

DECLARATION
CONCERNING ACCESS AT THE
ECHO CREEK RANCHES SUBDIVISION

A Utah Nonprofit Corporation & Special Service District of Summit County

FIRST AMENDMENT

Referring to the Articles of Incorporation for Echo Creek Ranches Owners Association and the Declaration Concerning Access to Echo Creek Subdivision both being submitted and entered on October 11, 1977 in the office of the Summit County Recorder entry no. 74529, and to comply with Article VII Section 6 of the Articles of Incorporation wherein it states: "...These Articles have been prepared in conjunction with the Declaration and should be read and construed in light of that fact and liberally so as to effect all of the purposes of both instruments...", and also to comply to the provisions stated in Section 12.3 Article XII of this Declaration Concerning Access to Echo Creek Subdivision regarding amendment of these documents the following Amendment shall take effect upon it being filed for record in the office of the County Recorder of Summit County, Utah.

RECITALS (Revised)

All Lots of the Echo Creek Ranches Subdivision are currently individually and privately owned. The Union Pacific Railroad Company granted a nonexclusive easement or other interest for ingress and egress purposes over the parcel of land located immediately adjacent to the Subdivision between the Subdivision and U.S. Highway 30 South for the purpose of enabling owners of Lots and their guests to have access to the Subdivision from U.S. Highway 30. This agreement between Echo Creek Ranches and Union Pacific Railroad Company was made and entered into on September 29, 1977 and recorded in the office of the Summit County Recorder on October 28, 1977, entry No. 141778 in Miscellaneous Book M103, pages 127-134.

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ALAN SPRIGGS, SUMMIT CO RECORDER
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REQUEST: ECHO CREEK RANCHES

ARTICLE I
DEFINITIONS

When used in this Declaration the following have the meaning indicated.

- 1.1 Declaration shall mean and refer to this Declaration Concerning Access At The Echo Creek Ranches Subdivision.

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- 1.2 Revised:
Property or Properties shall mean and refer to the real property and interests therein referred to in the Articles of Incorporation and such additions thereto as may heretofore be brought within jurisdiction of the Association.
- 1.3 Revised:
Plat shall mean and refer to the Subdivision Plat of Echo Creek Ranches. (Lots 1 through 208 of the ECHO CREEK RANCHES SUBDIVISION as set forth in the Subdivision Plat of Echo Creek Ranches filed on July 28, 1977 in the office of the Recorder of Summit County, Utah as entry No. 139278.)
- 1.4 Lot shall mean and refer to one of the 208 separately numbered and individually described plots of land which is covered by and included in the Plat.
- 1.5 Subdivision shall mean and refer to the entire development which is created and covered by the Plat.
- 1.6 Revised:
Owner shall mean and refer to the person who holds the controlling interest and who is the owner of record (in the office of the County Recorder of Summit County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a mortgagee under a mortgage or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.
- 1.7 Revised:
Road Strips shall, at any point in time, mean, refer to, and consist of the rights-of-way set forth and referred to on the Plat, and any other easements or rights for the purpose of providing access on the Property which have been granted or may be granted by the Association, together with any and all improvements thereon.
- 1.8 Revised:
U.P. Right-of-Way shall, at any point in time, mean, refer to; and consist of the easements or other interests, rights, duties and obligations which was acquired from Union Pacific Railroad Company with respect to the real property located immediately adjacent to the Subdivision between the Subdivision and U.S. Highway 30 South. The Right-of-Way was granted by Union Pacific Railroad Company on September 29, 1977 and recorded in the office of the Summit County Recorder on October 28, 1977, entry #141778 in the Miscellaneous Book M103, pages 127-134.

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- 1.9 Revised:
Owners Association or Association shall mean and refer to Echo Creek Ranches Owners Association, the Utah nonprofit corporation, a Special Service District of Summit County.
- 1.10 Member shall mean and refer to every person who holds membership in the Owners Association.
- 1.11 Mortgage shall mean and include both a first mortgage on any Lot and a first deed of trust on any Lot.
- 1.12 Mortgagee shall, mean and include both a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.
- 1.13 New:
Restrictive Covenants shall mean and refer to the Document known as Restrictive Covenants and Management policies applicable to the properties recorded in the Office of the Summit County Recorder.

ARTICLE II PROPERTY DESCRIPTION

The Property which is and shall be held, transferred, occupied, and otherwise dealt with subject to the provisions of this Declaration consists of the following:

- (a) The Subdivision and all of the Lots, which consist of the real property situated in Summit County, State of Utah described in Exhibit "A" attached hereto; and

Revised:

- (b) The U.P. Right-of-Way

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

- 3.1 Revised:
Membership: Every Owner shall be a Member of the Owners Association. Membership in the Owners Association shall be mandatory and shall be appurtenant to the Lot in which the Owner has the necessary interest. Neither membership in the Owners Association nor any of the votes attributable to a membership shall be separated from the Lot to which the same appertains.

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- 3.2 Voting Rights: Each Owner shall, with respect to each Lot in which the interest required for membership is held, be entitled to one (1) vote for such Lot.
- 3.3 Revised:
Multiple Ownership Interest: In the event there is more than one person with ownership interest of a particular Lot, the vote relating to such Lot shall be exercised as such by the Owner as defined in 1.6 of Article I of this Declaration. A vote cast at any Owners Association meeting by any such Owner, whether in person or by proxy, shall be conclusively presumed to be the vote of all persons with ownership interest to the Lot concerned.
- 3.4 New:
Membership List: The Association shall maintain a current record of the names and addresses of each person who is a Member as defined in this Declaration. The name and address of such shall be obtained annually from the office of the County Recorder of Summit County, Utah, and shall be deemed current and correct.

**ARTICLE IV
PROPERTY RIGHTS IN ROAD STRIPS AND
U.P. RIGHT-OF-WAY**

- 4.1 Revised:
Easement of Enjoyment: Each Owner shall have a right and easement of use and enjoyment in and to the Road Strips and U.P. Right-Of-Way. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, invitee, or guest as may from time to time be prescribed by the Restrictive Covenant, rules or regulations promulgated by the Owners Association.
- 4.2 Form for Conveyancing: Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or, estate involved substantially as follows:

LOT NO ____ contained within ECHO CREEK RANCHES, as said Lot is identified in the Subdivision Plat recorded in Summit County, Utah on July 28, 1977 as Entry No. 139278 in Book __ at Page _____ (as said Subdivision Plat may have heretofore been amended or modified of record). TOGETHER WITH AND SUBJECT TO:(i) The nonexclusive easements (for public utilities purposes) which are shown on and/or provided for in said Plat; (ii) The nonexclusive rights-of-way (for access) which are shown on and/or provided for in said Plat; and (iii) All of the provisions of, and

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the benefits, rights, interests, obligations, and liens provided for in or arising out of, that certain "Declaration Concerning Access at the Echo Creek Ranches Subdivision" recorded in Summit County, Utah on _____, 1977 as Entry No. _____ in Book _ at Page ____.

RESERVING unto Grantor, however: (a) The mineral estate and all minerals of whatever kind or character, including oil and gas; and (b) The right to graze livestock on the above identified Lot until December 31, 1987.

ALL OF THE FOREGOING BEING SUBJECT TO: The lien of current and future taxes and assessments, and all reservations (including mineral reservations and rights incident thereto), exceptions, exclusions, restrictions, covenants, encumbrances, easements, right-of-way, and defects which are of record, which are/or would be apparent from and inspection, examination, or survey, or which are enforceable or effective at law or in equity (other than mortgages or deeds of trust).

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

- 4.3 Removed:
Transfer of Title: N/A
- 4.4 Limitation on Rights: A Member's right and easement of use of enjoyment concerning the Road Strips and U.P. Right-of-Way shall be subject to the right of the Summit County, and any other governmental or quasi-governmental body having jurisdiction over the Property, to access and rights of ingress and egress for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service.

ARTICLE V ASSESSMENTS

- 5.1 Revised:
Yearly Assessment: Each Owner is obligated to pay to the Association annual and special assessments. The yearly assessment becomes due January 1st of each year. The annual assessment fee for each calendar year shall be One Hundred Twenty Five Dollars (\$125.00) per Lot. If this fee is not paid by May 1st of each calendar year it will be considered delinquent which would result in the owing balance amount being submitted to Summit County for payment. The amount owed plus calculated penalties will be added to the property tax owed for

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that Lot payable to Summit County. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Road Strips and U.P. Right-of-Way or by abandonment of his Lot.

5.2 Revised:

Purpose: The purpose of the Assessments levied by the Owners Association shall be used exclusively for the purpose of paying the costs, expenses and charges incurred in connection with the maintenance, repair, operation and ownership, preservation and retention of the Road Strips and the U.P. Right-of-Way; together with all other costs and charges which may be incurred by the Owners Association in carrying out its duties and responsibilities under this Declaration with respect to the Road Strips and the U. P. Right-of-Way and other purposes and interests as the Board of Trustees deems necessary for the proper functioning of the Association.

5.3 Revised:

Special Assessments: The Owners Association may levy special assessments for the purpose of defraying, in whole or in part, the costs, charges and expenses referred to or provided for in 5.2 of this Article. The Owners Association shall give each Owner written notice of the amount due and the due date of the assessment concerned.

5.4 Removed:

Assessment Due Dates: Now part of section 1 & 3 of this article V.

5.5 Revised:

Certificate Regarding Payment: Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot the Owners Association shall issue a certificate stating whether or not all assessments respecting such Lot are current if requested from January 1st until April 30th, after this date it must be obtained from Summit County.

5.6 Removed:

Effect of Nonpayment—Remedies: N/A

5.7 New:

Maximum Annual Assessment: Until January 1st of the year immediately following the recordation of this document, the maximum annual assessment shall be One Hundred Twenty Five Dollars (\$125.00) per Lot.

5.8 New:

Increase Under 10%: From and after January 1st of the year immediately following the recordation of this document, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

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- 5.9 **New:**
Increase Over 10%: From and after January 1st of the year immediately following the recordation of this document, the maximum annual assessment may be increased each year more than 10% above the maximum assessment for the previous year only with and by a vote of the membership.
- 5.10 **New:**
Exemptions: Exemptions from assessments will include any future Lot that is acquired by the Association for the use of its Members, all properties owned by the Board of Trustees and the Secretary for the current year of service.

ARTICLE VI OPERATION AND MAINTENANCE

- 6.1 Maintenance of Subdivision: The Owners Association shall have no obligation regarding maintenance or care of any Lot except for such portions of a Lot as may lie within the Road Strips.
- 6.2 **Revised:**
Operation and Maintenance by Owners Association: The Owners Association shall provide for such maintenance, repair, improvement and operation of the Road Strips, U.P. Right-of-Way and/or other interests that may become an asset of the Association as may be necessary or desirable to make them appropriately usable by the Owners and to keep them functional and generally in good condition and repair.
- 6.3 **Revised:**
Liability Insurance: The Owners Association may maintain in force a comprehensive policy of public liability insurance covering the Road Strips, U.P. Right-of-Way and/or other interests that may become an asset of the Association. Any such insurance will include a "Severability of Interest" endorsement to preclude the insurer from denying the claim of any Owners because of negligent acts of other Owners in the Owners Association.

ARTICLE VII (New) MEETING OF MEMBERS

- 7.1 Number: There shall be two regular meetings held each year, one in June (work party) and one in November (Annual Meeting).
- 7.2 Annual Meeting: The time of the meeting shall be 7:00 p.m. The purpose of the annual meeting shall be the election of Trustees and the transaction of such other business as may come before the Members.

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- 7.3 **Special Meetings:** A special meeting of the Members for any purpose or purposes may be called by the President or by the Board of Trustees.
- 7.4 **Place of Meeting:** The Board of Trustees will announce and designate any place within Utah as the place for the annual meeting or for any special meeting called by the Board through a meeting notice.
- 7.5 **Notice:** Written or printed notice stating the place, day, and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be given to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. Such notice shall be deemed to have been properly furnished by mailing a copy of such notice, postage prepaid, to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such person to the Association for the purpose of notice. Such notice shall specify the date, place and hour of the meeting, and, in the case of a special meeting, the purpose thereof.
- 7.6 **Quorum:** Except as otherwise provided in this Declaration, or by law, those Members present in person or by proxy shall constitute a quorum at any meeting of the Members.
- 7.7 **Proxies:** At any meeting of the Members a Member may vote by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. All proxies shall be filed with the Secretary of the Association before or at the time of the meeting. Unless otherwise provided therein no proxy shall be valid after eleven (11) months from the date of its execution.

**ARTICLE VIII (New)
BOARD OF TRUSTEES**

- 8.1 **Number, Tenure and Qualifications:** The affairs of the Owners Association shall be managed by a Board of Trustees composed of three (3) individuals. Any change in the number of Trustees may be made only by amendment of this Declaration. Trustees need to be Members of the Association and residents of the State of Utah. Each Trustee shall hold office until the next annual meeting of the Members and until his successor has been duly elected and qualifies.
- 8.2 **The Board:** The persons who are to serve for 2005-2006 calendar year as Trustees for the Association are as follows:

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<u>Name</u>	<u>Address</u>
Tony Jaketta	2794 South 6100 West West Valley City, UT 84128
Sam Fleming	2299 North 2275 East Layton, UT 84040
Grant Johnson	845 East 1275 North North Ogden, UT 84414

- 8.3 **Regular Meeting:** A regular meeting of the Board of Trustees shall be held without notice other than that provided by this Section immediately after, and at the same place as, the annual meeting of the Members. The Board of Trustees may provide by resolution the time and any place either within or outside the State of Utah for the holding of additional regular meetings without notice other than such resolution. Special meetings of the Board of Trustees may be called by or at the request of the President or any two (2) Trustees. The person or persons calling a special meeting of the Board may fix any place either within or outside the State of Utah as the place for holding such meeting.
- 8.4 **Quorum:** A majority of the Trustees then in office shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Trustees at a meeting at which a quorum is present shall constitute the act of the Board of Trustees unless the act of a greater number is required by law.
- 8.5 **Vacancies:** Any vacancy on the Board may be filled by the affirmative vote of a majority of the remaining Trustees. A Trustee thus selected to fill a vacancy shall serve for the unexpired term of his predecessor in office.
- 8.6 **Written Approval:** The Trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees.
- 8.7 **Compensation:** No Trustee shall receive compensation for any service he/ she may render to the Association. However, any Trustee may be reimbursed for his/her actual expenses incurred in performance of his/her duties as approved by the Board.

ARTICLE IX (New) OFFICERS AND THEIR DUTIES

- 9.1 **Number and Qualifications:** The Officers of the Association shall be elected by the Board of Trustees annually at the first meeting of the Board held after the annual meeting of the Association Members. The Officers of the Owners

Association shall be a President, a Vice-President, a Secretary, and a Treasurer.

- 9.2 Selection of Other Officers: The Board of Trustees may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may from time to time determine.
- 9.3 Holding More Than One Office: The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created in 9.2 of this Article.
- 9.4 President: The duties of the President shall be to preside at all meetings of the Owners Association, shall see that orders and resolutions of the Board are carried out, shall sign all written documents and may co-sign any checks and promissory notes issued by the Association.
- 9.5 Vice-President: The duties of the Vice-President shall be to act in the place and stead of the president in the event of his absence inability or refusal to act and shall exercise and discharge such other duties as may be required of him by the Board of Trustees. The vice-president may also co-sign any checks issued by the Association.
- 9.6 Secretary: The duties of the Secretary shall be to record the votes and keep the minutes of all meetings and proceedings of the Board of Trustees and of the Members, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association, together with their addresses, and perform such other duties as required by the Board.
- 9.7 Treasurer: The duties of the Treasurer shall be to receive and deposit in appropriate bank accounts (interest bearing) all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees, keep proper books of account and prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular November annual meeting and provide a copy for each Member. The treasurer may also co-sign any checks issued by the Association.

ARTICLE X (New) COMMITTEES

- 10.1 The Board shall appoint committees as deemed appropriate in carrying out its purposes.

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ARTICLE XI (New)
BOOKS AND RECORDS

- 11.1 Inspection: The books, records and papers of the Association shall be subject to inspection by any Member at any time during reasonable business hours.
- 11.2 Availability: The Articles of Incorporation, Declaration, and Restrictive Covenants of the Association shall be available for inspection by any Member upon request to any member of the Board of Trustees of the Association at which time copies may be purchased at a reasonable cost.

ARTICLE XII
MISCELLANEOUS (was previously Article VII)

- 12.1 Notices: Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as a Member or Owner, at the latest address for such person appearing, in the records of the Owners Association at the time of mailing.
- 12.2 Revised:
Rules and Regulations: The Owners Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Owners Association in carrying out any of its functions or to insure that the Road Strips and U.P. Right-of-Way are maintained consistent with the interests of the Owners as stated in the Restrictive Covenants for the Association.
- 12.3 Revised:
Amendment: Any amendment to this Declaration shall require the affirmative vote of at least two-thirds (2/3) of all votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the Notice requirement set forth in the foregoing portion of this section 3 of this Article, at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Owners Association. In such

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instrument an officer or Trustee of the Owners Association shall certify that the vote required by this section for amendment occurred.

12.4 Consent in Lieu of Vote: In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding. The following additional provisions shall govern any application of this Section 12.4:

- (a) All necessary consents must be obtained prior to the expiration of one hundred eighty (180) days after the first consent is given by any Member.
- (b) The total number of votes required for authorization or approval under this Section 12.4 shall be determined as of the date on which the last consent is signed.
- (c) Any change in ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.
- (d) Unless the consent of all the Members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

12.5 Removed:
Mortgagee Protection: N/A - The Subdivision is now part of a Special Service District.

12.6 Removed:
Developers Rights Assignable: N/A

12.7 Interpretation: The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

12.8 Covenants to Run with Land: This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Developer, all

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parties who hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

12.9 Effective Date: This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Summit County, Utah.

EXECUTED the day and year first above written.

IN WITNESS WHEREOF, we, being the Trustees of the Echo Creek Ranches Owners Association, have hereunto set our hands this 21st DAY OF JULY 2005.

Sam Fleming

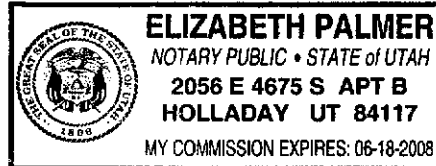
[Signature]

Tony Jaketta

[Signature]

Grant Johnson

[Signature]



My commission expires: 6-18-08

[Signature]
Notary Public

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EXHIBIT "A"

TO

DECLARATION CONCERNING ACCESS
AT THE ECHO CREEK RANCHES SUBDIVISION

(A Utah Nonprofit Corporation)

The real property situated in Summit County, State of Utah, described as follows:

Lots 1 through 208 of the ECHO CREEK RANCHES SUBDIVISION as set forth in the Subdivision Plat of Echo Creek Ranches filed on July 28, 1977 in the office of the Recorder of Summit County, Utah as entry No. 139278.

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