. §§ 44-04-24 and 49-22.1-13, accepted Summit's route analysis, and approved the Project without waiting for new PHMSA rules. (R:918:49-50:84-87). Burleigh County states it will provide a summary of its fees and costs if the Court grants its request. (R:918:50-51:88). Summit responds that fees depend on Burleigh County prevailing, and that the PSC's positions had a reasonable basis in law and fact even where Burleigh County disagrees with them. (R:928:42-44:93-99). The PSC did not separately respond to the requests.

[¶160] Section 28-32-50(1), N.D.C.C., provides:

> In any civil judicial proceeding involving as adverse parties an administrative agency and a party not an administrative agency or an agent of an administrative agency, the court must award the party not an administrative agency reasonable attorney's fees and costs if the court finds in favor of that party and, in the case of a final agency order, determines that the administrative agency acted without substantial justification.

Any award must be paid from funds available to the agency whose order the court reviewed. N.D.C.C. § 28-32-50(3).

[¶161] "This statute sets forth a two-part test which must be met in order to properly award attorney

fees: first, the nonadministrative party must prevail, and second, the agency must have acted without 'substantial justification.'" *Lamplighter Lounge, Inc. v. State ex rel. Heitkamp*, 523 N.W.2d 73, 75 (N.D. 1994).

[¶162] The first part of the test asks whether the party prevailed. The North Dakota Supreme Court has explained, in the context of costs and disbursements, that a prevailing party is the one who prevails "on the merits of the main issue." *LAWC Holdings, LLC v. Vincent Watford, L.L.C.*, 2024 ND 16, ¶ 13, 2 N.W.3d 672 (quoting *Dowhan v. Brockman*, 2001 ND 70, ¶ 11, 624 N.W.2d 690). "If opposing litigants each prevail on some issues, there may not be a single prevailing party for whom disbursements may be taxed." *Id.*; *see also Harris v. Oasis Petroleum, Inc.*, 2024 ND 85, ¶ 11, 6 N.W.3d 611. The Supreme Court applies the same idea of prevailing under N.D.C.C. § 28-32-50(1). *See Voigt v. N.D. Pub. Serv. Comm'n*, 2017 ND 76, ¶ 44, 892 N.W.2d 149 (declining fees because the appellant "is not the prevailing party").

[¶163] Here, each side prevailed on some issues. Emmons County's challenge to the order granting reconsideration is not properly before the Court, and even if the Court reached the merits, it would find the order was in accordance with N.D.C.C. § 28-32-40. The Court upholds the PSC's classification of the Dispersion Model as a security system plan, its handling of the fair-hearing and N.D.C.C. §§ 28-32-37 and 28-32-25 issues, its finding on liability insurance, and its decision not to wait for new PHMSA rules. The Court also rejects Burleigh County's eastern-route argument and its separate challenge to the property value finding, which is not properly before the Court. The Court reverses the PSC's conclusion that a route permit automatically supersedes local zoning ordinances and its finding that the ordinances directly conflict with N.D.C.C. § 49-22.1-03. The Court reverses and remands the PSC's finding under N.D.C.C. § 49-22.1-13(2)(c), its denial of Burleigh County's motion to reconsider the protection of the Dispersion Model, its findings on

public welfare, its finding on the southern route, and the August 4, 2023, Order's grant, without findings, of Summit's request to waive the redacted-version requirement. Neither appellant obtained all the relief it asked for. Burleigh County asked the Court to deny Summit's certificate and route permit. (R:955:33:61). The Landowners asked for a remand to allow disclosure of the Dispersion Model, discovery, and a new hearing. (R:915:40:55). No party prevailed on the main issue. Summit's certificate of corridor compatibility and route permit remain in effect, and the Dispersion Model remains protected. The Court reversed the PSC's supersession rulings, but it did not decide whether the county ordinances could be superseded. It remanded that question and the other remanded issues to the PSC for further findings. Because neither the Landowners nor Burleigh County is a prevailing party, neither is entitled to attorney's fees and costs under N.D.C.C. § 28-32-50(1).

[¶164] The requests for attorney's fees and costs are denied.

CONCLUSION

[¶165] For the reasons stated above, the Court AFFIRMS IN PART, REVERSES IN PART, and REMANDS to the PSC for further proceedings consistent with this order. N.D.C.C. § 28-32-46.

[¶166] **August 4, 2023, Order on Protection of Information**. The Court affirms the PSC's classification of the Dispersion Model as a security system plan under N.D.C.C. § 44-04-24(1), (2)(b). The Court reverses the order to the extent it granted, without findings, Summit's request to waive the redacted-version requirement of N.D.A.C. § 69-02-09-01(5). (R:526:4). The Court remands for findings on that request.

[¶167] **February 7, 2024, Order**. The Court reverses the PSC's conclusion that a route permit automatically supersedes and preempts local land use and zoning regulations under N.D.C.C. § 49-22.1-13(2)(b). (R:586:3).

[¶168] **November 15, 2024, Findings of Fact, Conclusions of Law, and Order**. The Court reverses the following parts of the order: (a) the PSC's findings and conclusions that the Emmons County and Burleigh County ordinances are superseded and preempted, including its findings that the ordinances are unreasonably restrictive on their face and directly conflict with N.D.C.C. § 49-22.1-03 (R:908:11:19); (b) the PSC's denial of Burleigh County's motion to reconsider the protection of the Dispersion Model (R:908:18); (c) the PSC's finding that Summit adequately addressed the request for an analysis of a southern route around Bismarck (R:908:15:45); and (d) the PSC's conclusion that the Project will produce minimal adverse effects upon the welfare of the citizens of North Dakota (R:908:16:7). The Court affirms the November 15, 2024, Findings of Fact, Conclusions of Law, and Order in all other respects. This includes its finding on liability insurance and its decision not to wait for new PHMSA rules. The Court rejects the fair-hearing, N.D.C.C. § 28-32-37(1) and (3), N.D.C.C. § 28-32-25, and eastern-route arguments. Emmons County's challenge to the September 15, 2023, Order on Petition for Reconsideration is not properly before the Court. Even if the Court reached the merits, it would find the order granting reconsideration was in accordance with N.D.C.C. § 28-32-40. Burleigh County's separate challenge to the property value finding (R:908:10:16-17) is also not properly before the Court.

[¶169] The certificate of corridor compatibility and route permit remain in effect while the PSC proceeds on remand. *See Shark v. N. States Power Co.*, 477 N.W.2d 251, 255 (N.D. 1991) (remanding to the PSC and stating that, "in the interim, the determination made by the PSC on the merits remains in effect"). The Dispersion Model remains protected until the PSC decides the remanded issues. The Court expresses no opinion on how the PSC should decide those issues.

[¶170] On remand, the PSC must: (a) decide separately, for each county, whether Summit has shown by a preponderance of the evidence that the county's ordinance is "unreasonably restrictive

in view of existing technology, factors of cost or economics, or needs of consumers regardless of their location" under N.D.C.C. § 49-22.1-13(2)(c), and state findings of fact and conclusions of law that explain its decision; (b) rule again on Burleigh County's motion to reconsider the protection of the Dispersion Model, address the evidence that the Dispersion Model was shown to persons not shown to be Summit employees or authorized agents, and decide whether a redacted public version is possible under N.D.A.C. § 69-02-09-01(5), and, if it is not, explain why a waiver is warranted; (c) state findings on the southern route that address the evidence Burleigh County presented and explain why the single southern alignment Summit provided answers that evidence; and (d) state express findings on whether public welfare, apart from the safety standards reserved to PHMSA, supports granting the certificate and route permit.

[¶171] The PSC may also address whether Summit has shown that any requirement in either county's ordinance is "in direct conflict with … federal laws or rules" under N.D.C.C. § 49-22.1-13(2)(c). If the PSC addresses that question, it must consider each county's ordinance separately and state findings that explain its decision. When the PSC states its southern-route findings, it may consider the eastern-route evidence and the property value testimony discussed above. The PSC may decide the remanded issues on the existing record or may take additional evidence. If it takes additional evidence, it must comply with N.D.C.C. § 28-32-35 and, if it relies on information in its own possession, N.D.C.C. § 28-32-25.

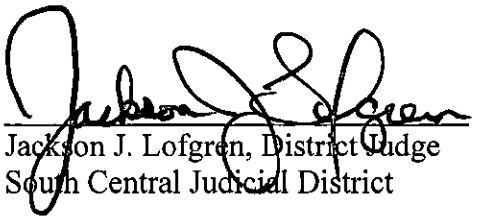
[¶172] The requests of the Landowners and Burleigh County for attorney's fees and costs under N.D.C.C. § 28-32-50(1) are denied.

[¶173] Any party aggrieved by the PSC's decision on remand may appeal that decision as provided in N.D.C.C. § 28-32-42(1).

[¶174] Judgment shall be entered accordingly.

Dated October 9, 2026.

BY THE COURT:



Jackson J. Lofgren, District Judge
South Central Judicial District

ITEM

10

Burleigh County Building, Planning & Zoning
PO Box 5518
Bismarck ND 58506

burleighcobuilding@nd.gov
701-221-3727

To: Burleigh County Commission.

Re: Amend Burleigh County Zoning Ordinances

Date: 10-27-2026

From: Mitch Flanagan, Burleigh County Planning Director. MF

ITEM 2	Amend Certain Articles in Burleigh County Ordinances

It has become necessary to consider amending certain articles within Burleigh Conty ordinances, specifically:

- 1. Zoning District Article 3 Definitions
- 2. Zoning District Article 6 Incidental Uses
- 3. Zoning District Article 8 Section 4, Sec. 8, Sec. 22
- 4. Zoning District Article 11 Ag Agricultural
- 5. Zoning District Article 12 R1 Residential
- 6. Zoning District Article 12 R2 Residential
- 7. Zoning District Article 15 R5 MH
- 8. Zoning District Article 16 C Commercial
- 9. Zoning District Article 18 I Industrial

The 9 draft ordinances were presented during public hearings to the Planning Commission on August 12th and September 9th, 2026. The Planning Commission recommended approval by a 8-0 vote.

ACTION REQUESTED:
Consider motion to approve the draft final ordinances.

Attachments:

Ex. 1. Zoning District Article 3 Definitions
Ex. 2. Zoning District Article 6 Incidental Uses
Ex. 3. Zoning District Article 8 Section 4, Sec. 8, Sec. 22
Ex. 4. Zoning District Article 11 Ag Agricultural
Ex. 5. Zoning District Article 12 R1 Residential
Ex. 6. Zoning District Article 12 R2 Residential
Ex. 7. Zoning District Article 15 R5 MH
Ex. 8. Zoning District Article 16 C Commercial
Ex. 9. Zoning District Article 18 I Industrial

- **Ex. 1. Zoning District Article 3 Definitions**

Article 3- Definitions

Buffer Yard: A strip of land, identified in the zoning ordinance, established to protect one type of land use from another of an incompatible land use. An appropriate buffer may vary depending on uses, districts etc. For PUD or Special Use Permits, the size and width shall be determined by the Burleigh County Board,

Buffer Yards.

a. Purpose. The buffer yard requirements are intended to provide separation between land uses of differing intensity. Buffer yards utilize a combination of distance and plantings to form a dense landscaping screen to mitigate the undesirable impacts associated with incompatible land uses on adjacent properties.

b. Applicability. Buffer yards shall be required between a single- or two-family residential use zoning and any other non-agricultural land use.

c. Location of Buffer Yards. Buffer yards shall be located along the entire length of any lot line where two (2) land uses of differing intensity abut, excluding areas adjacent to access points and sight triangles. Such buffer yards may be located within required yards, but not within any portion of the public right-of-way or access easement.

d. Responsibility for Buffer Yard Installation. Installation of all required buffer yards shall be the responsibility of the proposed higher intensity use and shall be located on the lot of the higher intensity use.

e. Standards. Buffer yards shall be installed in accordance with the following table:

i. Screening Fence. A screening fence may be made of solid wood, composite material with the appearance of solid wood, vinyl with the appearance of solid wood, masonry, or a combination of masonry and any of the other materials listed.

Area Where Buffer Yards Are Required	Minimum Width of Buffer Yard	Landscape Materials Required- 100 Lineal Feet
Side or rear yard of any expanding higher intensity land use adjacent to single and two-family residential uses or zoning	10 feet w/6-foot screening fence As determined by the Burleigh County Board	4 shade trees and 2 ornamental trees

Childcare Center- Also known as a Daycare Center, is a free-standing facility offering care, maintenance, and supervision for hire or compensation, for less than twenty-four (24) hours per day, for more than twelve (12) children under the age of twelve (12) years and licensed by the North Dakota Department of Human Services as an early childhood program.

Communication Tower: An elevated broadcast structure designed to support antennas and other communication equipment for the transmission and reception of signals such as radio, television, telephone, internet, and satellite communications.

Greenhouse-Commercial: A building used for indoor cultivation and production of flowers, crops, fruit trees, nursery stock, truck garden products, regardless of the climate, for wholesale purposes only.

Greenhouse-Retail: A building that is made primarily of translucent building material, used, designed or intended to be used for onsite sales and display of plants, products grown or stored therein, gardening supplies and equipment, or landscaping supplies and equipment.

Personal Storage Unit: A non-habitable, non-commercial building owned or used by an individual or household for personal storage, hobbies, craftwork, or private recreation, and not open to the public. Personal storage units are intended for use by residents of an adjacent neighborhood

Self-Storage Facility: A building or group of buildings that contains varying sizes of individual, compartmentalized, and controlled access units or lockers for use by members of the general public for storage of personal or business items. The self-storage structure shall not be used for residential occupancy.

- **Ex. 2. Zoning District Article 6 Incidental Uses**

ARTICLE 6 INCIDENTAL USES

Section 1. Accessory Uses

1. Dwelling Premises
    a. Private garages or off-street parking spaces incidental to a dwelling.
    b. Private greenhouse, vegetable, fruit, or flower garden, from which no products are sold or offered for sale.
    c. Children's playhouse, and playground equipment.
    d. Shed, tool room for storage of equipment used in grounds or building maintenance but not including stable, chicken house, or other buildings to house agricultural livestock.
    e. Private swimming pool and bath house.
    f. Statuary, trellises, barbecue stove or similar ornamental or landscaping features.
    g. No more than three (3) dogs four months of age or older.
    h. All allowable accessory buildings to a residence shall be limited to a maximum square footage according to the size of the parcel, as follows:

Accessory Buildings Sq./Ft.	Computation Allowance
2 Acres or less	5% x 87'120.= 4,356 sq./ft
3 Acres	5% x 130,600.= 6,530 sq./ft
4 Acres	5% x 174,240.= 8,712 sq./ft
5 Acres	5% x 217,800.= 10,890 sq./ft
6 Acres or greater	4%

And a maximum wall height of sixteen and one-half (16½) feet and a maximum building height of twenty-five (25) feet.

Section 2. Home Occupation

There is permitted in a dwelling, any occupation customarily incidental to the principal use as a dwelling, subject to the following limitations:

1. The following are hereby declared, but not limited to, customary home occupations as intended by this section:
    a. Dressmaker, seamstress.
    b. Music teacher.
    c. Artist, sculptor.
    d. Author.

e. Emergency treatment only of patients by physicians, dentists, or licensed drugless physicians.
f. Emergency interview only of clients by lawyers, architects, engineers and similar professions.
g. Minister.

Section 3 Minor Home Occupations.

Allowed in RR zoning districts as permitted by right. A minor home occupation is any home occupation that meets all of the following standards:

1. The home occupation is conducted on premises by one (1) or more residential occupants of the dwelling and no more than one (1) additional employee, business partner, independent contractor or any person affiliated with the home occupation that does not reside on premises.

2. Up to fifty percent (50%) of the floor area of the principal structure and up to one hundred percent (100%) of one (1) accessory structure is utilized by the home occupation, including storage of associated goods, provided that customary residential amenities, such as a kitchen and bathroom, are not removed such that the structure would no longer meet building code standards as a dwelling unit.

3. There exists no outward visual evidence to indicate the presence of the home occupation to an uninformed person, such as alterations of the dwelling from a customary residential appearance, overnight storage of products or materials outside.

4. No more than one (1) non-illuminated commercial on premise wall sign is placed on the property of no greater than one (1) square foot, attached to a primary or accessory structure on the lot, subject to all requirements of Burleigh County.

5. There exists no noise, odor, vibration, or electrical interference associated with the home occupation that is noticeable at the property line.

6. Visits from customers, clients, or patients are by appointment only and limited to no more than one (1) party, or up to four (4) students for group lessons, at any time. Notwithstanding, multiple said parties may be present on the property during not more than four (4) events per year, with each event not to exceed four (4) days and no events occurring consecutively. At no time may a home

occupation generate traffic significantly greater than that of a conventional residential use.

7. Visits from customers, clients, patients, or deliveries occur only during the hours of 7 AM to 9:00 PM.

8. Not more than two (2) vehicles and/or two (2) trailers associated with the home occupation may park or stand on the property or street, if permitted, at any time, and any on-street parking shall meet requirements of Burleigh County, as applicable.

9. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on surface suitable for parking, devoid of tall grass or other potential fire hazards, and debris from vehicles may not enter a public right-of-way, in accordance with Burleigh County, as applicable.

    a. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.
    b. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

Section 4. Major Home Occupations

Allowed in all zoning districts as permitted by SUP A major home occupation is any home occupation that meets all of the following standards:

1. The home occupation does not meet all standards required of a minor home occupation.

2. The home occupation is conducted on-premises by one (1) or more residential occupant of the dwelling and no more than three (3) additional employees, business partners, independent contractors or any person affiliated with the home occupation that do not reside on-premises.

3. Up to fifty percent (50%) of the floor area of the principal structure, one hundred percent (100%) of accessory structures, is utilized for the home occupation,

provided that customary residential amenities, such as a kitchen and bathroom, are not removed such that the structure would no longer meet building code standards as a dwelling unit.

4. The home occupation may utilize one (1) contiguous outdoor area of up to five (5) percent of the total lot area or 10,000 square feet, whichever is less, including storage of associated goods, vehicles, equipment, and trailers. Notwithstanding, no limit on area of outdoor area shall apply in the A – Agricultural zoning district.

5. The principal residential dwelling is not altered from a customary residential appearance.

6. Outdoor and overnight storage of products or materials associated with the home occupation may not be in a front yard and must be screened by fencing, buildings, or landscaping buffer yards, such that materials are not clearly visible from a public right-of-way and adjoining properties during all seasons. Trailers may be loaded with items.

7. No more than one (1) non-illuminated commercial on premise sign is placed on the property of no greater than one (1)square foot, plus one (1) square foot per acre in the lot, of sign area, subject to all requirements of Burleigh County.

8. Noise ordinance requirements contained in NDCC. Ordinance are met at all times, and there exists no objectionable odor, vibration, or electrical interference associated with the home occupation and above typical residential levels that is noticeable at the property line.

9. Visits from customers, clients, patients, employees, or deliveries do not create an undue burden on traffic safety and congestion or on-street parking availability in the neighborhood. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.

   a. Visits from customers, clients, patients, employees, or deliveries occur only during the hours of 7:00 AM to 9:00 PM.

   b. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on surface suitable for parking, devoid of tall grass or other potential fire hazards, and debris from vehicles may not enter a public right-of-way, in accordance with all requirements of Burleigh County.

   c. Any on-street parking of vehicles associated with the home occupation shall meet requirements of Burleigh County, as applicable.

10. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.

11. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

- **Ex. 3. Zoning District Article 8 Section 4, Sec. 8, Sec. 22**

ARTICLE 8 - SPECIAL USES

Section 28. Childcare Center

Also known as a Daycare Center, a childcare center is a free-standing facility offering care, maintenance, and supervision for hire or compensation, for less than twenty-four (24) hours per day, for more than twelve (12) children under the age of twelve (12) years and licensed by the North Dakota Department of Human Services as an early childhood program.

1. Childcare centers are required to have a special use permit in all zoning districts provided:
    a. Each building shall provide not less than thirty-five (35) square feet of interior recreation area per child. Work areas, office areas, and other areas not designed for use of the children may not be counted in this computation.
    b. Each lot shall provide an outdoor recreation area of not less than seventy-five (75) square feet per child. The recreation area shall be fenced, have a minimum width of twenty (20) feet, a minimum depth of twenty (20) feet, be located on the same lot or parcel of land as the facility it is intended to serve, and must be located behind the building setback lines.
    c. Adequate off street parking shall be provided at the following ratio: One space for each employee and one space for each ten (10) children.

2. Childcare centers shall conform to all applicable requirements of the International Building Code as adopted by Burleigh County, The International Fire Code as adopted by the State of North Dakota and all requirements of the North Dakota Department of Human Services.

3. Childcare centers shall comply with all applicable requirements relating to health and sanitation of the North Dakota Department of Health.

Section 29. Major Home Occupations

Allowed in all district as permitted by SUP. A major home occupation is any home occupation that meets all of the following standards:

1. The home occupation does not meet all standards required of a minor home occupation.

2. The home occupation is conducted on-premises by one (1) or more residential occupant of the dwelling and no more than three (3) additional employees, business partners, independent contractors or any person affiliated with the home occupation that do not reside on premises.

3. Up to fifty percent (50%) of the floor area of the principal structure, one hundred percent (100%) of accessory structures, is utilized for the home occupation, provided that customary residential amenities, such as a kitchen and bathroom, are not removed such that the structure would no longer meet building code standards as a dwelling unit.

4. The home occupation may utilize one (1) contiguous outdoor, fenced-in area of up to five (5) percent of the total lot area or 10,000 square feet, whichever is less, including storage of associated goods, vehicles, equipment, and trailers. Notwithstanding, no limit on area of outdoor area shall apply in the A – Agricultural zoning district.

5. The principal residential dwelling is not altered from a customary residential appearance.

6. Outdoor and overnight storage of products or materials associated with the home occupation may not be in a front yard and must be screened by fencing, buildings, or landscaping buffer yards, such that materials are not clearly visible from a public right-of-way and adjoining properties during all seasons. Trailers may be loaded with items.

7. No more than one (1) non-illuminated commercial on premise sign is placed on the property of no greater than one (1)square foot, plus one (1) square foot per acre in the lot, of sign area, subject to all requirements of Burleigh County.

8. Noise ordinance requirements contained in NDCC are met at all times, and there exists no objectionable odor, vibration, or electrical interference associated with the home occupation and above typical residential levels that is noticeable at the property line.

9. Visits from customers, clients, patients, employees, or deliveries do not create an undue burden on traffic safety and congestion or on-street parking availability in the neighborhood. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.
    a. Visits from customers, clients, patients, employees, or deliveries occur only during the hours of 7:00 AM to 9:00 PM.
    b. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on surface suitable for parking, devoid of tall grass or other potential fire hazards, and debris from vehicles may not enter a public right-of-way, in accordance with all requirements of Burleigh County.
    c. Any on-street parking of vehicles associated with the home occupation shall meet requirements of Burleigh County, as applicable.

10. No more than one (1) vehicle associated with the home occupation which requires a Commercial Driver License (CDL) to operate in North Dakota may park on the property at any time. At no time may said vehicle exceed the load restrictions in place for any time of the year on the adjoining street or park on the street.

11. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.

12. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

Section 30. Personal Storage Unit

Allowed in Residential and Agricultural Districts with a SUP. A non-habitable, non-commercial building used or owned by an individual or household for personal storage, hobbies, craftwork, or private recreation, and not open to the public. Personal storage uses are intended for use by the residents of an adjacent neighborhood.

1. Personal storage uses may only be permitted on a lot that includes four or more independent personal storage units.

2. Personal storage structures shall not be occupied as a residence, temporarily or permanently.

3. Personal storage uses are for private use only. Any commercial activity is prohibited, including storage of commercial goods or public assembly.

4. Personal storage uses shall not be considered an extension of a residence that would allow a home occupation activity.

5. A buffer zone is required where personal storage units are adjacent to residential uses.

6. Personal storage uses may be supplied with water and sewer service to each unit.

7. The maximum building height of a personal storage structure is 25 feet.

8. The personal storage structure shall not be used for residential occupancy.

9. If multiple buildings are planned- garage doors shall face each other.

10. Buildings shall be located with a minimum width of 60 feet of hard surfaced area when two garage fronts face each other.

Section 31. Communication Tower

1. The minimum lot area of any parcel of land proposed for the establishment of a new tower shall be at least one-half acre in size.

2. There shall be no minimum size requirements for the leased parcel.

3. All towers shall be setback, at a minimum, the overall height of the tower from any property line. All measurements shall be from the leading edge of the tower structure. Setbacks for guyed wire bases will be the same as required for an accessory structure in the zone district in which the tower is located.

4. There is no minimum setback standard for related accessory buildings and support facilities provided the construction and placement of the buildings and support facilities are contained within the designated fenced leased parcel

5. The height of any telecommunication tower shall be governed by the height limit as required in the special use permit. Any telecommunication tower that is proposed with an overall height of 150 feet or greater shall be required to file with the Federal Aviation Administration Form 7460.

6. Lighting of telecommunication towers shall only be permitted as required by the Federal Aviation Administration and shall be governed by the Federal Aviation Administration Obstruction Marking & Lighting Advisory Circular (AC 70-7460-1K).

7. The boundary of the leased parcel surrounding the telecommunication towers and its related accessory buildings and support facilities shall be fenced with a minimum six-foot security type fencing. In addition, subject to review and analyses, all telecommunication towers shall be constructed and made available as to permit collocation of, at minimum, two additional, functionally equivalent service providers.

- **Ex. 4. Zoning District Article 11 Ag Agricultural**

ARTICLE 11- A - AGRICULTURAL DISTRICT REGULATIONS

Section 1. Description

The A - Agricultural District is established as a district in which the principal use of land is for general agricultural uses. The regulations are intended to prohibit commercial and

industrial usage of the land and to prohibit any other use which would interfere with the development or continuation of the agricultural use of the land; and to discourage any use, which because of its character or size, would create requirements and costs for public services such as police and fire protection, water supply, and sewerage before such services can be systematically and adequately provided.

Section 2. Definition of “Farm”

For the purpose of the administration of this ordinance, a "farm" shall mean a single tract, or contiguous tract, of agricultural land containing a minimum of ten (10) acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent (50%) of his annual net income; and the term "farmer" means an individual who normally devotes the major portion of his time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' un-manufactured state and who normally receives not less than fifty percent (50%) of his annual net income from any one or more of the foregoing activities; and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied, as a farmer, the premises.

Section 3. Permitted Uses

The following uses are allowed by-right in the Agricultural District:

1. Agricultural structures and activities
2. General farming group
3. Truck farming group
4. Livestock sales pavilion
5. Public recreation group
6. Utility service group
7. Radio or television transmitting station
8. Sand or gravel extraction
9. Oil or gas well
10. Railroad line trackage
11. Single-family dwelling
12. Manufactured home dwelling, when located on a permanent perimeter foundation in accordance with County codes governing construction

13. Private golf course, and customary accessory uses

14. Temporary sales of certain items

15. Greenhouse-Commercial

16. Portable Storage Containers-allowed for personal use only.

17. Accessory Solar Energy Systems.

18. Minor Home occupation

Section 4. Special Uses

The following special uses are allowed in the A-Agricultural District, in accordance with Article 8:

1. Airport or heliport
2. Cemetery
3. Drive-in theater
4. Golf driving range, not accessory to a golf course
5. Recreational vehicle park
6. Salvage yard
7. Junkyard
8. Veterinary/animal clinic
9. Animal hospital/kennel
10. Solid waste disposal facility
11. Vehicular race tracks
12. Rodeo or rodeo events
13. Trap or skeet shooting range
14. Animal feeding operations, as defined herein
15. Asphalt plants and concrete batch plants

16. Wind turbine facilities
17. Roadway maintenance facilities
18. Temporary worker housing
19. Meat packing facilities, limited
20. Medical Marijuana Manufacturing Center or Distribution
21. Wind Turbines
22. Solar Farms
23. Accessory Dwelling Units
24. Agricultural Recreation
25. Temporary sales of fireworks
26. Personal Storage Units
27. Communication Tower

Section 5. Accessory Uses

Customary accessory uses are allowed in the A-Agricultural District, in accordance with Article 6.

Section 6. Development Standards (Non-agricultural Uses)

1. Lot Area. Each permitted residential structure, together with its accessory buildings, shall be located on a lot or tract of land as follows:

Property Description	**Minimum Lot/Tract Size**
Metes and Bounds, Auditor's Plat or Deed	40 acres
Aliquot part of a Section of land	Intended to comprise 40 acres
Government Lot	35 acres

2. Lot Width. Each lot shall have a width of not less than six hundred-forty (640) feet, measured along the front property line.

3. Front Yard. Each lot shall have a front yard as follows, measured from the property line:

Roadway Classifications	Minimum Front Yard (ft) Residential Buildings	Minimum Front Yard (ft) Commercial Buildings
Arterial Road	175	225
Collector Road	65	115
Local Road	40	140

4. Side Yard. Each lot shall have two (2) side yards, one on each side of all principal and accessory buildings. Each side yard shall not be less than fifteen (15) feet. No building on a corner lot shall have a side yard on the side street less than the front yard requirements specified in this section.

5. Rear Yard. Each lot shall have a rear yard not less than fifty (50) feet in depth. If such rear yard abuts an arterial or collector road right-of- way, building locations shall also conform to the front yard requirements specified in this section.

6. Height Limits. No principal building for any permitted use shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty-five (25) feet in height.

7. Residential Building Permit. A building permit to construct or improve a single family or manufactured home dwelling and allowed accessory buildings shall be issued only after the following conditions have been met:

    a. An auditor's plat or a deed describing the property has been prepared and recorded at the Register of Deed's Office.
    b. A road approach permit has been granted by the County Engineer.

8. Non-residential Building Permit. A building permit to construct or improve any other non-agricultural building shall be issued only if such building is located in a platted subdivision.

Section 7. Additional Development Standards for Land Abutting the Missouri River (Non-agricultural uses)

In order to preserve and enhance the environmental and recreational qualities of the Missouri River, conserve the scenic and historic values of the Missouri River shoreland, protect shoreland development from river bank erosion, and provide for the wise use of

the river and related land resources, the following additional development standard for non-agricultural uses is hereby established for land abutting the Missouri River:

1. Structure Setbacks. All structures on lots or parcels with un-stabilized banks shall be set back a minimum of one hundred (100) feet from the ordinary high-water mark of the Missouri River. All structures on lots or parcels with stabilized banks, either by an existing Corps of Engineers' stabilized structure or as permitted and approved by the Corps of Engineers, shall be set back a minimum of seventy-five (75) feet from the ordinary high-water mark of the Missouri River.

- **Ex. 5. Zoning District Article 12 R1 Residential**

ARTICLE 12 - R1 COUNTRY HOMES RESIDENTIAL DISTRICT REGULATIONS

Section 1. General Description

The R1 County Homes Residential District is established as a district in which the predominant use of land is for low-density residential and limited agricultural use. For the R1 District, in promoting the general purposes of this Ordinance, the specific intent of this Article is to encourage the continued use of the land for low-density residential and limited agricultural uses; prohibit commercial and industrial uses of the land; discourage any use, which because of its character or size, would create unusual requirements and costs for public services; and provide special standards for residential development abutting the Missouri River.

Section 2. Uses Permitted

The following uses are allowed by-right in the R1 Country Homes Residential District:

1. Single-family dwellings
2. Education group
3. Church
4. Utility service group
5. Public recreation group
6. Truck-farming group
7. Animal husbandry activity or project conducted primarily for educational purposes or school credits, provided such activities are not conducted for commercial purposes, and premises are maintained in a sanitary manner.
8. Chicken Hens and Coops are allowed provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than one hundred and fifty(150) feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.
9. Private riding stables provided that animals shall be used for private use only; that no animal, animal stable, barn or shelter shall be located within one hundred (100) feet of any neighboring residence or structure; that two (2) horses shall be permitted on any premises which contains at least two (2) acres and additional horses shall be allowed at the rate of one (1) horse for every additional three (3) acres of property owned
10. Golf course.
11. Accessory Dwelling Units – Allowed with a Special Use Permit
12. Minor Home Occupation
13. Family foster home for adults
14. Childcare centers– Allowed with a Special Use Permit.
15. Portable Storage Containers. –Maximum 1 unit per 5 acres.
16. Accessory Solar Energy Systems.

17. Personal Storage Units Allowed with a Special Use Permit.

18. Communication Tower Allowed with a Special Use Permit.

Section 3. Density

The maximum allowable density is one (1) family per net acre.

Section 4. Lot Area

Each single-family dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having a minimum lot area of 65,000 square feet, a minimum lot width of one hundred (150) feet and a minimum lot depth of two hundred (200) feet. For lots platted prior to April 5, 2004, a single-family dwelling and accessory buildings may be erected on a lot having a minimum lot area of 40,000 square feet and a minimum lot width of one hundred (100) feet, provided said lot was designed in accordance with "slight" soil limitations at the time of platting.

Section 5. Front Yard

Each lot shall have a front yard not less than forty (40) feet in depth on interior subdivision streets or local roads. Except when fronting a highway or collector road then the setbacks shall not be less than the following distance outlined below from the centerline of such roadways fronting the property:

Primary Highway	Secondary Highway	Collector Road
250 feet	200 feet	115 feet

Section 6. Side Yard

Each lot shall have two (2) side yards, one on each side of the principal and accessory buildings. The sum of the widths of the two side yards shall not be less than twenty percent (20%) of the average width of the lot, and in no case less than fifteen (15) feet per yard.

Section 7. Rear Yard

Each lot or premises shall have a rear yard depth of not less than fifty (50) feet.

Section 8. Height Limits

No single-family dwelling shall exceed two and one-half (2½) stories, nor shall it exceed thirty-five (35) feet in height. No principal building for any other permitted use shall

exceed four (4) stories, nor shall it exceed fifty (50) feet in height. For each one (1) foot, or fraction thereof, that a building exceeds thirty-five (35) feet in height, there shall be added four (4) feet to the minimum width of each side yard and two (2) feet to the minimum depth of the rear yard required by this section. No accessory building shall exceed two (2) stories, nor shall it exceed twenty-five (25) feet in height.

Section 9. Automobile Parking

Adequate automobile parking shall be provided as set forth in Article 10 of this Ordinance.

Section 10. Minimum Road Standards

Unless otherwise shown on the master plan, right-of-way and roadway widths shall conform to the standards set forth by Section 6, Subsection 1(m) of Article 33 hereof.

1. Sufficient temporary construction easements shall be given to allow for proper road construction.

2. All streets to be used for on-street parking shall be forty (40) feet in roadway width.

Section 11. Allowable Accessory Buildings

Customary accessory uses are allowed in the R1 Residential District in accordance with Article 6.

Section 12. Additional Development Standards for Land Abutting the Missouri River

In order to preserve and enhance the environmental and recreational qualities of the Missouri River, conserve the scenic and historic values of the Missouri River shoreland, protect shoreland development from river bank erosion, and provide for the wise use of the river and related land resources, the following additional development standards are hereby established for land abutting the Missouri River platted after January 1, 2003:

1. Structure Setbacks. All structures on lots with un-stabilized banks shall be set back a minimum of one hundred (100) feet from the ordinary high-water mark of the Missouri River. All structures on lots with stabilized banks, either by an existing Corps of Engineers' stabilized structure or as permitted and approved by the Corps of Engineers, shall be set back a minimum of seventy-five (75) feet from the ordinary high-water mark of the Missouri River.

2. Impervious Surface Coverage. The percentage of the lot covered by impervious surfaces (structures, paved surfaces, etc.) shall not exceed 25 percent (25%).

3. Steep Slopes. For structures and/or facilities to be placed on steep slopes, the County Building Official may attach conditions on the building permit to prevent erosion and preserve existing vegetation.

4. Topographic Alterations Above the Ordinary High-Water Mark. Grading, filling and excavation necessary for the construction of structures, sewage treatment systems or driveways under validly issued permits shall be allowed. Notwithstanding any other applicable regulations, any other topographic alterations must meet the following standards:

    a. Alterations shall not adversely affect adjacent or nearby properties,
    b. Alterations must be designed and constructed in a manner that minimizes soil erosion, including the installation of erosion control measures as needed.

5. Topographic Alterations Below the Ordinary High-Water Mark. All topographic alterations below the ordinary high-water mark must be approved by the Corps of Engineers.

6. Variances. It is not the intent of this ordinance to make an existing parcel or lot, which is developable under the regulations in place prior to the adoption of this ordinance, not developable. Variances from the strict application of these development standards shall be subject to the requirements of Article 28.

- **Ex. 6. Zoning District Article 12 R2 Residential**

ARTICLE 13 - R2 SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

Section 1. General Description

The R2 Residential District is established as a district in which the principal use of the land is for medium density single-family dwellings on rural lots, provided said lots are not located abutting the Missouri River. The regulations are intended to prohibit commercial or industrial use of the land and to prohibit any other use which would substantially interfere with the development or continuation of single-family residential neighborhoods; and to discourage any use which because of its character or size would create requirements and costs for public services, such as police and fire protection, water supply, and sewerage, before such services can be systematically and adequately provided.

Section 2. Permitted Uses

The following uses are allowed by right in the R2 Residential District:

1. Single-family dwellings
2. Education group
3. Utility service group
4. Public recreation group
5. Golf course
6. Minor Home Occupation

Section 3. Special Uses

The following special uses are allowed in the R2 Residential District, in accordance with Article 8:

1. Airport
2. Cemetery
3. Childcare Center
4. Major Home Occupations

- **Ex. 7. Zoning District Article 15 R5 MH**

ARTICLE 15 – R5 MH MANUFACTURED HOME DISTRICT

Section 1. General Description

The R5 Residential District is established as a district in which the principal use of the land is for single-family mobile home dwellings located within mobile home parks, provided said parks are not located abutting the Missouri River. For the R5 Residential District, the specific intent of this Article is:

1. To encourage the placement of, and the continued use of the and for single-family mobile home dwellings located within mobile home parks,

2. To prohibit commercial and industrial use of the land; and

3. To encourage suitable and proper development of mobile home parks.

Section 2. Definition

For the purpose of this section, "Mobile Home Park" shall also mean "Mobile Home Court".

Section 3. Uses Permitted

The following uses are allowed by right in the R5 Residential District:

Single-family mobile home dwellings or manufactured homes not located on a permanent foundation located within mobile/manufactured home parks.

1. Home occupations as defined, but not limited to:
   a. Dressmaker
   b. Artist
   c. Sculptor
   d. Author

e. Minister

Section 4. Mobile Home Park Restrictions

1. No business shall be conducted in any mobile home park.
   a. Exception: Minor Home Occ.

2. Existing mobile home parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this article.

Section 5. Mobile Home Parks, Plans and Layout

All layouts for mobile home parks shall be submitted to the Planning Commission for approval prior to consideration of a zoning change request for R5 District uses. All changes thereto must be approved in like manner.

Section 6. Density

The maximum allowable density of all mobile home parks shall be seven (7) families per net acre.

1. The minimum total area of a mobile home park shall be at least four (4) acres.

Section 7. Development Standards.

1. For single-wide mobile home dwelling units, minimum lot dimensions shall be fifty (50) feet wide and one hundred (100) feet deep with a minimum lot area of five thousand (5,000) square feet.

2. For double-wide mobile home dwelling units, minimum lot dimensions shall be sixty (60) feet wide and one hundred (100) feet deep with a minimum lot area of six thousand (6,000) square feet.

3. All mobile homes shall be equipped with compatible skirts to completely enclose the underside of the mobile home.

4. Each mobile home shall be anchored to the ground for purposes of withstanding wind pressures specified for single-family dwellings by the County Building Inspection Department prior to occupying the unit.

5. All clotheslines shall be placed in the rear yard.

Section 8. Mobile Home Park Requirements

1. The minimum total area of a mobile home park shall be at least four (4) acres.

2. For single-wide mobile home dwelling units, minimum lot dimensions shall be fifty (50) feet wide and one hundred (100) feet deep with a minimum lot area of five thousand (5,000) square feet.

3. For double-wide mobile home dwelling units, minimum lot dimensions shall be sixty (60) feet wide and one hundred (100) feet deep with a minimum lot area of six thousand (6,000) square feet

4. Height Limits. No accessory building shall exceed fifteen (15) feet in height, nor shall any legal attachment to a principal building except the height of the principal building.

5. Setbacks. Lot development shall observe the following setbacks:

    a. Front Yard. No manufactured home or any other legal attachments to said dwelling or any accessory structures shall be located less than twenty (20) feet from the front lot line, measured back from the sidewalk or walkway, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:

        i. of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.

    b. Side Yard and Spacing. No manufactured home or any other legal attachments to said dwelling or accessory structure shall be located less than six (6) feet from the side lot line measured back from the walkway or sidewalk. Manufactured homes on corner lots shall follow front yard setbacks from all streets. Side yard measurements are to be taken at right angles to the building at the closest points to a property line. Detached accessory buildings shall be located not less than five (5) feet from the side or rear lot lines. The ends of the manufactured homes shall be at least twelve (12) feet apart.

6. All entrances, exits and driveways between rows of mobile homes shall be lighted to provide an intensity of 0.3 foot-candles. Mobile home parks shall be provided with walkways at least three and one-half (3½) feet wide between each mobile home lot and service building and other parts of said park. Roadways within the parks shall be hard surfaced, either concrete or bituminized asphalt.

7. All provisions of water supply, laundry, sewage and fire protection to be provided in any mobile home park shall have been approved by the appropriate County and State Departments.

8. Off-street parking areas shall be provided in all mobile home parks at a ratio of at least two (2) car spaces per mobile space. The area for one (1) car space shall be at least ten (10) feet wide and twenty (20) feet deep, plus ingress and egress.

9. Recreation Areas. There shall be provided within each mobile home park an adequate site or sites for recreation for the exclusive use of the park occupants. Such recreation site or sites shall have a minimum area in the aggregate of four thousand (4,000) square feet plus one hundred (100) feet for each mobile home space in said park. The recreation sites shall be of appropriate design and provided with adequate and permanent equipment.

10. All mobile home parks must provide a completely and permanently landscaped setback area of at least thirty (30) feet in width around those portions of the park perimeter which border public right-of-way. Such areas may contain trees, shrubbery, grass, benches, fences, landscaped water resources and the like.

11. Setback areas not bordering public right-of-way may be used to fulfill the recreation area requirements of the preceding paragraph.

12. All mobile home parks shall have near their main entrance a park office in which there shall be an up-to-date list of all park residents along with their addresses and a diagram of the park layout.

13. All mobile home park lots shall be served by an approved central water and sewer system.

Section 9. Mobile Home Park Restrictions

4. No business shall be conducted in any mobile home park.

5. Existing mobile home parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this article

Section 10. Mobile Home Parks, Plans and Layout

All layouts for mobile home parks shall be submitted to the Planning Commission for approval prior to consideration of a zoning change request for R5 District uses. All changes thereto must be approved in like manner.

Section 11. Mobile Home Requirements

1. All mobile homes shall be equipped with compatible skirts to completely enclose the underside of the mobile home.

2. Each mobile home shall be anchored to the ground for purposes of withstanding wind pressures specified for single-family dwellings by the County Building Inspection Department prior to occupying the unit.

Section 12. Lot Coverage

1. The ground area occupied by a mobile home, attached storm shed, patio, storage building and required off-street parking spaces shall not exceed 40 percent (40%) of the total area of the lot. In computing the ground coverage, four hundred (400) square feet shall be added to the actual area of the mobile home and the accessory buildings for the two (2) required off-street parking spaces. Each lot shall be limited to one attached utility structure of no more than one hundred twenty (120) square feet. Each lot may also have a detached accessory building(s) in accordance with Article 6, provided the lot coverage requirement is not exceeded, and said building shall be placed on a proper foundation.

    a. Enlargement or Alteration. Any enlargement or alteration of a manufactured home park that exceeds ten (10) per cent of the total number of lots or spaces shall comply with the provisions of Subsection 3 of this Section. The remaining portion of a manufactured home park not being enlarged or altered will not be required to comply with the provisions of Subsection 3.

    b. Public Right-of-Way. If public right-of-way bisects a manufactured home park, all lots located adjacent to such public right-of-way shall conform to the standards and setbacks as specified in the R5-Residential District.

Section 13. Community Storage Buildings.

Private garages or storage buildings located within manufactured home parks but not located on individual lots may be allowed, provided:

a. Height Limits. No community storage building sidewall shall exceed fourteen (14) feet in height. The maximum roof pitch of such buildings shall not exceed 3:12.

b. Activities. No activities other than storage of vehicles and household goods by residents of the manufactured home park shall be allowed.

c. Dimensions. No single building dimension shall exceed one hundred-twenty (120) feet and no individual building

shall exceed a total of three thousand (3,000) square feet in size. All such buildings must be separated by a minimum of twelve (12) feet. No more than four (4) storage buildings may be grouped together in one location within a manufactured home park. All such groups of buildings must be separated by a minimum of five hundred (500) feet.

d. Accessways. Accessways to community storage buildings shall be hard surfaced, either concrete or bituminized.

e. Floors. All floors in community storage buildings shall be hard surfaced.

f. Site Plan. No community storage building or buildings shall be constructed until a site plan has been approved by the Planning Department.

Ex. 8. Zoning District Article 16 C Commercial

ARTICLE 16 - C - COMMERCIAL DISTRICT REGULATIONS

Section 1. General Description

The C - Commercial District is established as a district in which the principal use of land is for commercial and service uses to serve the residential districts in the area, provided said uses are not located abutting the Missouri River, and in which traffic and parking congestion can be kept to a minimum in order to preserve residential values, and promote the general welfare of the surrounding residential district. The specific intent of this Article is:

1. To encourage the continued use of the land for neighborhood commercial and services uses,

2. To prohibit industrial uses of the land, and to prohibit any other use which would substantially depreciate the values of residential districts surrounding the C - Commercial District,

3. To encourage the discontinuance of mixed uses and uses that would not be permitted as new uses under the provisions of this article,

4. To discourage any use, which because of its character or size, would create requirements and costs for public services, such as police and fire protection, water supply and sewerage substantially in excess if the district were developed solely for neighborhood commercial and service uses.

Section 2 Buffer Yards.

1. Applicability:
    a. Buffer yards are required for Commercial and or Industrial zoning districts on a side or rear yard of any expanding higher intensity land use adjacent to R1, R2. R5 and AG Districts.

Section 3. Uses Permitted

The following uses are allowed by-right in the C - Commercial District:

1. Retail Group A
2. Service Group A
3. Gasoline Filling Station
4. Office-bank Group
5. Church
6. Education Group
7. Fire Station
8. Utility Service Group
9. Retail Group B
10. Service Group B
11. Commercial Recreation Group

12. Wholesale Group
13. Health Medical Group
14. Public Recreation Group
15. Railroad Line Trackage
16. Railroad or Bus Passenger Station
17. Animal Hospital
18. Commercial Parking Lot
19. Temporary sales of certain items
20. Portable Storage Containers.- Limited to one per lot.
21. Accessory Solar Energy Systems.

Section 4. Special Use

1. Medical Marijuana Manufacturing Center or Distribution Center
2. Childcare center.
3. Communication Tower
4. Drive-in bank.
5. Temporary sales of fireworks
6. Retail liquor sales
7. Microbrew pub
8. Domestic distillery.

Section 5. District Area

No C - Commercial District shall be less than five (5) acres in size.

Section 6. Lot Area

Each principal building or structure plus its accessory buildings shall be located on a lot having an area as specified in Article 33, Section 6 (4) of the Zoning Ordinance. In no case shall a lot be less than twenty thousand (20,000) square feet in size. Premises without a central sanitary sewer system approved by the North Dakota State Department of Health shall comply with lot area requirements of the R1 Residential District.

Section 7. District Width

Each C District shall have an average width of not less than two hundred (200) feet and shall have no boundary less than one hundred (100) feet in length.

Section 8. Floor Area Ratio

The floor area ratio of the principal building and all accessory buildings shall not exceed 0.25 for a single-story building, nor shall it exceed 0.35 for buildings of more than one story. The ground area occupied by the principal building and accessory buildings shall not exceed twenty-five percent (25%) of the total area of the lot.

Section 9. Yard

No building shall be less than fifty (50) feet in distance from any lot line or twenty (20) feet in distance from any side or back yard line.

Section 10. Height Limits

No building or structure shall exceed two (2) stories or thirty-five (35) feet in height.

Section 11. Divided District

For the purposes of calculating the minimum area, lot width, lot dimensions, floor area ratio, percentage of lot covered by building, and yard requirements established by this Article, a single C - Commercial District cannot lie on two (2) sides of a public street or alley. Any area designated as being zoned C - Commercial and lying on both sides of a public street or alley shall be deemed to be two (2) C Commercial Districts, and all minimum requirements shall be met by buildings on each side of said public street or alley as separate districts.

Section 12. Non-Conforming Uses

It is the intent of this Article and this Section to designate no area as a C Commercial District in which there is at the date of adoption of this Article any residential or other non-conforming use. It is the further intent of this Article and this section that insofar as possible all neighborhood commercial and service areas in newly developed portions of the County shall take place in a C Commercial District, in order to decrease traffic and parking congestion and to preserve the residential values of the County. The County Planning and Zoning Commission shall refuse to approve any request for an amendment

re-zoning any portion of the County to a C - Commercial District if there is in that district any use which would be a non-conforming use upon the passage by the Board of County Commissioners of the proposed amendment.

Section 13. Automobile Parking

Adequate automobile parking shall be provided as set forth in Article 10 of this Ordinance.

- **Ex. 9. Zoning District Article 18 I Industrial**

ARTICLE 18 - I - INDUSTRIAL DISTRICT REGULATIONS

Section 1. General Description

The I-Industrial District is established as a district in which the principal use of land is for heavy commercial, manufacturing and industrial establishments, provided said uses are not located abutting the Missouri River, which may create some nuisance, and which are not properly associated with, nor compatible with, residential, institutional, neighborhood commercial, and service establishments. For the Industrial District, in promoting the general purposes of this Ordinance, the specific intent of this Article is:

1. To encourage the construction of and the continued use of the land for heavy commercial, manufacturing and industrial purposes,

2. To prohibit residential and neighborhood commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district; and

3. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this article.

Section 2 Buffer Yards.

1. Applicability:
    a. Buffer yards are required for Commercial and or Industrial Zoning Districts on a side or rear yard of any expanding higher intensity land use adjacent to R1, R2. R5 and AG Districts.

Section 3. Uses Permitted

The following uses are allowed by-right in the I Industrial District:

1. Gasoline filling station
2. Retail group B
3. Service group B
4. Wholesale group
5. Fire Station
6. Truck terminal
7. Railroad line trackage
8. Railroad spur trackage
9. Railroad freight station
10. Railroad freight classification yard
11. Utility service group
12. Industrial use group
13. Livestock sales pavilion
14. Oil or gas well
15. Radio or television transmitting station
16. Sand or gravel extraction

17. Sewage treatment plant

18. Manufacturing Group

19. Religious institution.

20. Microbrew pub.

21. Domestic distillery

22. Brewer Taproom.

23. Animal services, non-veterinary

24. Shop Condos

Section 4. Special Uses

The following special uses are allowed in the I - Industrial District, in accordance with Article 8:

1. Meat packing facilities
2. Medical Marijuana Manufacturing Center or Distribution Center
3. Data Centers:
   -Any change of use within an existing permitted Data Center i.e.: AI Conversion Center, shall require a new special use permit review and approval.
4. Retail liquor sales.
5. Childcare center.
6. Communication Tower.
7. Asphalt production facilities, both permanent and temporary.
8. Hazardous material bulk storage plant.

Section 5. Industrial Use Group

A use in the Industrial Group is one involving the manufacturing or the storage and sale of heavy building materials or equipment, and which conforms to the following requirements:

1. Manufacture, compounding, processing, packaging, treatment of:
   a. Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products except fish and meat products, sauerkraut vinegar, yeast and the rendering or refining of fats and oils.
   b. Products from the previously prepared materials: Bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, metals, stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood and yarns.

c. Pottery and other ceramic products using only previously pulverized clay, and kilns
d. Electric and neon signs, outdoor advertising signs, commercial advertising structures, and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and similar products.
e. Musical instruments, toys, novelties and rubber and metal stamps.
f. Welding and machine shop.
g. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
h. Ice manufacturing
i. Assembly of electric appliances, electronic instruments and devices, radios, phonographs, and television sets, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders, and similar products.
j. Soft drink bottling plant.

2. The following uses when conducted wholly within a completely enclosed building, or behind a 8' privacy fence.
   a. Contractors' equip. storage yard.
   b. Building materials sales yard
   c. Pipe storage yard, including sales.
   d. Feed/fuel storage yard w/sales.
   e. Public utility service yard.
   f. Sale of oil and gas well drilling equipment.
   g. Concrete products
   h. Petroleum bulk
   i. Manufacturing and storage of alcoholic beverages, including brewery.

3. Manufacture, compounding, processing, refining or treatment of the following materials and products:
   a. Acetylene.
   b. Alcohol.
   c. Asphalt and bituminous products.
   d. Brick, tile or terra-cotta.
   e. Oilcloth or linoleum.
   f. Paint, shellac, turpentine, lacquer or varnish.
   g. Paper or pulp.
   h. Petroleum products.
   i. Plastics.
   j. Slaughter and packing of animals and meat products.
   k. Tannery, curing or storing of raw hides.

4. Any of the following uses provided that they shall not be located closer than five hundred (500) feet from any zone in which they are prohibited:
   a. Cement, lime, gypsum, or plaster of paris manufacture.
   b. Drop forge industry, manufacturing forgings with power hammer.

c. Fertilizer manufacturing.
d. Garbage, offal, bone or dead animal reduction.
e. Gas manufacture or utility regulating stations.
f. Electric generating plant.
g. Smelting of tin, copper, zinc or iron ores.
h. Soap manufacture.
i. Stockyards, feeding pens or livestock sale facilities.

5. The following uses when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or security fence, not less than six feet in height:

    i. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use.
    ii. Contractors' equipment, storage yard or plant, or rental of equipment commonly used by contractors.
    iii. Retail lumber yard, including only incidental mill work.
    iv. Feed and fuel yard.
    v. Public utility service yard, or electrical receiving or transforming station.
    vi. Pipe yard, or storage, sale or rental of oil and gas well drilling equipment.

6. Concrete products and mixing.

7. Petroleum bulk plants, ~~if in compliance with the Revised Ordinances of City of Bismarck~~

8. Manufacture, compounding, processing, refining, and treatment of the following materials and products:

    i. Acetylene
    ii. Alcohol
    iii. Asphalt
    iv. Tannery or curing or storage of raw hides
    v. Manufacturing and storage of alcoholic beverages, including brewery.

Section 6. Lot Area

Each principal building or structure plus its accessory buildings, shall be located on a lot having an area as specified in Article 33, Section 6(4) of the Zoning Ordinance. In no case shall a lot be less than twenty thousand (20,000) square feet in size. Premises without a central sanitary sewer system approved by the North Dakota State Department of Health shall comply with lot area requirements of the R1 Residential District.

Section 7. Lot Width

Each lot shall have a width of not less than one hundred (100) feet, measured along the front building line.

Section 8. Floor Area Ratio

Floor area ratio of the principal buildings or building and all accessory buildings shall not exceed 0.30 for single-story buildings, nor shall it exceed 0.60 for buildings of more than one story. The ground area occupied by the principal building or buildings and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.

Section 9. Front Yards

Each building shall have a front yard not less than fifty (50) feet in depth.

Section 10. Side Yards

Each lot shall have two (2) side yards, one on each side of any principal building. The sum of the widths of the two (2) side yards shall be not less than twenty percent (20%) of the average width of the lot; and in no case shall a side yard be less than fifteen (15) feet in width. On any lot having an average width greater than seventy-five (75) feet, neither side yard shall be less than fifteen (15) feet in width and no side yard need be greater than fifty (50) feet in width. On a lot containing two (2) principal buildings located side by side, there are no minimum requirements for the side yards between the two (2) buildings.

Section 11. Rear Yards

Each lot shall have a rear yard not less than twenty-five (25) feet in depth.

Section 12. Height Limits

No principal buildings shall exceed four (4) stories, nor shall it exceed fifty (50) feet in height. No accessory buildings shall exceed two (2) stories, nor shall it exceed twenty-five (25) feet in height.

Section 13. Automobile Parking

Adequate automobile parking shall be provided as set forth in Article 10 of this Ordinance.

Section 14. Landscaping

All front- side and rear yards shall be permanently landscaped.

ITEM

11

Burleigh County Finance/Treasurer Department

221 N 5th St
Bismarck, ND 58501
(701) 712-8353

DATE: November 2, 2026

TO: Burleigh County Commission

FROM: Taylor Schmidt, Finance Director

RE: 2025 Mill Levy Calculation Follow Up

BACKGROUND

At its October 19, 2026 meeting, the Burleigh County Commission unanimously approved using reserve funds to reimburse affected taxing districts for the 2025 mill levy calculation error, following the recommendation of the State's Attorney.

Due to subsequent valuation changes, the Finance/Treasurer Department cannot reliably reconstruct the exact taxable valuations that should have been used in the original mill levy calculations.

The Department recommends recalculating the mill rates using the 2025 taxable valuations reported to the State, which did not include mobile home or in-lieu-of-tax values. These valuations do not reflect abatements processed between October 31 and December 31, 2025, which may result in a slightly higher calculated mill rate than would have been established using the original valuations.

Two methods were considered for calculating reimbursement amounts:

1. **State-reported valuations:** Apply the recalculated mill rates to the valuations reported to the State, excluding subsequent abatements.
2. **Current 2025 valuations:** Apply the recalculated mill rates to current valuations, reflecting the abatements processed since year-end.

The Department recommends the second method because it accounts for abatements already processed. Had the original mill rates been calculated correctly, these abatements would have resulted in refunds to taxpayers, with the corresponding amounts recovered from the affected taxing districts.

LEGAL REVIEW

The State's Attorney advised that the County was obligated to collect the certified levies and recommended making the affected taxing districts whole.

Additional legal clarification is requested regarding the classification of these reimbursements

and the resulting tax or budget implications:

1. Classification of Reimbursements

Are the reimbursements legally considered payments of property taxes?

- **If YES:** Should the County and affected taxing districts include these reimbursements when calculating future maximum mill levies and the 3% property tax limitation?
- **If NO:** Is a 2026 budget amendment required to authorize and account for these payments?

2. Reimbursement of County Funds

May the County use General Fund reserves to reimburse other County funds affected by the 2025 mill levy calculation error?

RECOMMENDATION

Approve the proposed calculation method and authorize reimbursement to affected taxing districts outside Burleigh County, subject to any requirements identified through legal review.

Any reimbursement to the County's own affected funds would be considered separately following legal review.

If a budget amendment is required, the Department recommends establishing a separate line item within the County Boards budget.

ATTACHMENTS

1. Comparison of Reimbursement Calculation Methods by Taxing District (to be distributed at the meeting)

ITEM

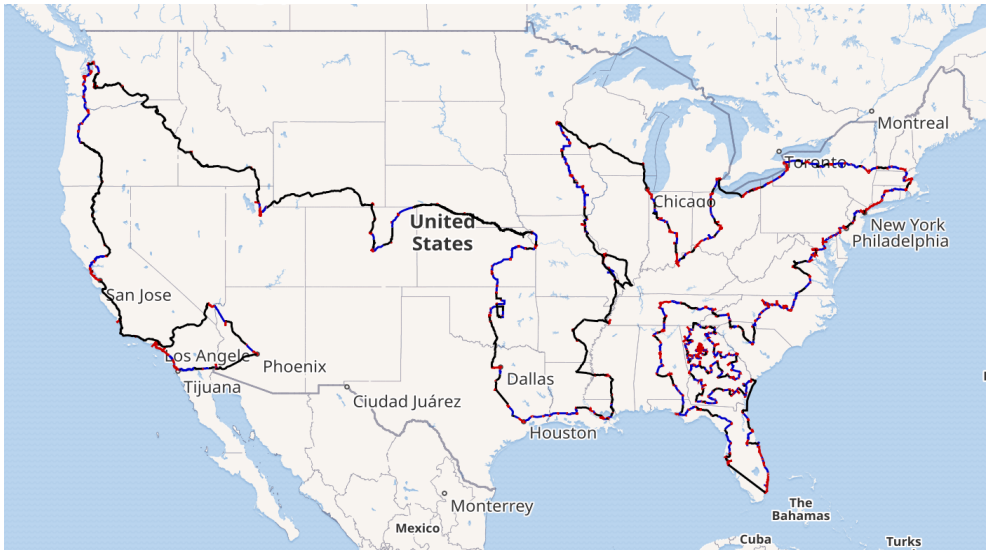
12


16x16x6 Burleigh
16x16 #6 Burleigh
#5
16x16x6 #4 Burleigh
16x16x6 #3 Burleigh
205
10/27/2026 06:43


10/27/2020 06:42


Rinker
Rinker
Rinker
Rinker
10x16x6 #7 Burleigh
#2 10x16x6 Burleigh
10x16x6 Burleigh
10/27/2023 06:43

The **1996 Summer Olympics torch relay** was run from April 27 to July 19, leading up to the 1996 Summer Olympics in Atlanta.[1] The route covered 26,875 kilometers (16,699 mi) across the United States and featured a wide variety in the methods of transport used, including bicycles, boats, and trains.[2] The National Pony Express Association participated in the journey, with riders carrying the torch for over 56 continuous hours. The torch was taken on board a replica of a 19th-century packet boat and pulled for 3.2 kilometers (2.0 mi) along the Erie Canal by mule.[3] The torch was also carried into space for the first time, with astronauts taking an unlit torch with them aboard Space Shuttle *Columbia* as part of STS-78.[4][5][6] The relay involved over 12,000 torchbearers, including Muhammad Ali, who was chosen to ignite the Olympic cauldron.[7]







ITEM

13

Burleigh County Board Appointments

Name of Officer	*Term Starting Year*	*Term Expires*
Bismarck Planning Commission – 5 year term		
Sheldon Sivak (County Appointed)	2024	12/31/2028
Trent Wangen (County Appointed)	2020	12/31/2029
Robert Field (County Appointed)	2023	12/31/2027
Brian Bitner (County Appointed)		
Cole Johnson		
Daniel Lukens		
Gabe Schell (Bismarck Engineer)		
Michael Schmitz (Bismarck Mayor)		
Amber Larson		
Paul Zent		
Mike Schwartz		
County Planning Commission – 4 year term		
Bea Streifel	2024	12/31/2027
Dennis Agnew	2024	12/31/2027
Dale Patrick	2019	12/31/2029
Alvie Jarratt	2021	12/31/2029
James Small	2025	12/31/2029
Mike Connelly (Bismarck Commissioner)		
John Risch (Bismarck Commissioner)		
Brian Bitner (County Commission Chair)		
Wayne Munson (County Commissioner)		
County Housing Authority – 5 year term		

Lane Hoffer	2025	12/31/2029
Cynthia Chavez	2020	12/31/2029
Lois Sundquist	2020	12/31/2030
Steven Sathre	2017	12/31/2026
Sister Kathleen Atkinson	2015	12/31/2027
Human Service Zone Board – 3 year term		
Tracy Famias	2020	11/30/2026
James Hulm	2020	11/30/2026
Keli Berglund	2024	11/30/2027
Dick Dever	2021	11/30/2027
Trevor Vannett	2021	11/30/2027
Chelsea Flory (BCHSZ Director)		
Steve Bakken (County Commissioner)		
Lincoln City Planning Commission – 5 year term		
Elizabeth Flemming	2017	12/31/2026
County Park Board – 3 year term		
Jeffery Herman	2021	12/31/2027
Errol Behm	2019	12/31/2027
School District Reorganization – 3 year term		
Brian Duchscherer	2024	6/30/2026
Brenda Blazer	2011	6/30/2026
Linda Buchmann	1995	6/30/2026
Randy Strom	2026	6/30/2028
Linda MacDonald	2007	6/30/2028
Special Assessment Commission – 6 year term		
Travis Jensen	2026	3/31/2031

Jeff Eslinger	2015	3/31/2027
Mike Heim	2005	3/31/2029
Water Management Board – 3 year term		
Brian Mager	2024	12/31/2026
Chuck Mischel	2021	12/31/2027
Roger Smith	2021	12/31/2027
Dennis Reep	2014	12/31/2028
James Landenberger	2017	12/31/2028
Weed Control Board – 4 year term		
Burleigh County Commission		
Missouri Vally Complex Committee- 4 Year Term		
Kay Lacoe	2024	12/31/2027
Wayne Martineson	2024	12/31/2026
Dustin Gawyrlow	2024	12/31/2028
Wayne Munson (County Commissioner Liason)		

Officials Appointed to Serve at the Pleasure of the Board

Name of Officer	*Title*	*Term Expires On…*
Joshua Seil	County Coroner	11/30/2027
Mary Senger	Emergency Manager/Disaster Preparedness Director	
Marcus J Hall	Engineer	
Kelly Leben	Jail Administrator	
Pamela Binder	Safety/Risk Management Director & Human Resource Director	
Chelsea Flory	Human Service Director	