

MINUTE ITEM  
This Calendar Item No. C02  
was approved as Minute Item  
No. 02 by the State Lands  
Commission by a vote of 3  
to 0 at its 02-05-01  
meeting.

CALENDAR ITEM  
**C02**

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W 25733

L. Burks

**TERMINATION OF GENERAL LEASE - RIGHT OF WAY  
USE (SECTION 101.5 OF THE STREETS  
AND HIGHWAYS CODE) AND ISSUANCE OF A NEW  
GENERAL LEASE - PUBLIC AGENCY USE**

**APPLICANT:**

City of Modesto  
1010 Tenth Street, Suite 4600  
Modesto, California 95353

**AREA, LAND TYPE, AND LOCATION:**

0.64 acres, more or less, of submerged lands in the Tuolumne River, in the city of Modesto, Stanislaus County.

**AUTHORIZED USE:**

Replacement of the existing Ninth Street Bridge (Bridge No. 38C-0061) for seismic safety reasons.

**LEASE TERM:**

25 years, beginning February 5, 2001.

**CONSIDERATION:**

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

**OTHER PERTINENT INFORMATION:**

1. Applicant owns and has a right to use the uplands adjoining the lease premises.
2. On September 15, 1949, the Commission authorized issuance of Lease No. PRC 446.9 to the Division of Highways, a General Lease - Right of Way Use (Section 101.5 of the Streets and Highway Code), for

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construction of the Ninth Street Bridge (Bridge No. 38C-0061). The term of the lease is continuous use plus one year. On November 17, 1954, the California Highway Commission adopted a resolution declaring the section of State Highway, Road 10-Sta-99 (the Ninth Street Bridge) to be a freeway; and by Freeway Agreement dated April 8, 1959, between the City of Modesto and State of California, the City agreed to accept control and maintenance of frontage roads and relocated and reconstructed city streets upon relinquishment thereof to said City by the State of California. Therefore, the City of Modesto is applying for a new General Lease - Public Agency Use, for the replacement of the existing Ninth Street Bridge.

3. In 1989, California Senate Bill 36X was enacted in response to the 1989 Loma Prieta Earthquake. The statute, as a top priority safety concern, authorized a statewide seismic retrofit program. The Ninth Street Bridge was a candidate for the Local Seismic Retrofit Program. Upon seismic analysis, it was found that the bridge site would require extensive foundation retrofit work. When the cost of seismic retrofit was compared against the cost of replacement, it was agreed between Caltrans and the city of Modesto that replacement would be the most effective solution.
4. An EIR (SCH #92052017) was prepared and certified for this project by the city of Modesto. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program adopted by the lead agency. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) and a Statement of Overriding Considerations (SOC) made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093) are contained in Exhibit C, attached hereto.

The SOC addresses issues within the responsibility of the City, specifically; Traffic and Circulation, Air Quality, Noise, Loss of Productive Agricultural Land, Increased Demand for Water Supplies and Increased Demand for Storm Drainage, and Drainage, Flooding and Water Quality.
5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating

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such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

Stanislaus County encroachment permit; United States Army Corps of Engineers; Regional Water Quality Control Board; California Department of Fish and Game.

**EXHIBITS:**

- A. Site Plan
- B. Location Map
- C. Resolution No. 95-408 containing CEQA Findings and The Statement of Overriding Considerations

**PERMIT STREAMLINING ACT DEADLINE:**

July 14, 2001

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

1. FIND THAT AN EIR (SCH #92052017) WAS PREPARED AND CERTIFIED FOR THIS PROJECT BY THE CITY OF MODESTO AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096(h), AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.
3. ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.
4. ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED ON FILE IN THE OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

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**SIGNIFICANT LANDS INVENTORY FINDING:**

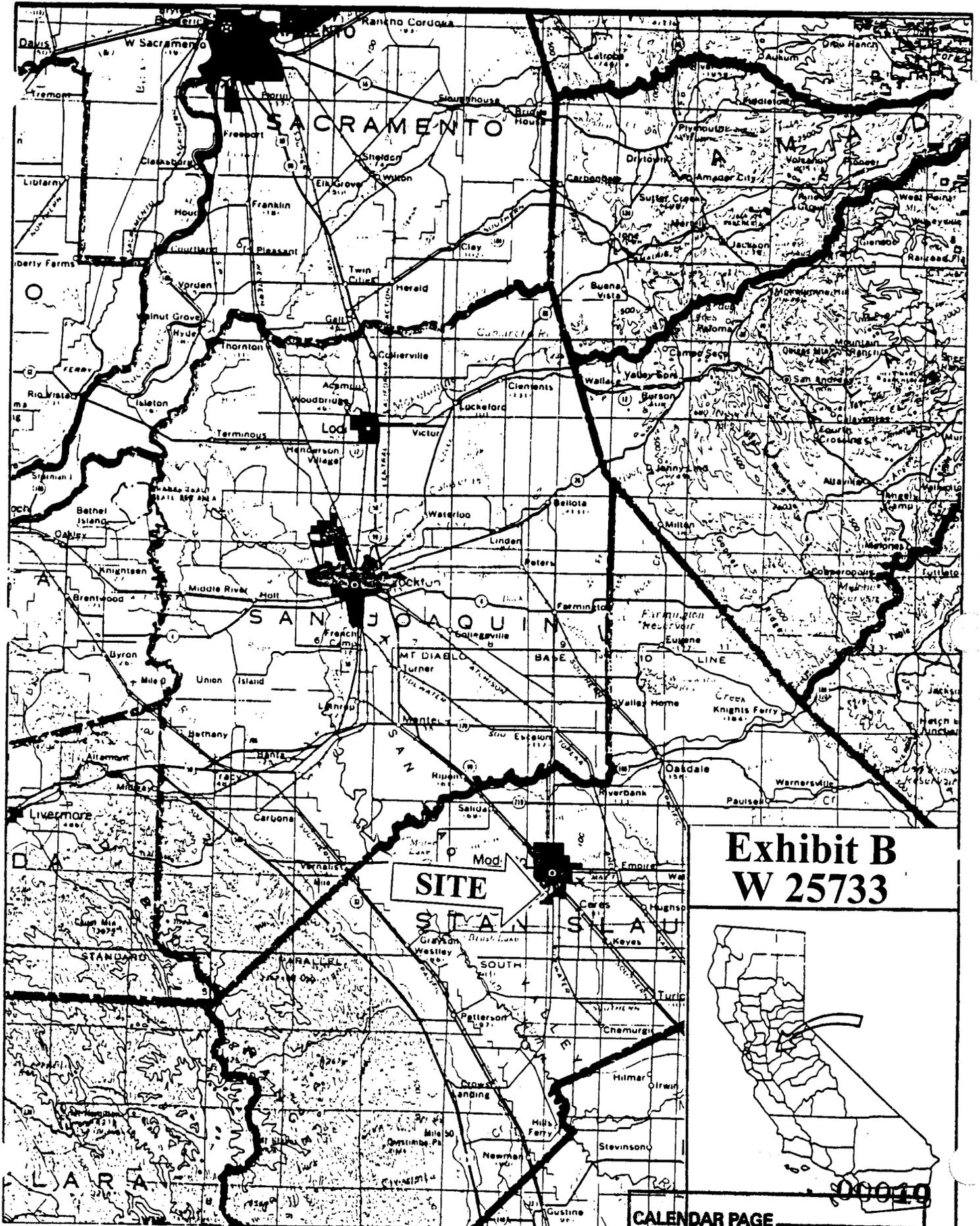
FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

**AUTHORIZATION:**

AUTHORIZE ISSUANCE TO THE CITY OF MODESTO OF A GENERAL LEASE - PUBLIC AGENCY USE, BEGINNING FEBRUARY 5, 2001, FOR A TERM OF 25 YEARS, FOR REPLACEMENT OF THE EXISTING NINTH STREET BRIDGE (BRIDGE NO. 38C-0061) ON THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING THE PUBLIC USE AND BENEFIT, WITH THE STATE RESERVING THE RIGHT AT ANY TIME TO SET A MONETARY RENT IF THE COMMISSION FINDS SUCH ACTION TO BE IN THE STATE'S BEST INTEREST.

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**Exhibit B  
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# Exhibit C

## MODESTO CITY COUNCIL RESOLUTION NO. 95.408

CERTIFYING THE FINAL MASTER ENVIRONMENTAL  
IMPACT REPORT FOR THE MODESTO URBAN AREA  
GENERAL PLAN, ADOPTING FINDINGS SUPPORTING  
REJECTION OF ALTERNATIVES, ADOPTING A  
STATEMENT OF OVERRIDING CONSIDERATIONS,  
AND ADOPTING A MITIGATION MONITORING PROGRAM.

WHEREAS, the City of Modesto has prepared a Modesto Urban Area General Plan to guide the growth of the City of Modesto for thirty years and beyond, and

WHEREAS, prior to adopting the Modesto Urban Area General Plan, the California Environmental Quality Act (CEQA) requires that the City consider the environmental consequences of the proposed project, and

WHEREAS, the preparation of the Master Environmental Impact Report (MEIR) is to provide decision-makers and the public with information concerning the individual and cumulative environmental effects of the project, to indicate possible ways to mitigate, reduce or avoid the environmental impacts, and to identify alternatives to the project, and

WHEREAS, a Notice of Preparation (NOP) was circulated in April of 1992, and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq., and the State CEQA Guidelines (14 California Code of Regulations 15000 et seq.), the City prepared a MEIR entitled "Draft Environmental Impact Report for the City of Modesto, Modesto Urban Area General Plan", and

WHEREAS, the Draft MEIR (DMEIR) (SCH No. 92052017) was released for public review and comment for the required 45-day period beginning on February 14, 1995, and

WHEREAS, in April 1995, the Planning Commission held a series of public workshops to consider the proposed Modesto Urban Area General Plan, the DMEIR and land use alternatives to the proposed plan, and

WHEREAS, on May 15, 1995, the Planning Commission held a public hearing to receive comments on the DMEIR and directed the preparation of the Final MEIR (FMEIR) after the close of the public review and comment period, and

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WHEREAS, the FMEIR, in the form of Response to Comments incorporating all the comments received during the circulation and public hearing, was released for the required ten day period on May 26, 1995, and

WHEREAS, the Planning Commission held a public hearing on June 12, 1995, and considered the accuracy and adequacy of the Final MEIR, and

WHEREAS, the information contained in the FMEIR was reviewed and considered by the Planning Commission prior to taking action on the Modesto Urban Area General Plan, and

WHEREAS, the City Council held a public hearing on August 15, 1995, and considered the adequacy of the Final MEIR and the Mitigation Monitoring Program contained therein, the Findings Supporting Rejection of Alternatives and the Statement of Overriding Considerations, and

WHEREAS, the information contained in the FMEIR, evidence, testimony and staff reports for the Project, including information submitted throughout the process recited above, was reviewed and considered by the City Council prior to taking action on the Modesto Urban Area General Plan,

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.

2. Compliance with CEQA. The Final Master Environmental Impact Report for the Modesto Urban Area General Plan, attached hereto as Exhibit "A" and incorporated herein by this reference, was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA).

3. FMEIR Reviewed and Considered. The City Council certifies that the FMEIR has been completed in compliance with CEQA; that it has been presented to the Council and that the Council has reviewed and considered the information contained in the FMEIR, and all of the information contained therein has substantially influenced all aspects of the decision by the Council. The FMEIR is a material part of this resolution.

4. Findings Regarding Significant But Mitigable Effects. Section 21081(a) of the Public Resources Code requires the City Council to make certain findings regarding the significant effects of the General Plan. As reported in the

Final MEIR for the project, the City Council hereby finds that with regard to the following effects, "changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment" (Section 21081(a)(1)). The City Council, exercising their own independent judgment, determines that such Findings are supported by substantial evidence in the record. Those effects addressed by this finding are:

Effect	Page in FMEIR
Increased Demand for Sanitary Sewers	IV-6-1
Loss of Sensitive Wildlife and Plant Habitat	IV-7-1
Disturbance of Archaeological or Historical Sites	IV-8-1
Drainage, Flooding, and Water Quality (except for Baseline Developed Area)	IV-9-1
Increased Demand for Storm Drainage (except for Baseline Developed Area)	IV-10-1
Increased Demand for Parks and Open Space	IV-11-1
Increased Demand for Schools	IV-12-1
Increased Demand for Police Services	IV-13-1
Increased Demand for Fire Services	IV-14-1
Generation of Solid Waste	IV-15-1
Generation of Hazardous Materials	IV-16-1
Landslides and Seismic Activity	IV-17-1
Energy	IV-18-1

In addition, the City Council hereby finds that there are no mitigation measures identified in the Final MEIR which are "within the responsibility of another public agency and have been, or can be and should be, adopted by that other agency." (Section 21081(a)(2)).

5. Findings Regarding Unavoidable Significant Impacts/ Statement of Overriding Considerations.

a. The Final Master EIR identified the following impacts as Significant and Unavoidable:

Effect	Page in FMEIR
Traffic and Circulation Needs	IV-1-1
Degradation of Air Quality	IV-2-1
Generation of Noise	IV-3-1
Loss of Productive Agricultural Land	IV-4-1
Increased Demand for Water Supplies	IV-5-1

Increased Demand for Storm Drainage, and  
Drainage, Flooding and Water Quality  
(in the Baseline Developed Area)

IV-9-1,  
IV-10-1

b. In accordance with Section 21081 of the Public Resources Code and Sections 15091 and 15093 of the State CEQA Guidelines, in order to approve the Project the City Council must make a statement, supported by findings, as to the specific economic, social, or other considerations which outweigh the unavoidable environmental impacts. The City Council has balanced the benefits of the proposed project against its unavoidable environmental risks in determining whether to approve the project and has determined that some of the adverse environmental effects are acceptable.

c. The City Council adopts the Statement of Overriding Considerations, attached hereto as Exhibit "B" and incorporated herein by this reference, which makes findings (Section A) for each significant adverse, and unavoidable impact identified in the FMEIR, and by finding that specific economic, social, or other considerations (Section B) make infeasible certain mitigation measures and project alternatives identified in the FMEIR.

6. Revised Mitigation Measures/Recirculation Findings. As a result of the public hearing process, certain modifications to the Project Description mitigation measures published in the Final MEIR were determined to be necessary, desirable and appropriate. All said revised mitigation measures, and the revised Project Description are identified in Exhibit "C" to this Resolution, and are hereby incorporated by this reference. Exhibit "C" also includes substantial evidence (required by Section 15088.5(e) of the CEQA Guidelines) supporting the City's decision not to recirculate the FMEIR.

7. Alternatives.

a. In accordance with CEQA and the State CEQA Guidelines, the FMEIR examined a range of reasonable alternatives to the Project which could feasibly attain the basic objectives of the Project and evaluated the comparative merits of the alternatives including the present General Plan, the Environmentally Superior Alternative, the General Plan Steering Committee generated Alternative, a variation of the General Plan Steering Committee Alternative, the Planning Commission Proposed Alternative, and the Adopted General Plan.

b. The City Council adopts the Findings Supporting Rejection of Alternatives, attached hereto as Exhibit "D" and incorporated herein by this reference, which makes findings for the approval of Adopted General Plan, and the rejection of each alternative analyzed in the FMEIR including the environmentally superior alternative. The City Council, exercising their own independent judgment, determines that such Findings are supported by substantial evidence in the record.

8. Mitigation Monitoring. Pursuant to Section 21081.6 of the Public Resources Code, the mitigation monitoring program set forth in Exhibit "E", is hereby adopted and incorporated herein by this reference to ensure that all mitigation measures adopted for the Project are fully implemented.

9. Location and Custodian of Documents. The record of project approval shall be kept in the office of the City Clerk, City of Modesto, City Hall, 801 11th Street, Modesto, CA 95354.

10. Certification. Based on the above facts and findings, the City Council of the City of Modesto hereby certifies the Final Master Environmental Impact Report for the Modesto Urban Area General Plan as accurate and adequate. The City Council further certifies that the FMEIR was completed in compliance with CEQA and the State CEQA Guidelines. The Community Development Director is directed to file a Notice of Determination as required by CEQA and the State CEQA Guidelines.

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The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 15th day of August, 1995, by Councilmember Cogdill, who moved its adoption, which motion being duly seconded by Councilmember Friedman, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Cogdill, Dobbs, Friedman, McClanahan,  
Muratore, Mayor Lang  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST: *Norrine Coyle*  
NORRINE COYLE, City Clerk

(SEAL)

APPROVED AS TO FORM:

By *Michael D. Milich*  
MICHAEL D. MILICH, City Attorney

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