

July 11, 2000

To: Policy and Finance Committee

From: City Clerk

**Subject: Acquisition of the Abandoned Canadian Pacific Railway Spur Line, the “PS LEAD” from Cariboo Avenue to Dundas Street West (Ward 19 – High Park), (Ward 20 - Trinity Niagara), (Ward 21 – Davenport)**

**Recommendation:**

**The Administration Committee on July 11, 2000, recommended to the Policy and Finance Committee and Council, the adoption of the report (June 29, 2000) from the Commissioner of Corporate Services respecting the acquisition of the Abandoned Canadian Pacific Railway Spur Line.**

**Background:**

The Administration Committee at its meeting held on July 11, 2000, had before it a report (June 29, 2000) from the Commissioner of Corporate Services recommending that:

- (1) an Agreement of Purchase and Sale between the City of Toronto as “Purchaser” and the St. Lawrence & Hudson Railway Company Limited and its Lessee Canadian Pacific Railway Company as “Vendor” be approved for the abandoned Canadian Pacific Railway Spur Line identified as the PS LEAD on the terms outlined in the body of this report and in a form satisfactory to the City Solicitor;
- (2) licence agreements and replacement Agreements of Purchase and Sale on terms and conditions satisfactory to the Commissioner of Corporate Services and in a form satisfactory to the City Solicitor for a nominal sum of One Dollar (\$1.00) be approved for the two parcels of land adjoining 362 Wallace Avenue and 158 Sterling Road;
- (3) the City Solicitor be authorized to complete the transactions on behalf of the City, including payment of any necessary expenses and amending the closing date to such earlier or later date as he considers reasonable;
- (4) the PS LEAD be placed under the jurisdiction of the Commissioner of Corporate Services until such time as the Commissioner of Economic Development, Culture and Tourism proceeds with the development of a pathway;
- (5) funds generated from the lease to adjoining property owners of several parcels of land forming part of the spur line, estimated at \$24,500 annually, be utilized in the Facilities

and Real Estate Operating Budget to offset interim management costs of approximately \$34,000 over the initial two year period and a one time cost required to secure the metal bridges crossing Dupont and Bloor Streets estimated at \$15,000 for safety/liability issues related to access by the public;

- (6) CH2M Gore & Storrie Limited be retained to complete verification testing of the soil remediation to industrial standards undertaken by CPR and to provide an opinion on the estimated cost of environmental remediation to permit the lands to be used for pathway purposes at a cost not to exceed \$40,000.00 and such cost to be from funds allocated for the purchase of the PS LEAD;
- (7) City Council exempt the PS LEAD lands from its policy of acquiring only lands having soil which meets the Ministry of Environment's requirements for the proposed use (park) as the lands would only be remediated by CPR to industrial standards;
- (8) the Economic Development Culture and Tourism Department's 2000-2004 Capital Budget be adjusted to include \$920,000.00 gross \$ 0.00 net, to be fully funded from the Capital Fund, for the acquisition of the "PS LEAD" from Cariboo to Dundas Street West;
- (9) the Commissioner of Economic Development Culture and Tourism include in the Parks and Recreation 2001-2005 Capital Budget submission a project for the improvement of these lands for trail purposes, including remediation measures;
- (10) this report be forwarded to the Policy and Finance Committee for consideration; and
- (11) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

City Clerk

P.A. Morris:bas

Item No. 36

Attachment

c: Commissioner of Corporate Services

The logo for the Toronto Staff Report features a stylized graphic of a building or skyline on the left, followed by the word "TORONTO" in a large, bold, sans-serif font. To the right of "TORONTO" is the text "STAFF REPORT" in a smaller, bold, sans-serif font. A horizontal line is positioned below the text.

# TORONTO STAFF REPORT

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June 29, 2000

To: Administration Committee

From: Commissioner of Corporate Services

Subject: Acquisition of the Abandoned Canadian Pacific Railway Spur Line, the "PS LEAD" from Cariboo Avenue to Dundas Street West  
Ward 19 - (HighPark)  
Ward 20 - (Trinity-Niagara)  
Ward 21 - (Davenport)

Purpose:

To advise City Council on the current status of the negotiations with Canadian Pacific Railway Company to acquire the above-noted abandoned spur line, on the environmental assessment of this property and associated costs of land clean up, on the overall costs to complete this transaction and to seek approval of Council to complete this real estate transaction on December 21, 2000.

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### Financial Implications and Impact Statement :

Former City of Toronto Council approved the acquisition of the PS LEAD at a cost not to exceed \$920,000.00, including the Purchase Price of \$780,000.00, Land Transfer Tax of \$35,000.00 and Consultant Fees of \$105,000.00 and provided funds from the Capital Fund. The current financial status of this transaction is as follows:

Approximate Purchase Price	\$720,000.00
Survey environmental, etc.	
Expenditures to date	\$125,000.00
Closing Costs	\$ 31,000.00
Environmental & Verification Testing	<u>\$ 40,000.00</u>
Total:	\$916,000.00

Until such time as the City commences development of the lands as a pedestrian/bicycle pathway, the cost of interim property management for the initial two year period estimated at \$49,000.00 is to be funded from annual revenues of \$24,500.00 from the existing leases to abutting property owners.

The Commissioner of Economic Development Culture & Tourism will include a capital project request estimated at \$1.8 - \$2.2 million for the improvement of these lands for trail purposes as well as any additional costs of remediation as a part of the Parks and Recreation 2001-2005 Capital Program.

The Chief Financial Officer and Treasurer has reviewed this report and concurs with the Financial Impact Statement.

### Recommendations :

It is recommended that:

- (1) an Agreement of Purchase and Sale between the City of Toronto as "Purchaser" and the St. Lawrence & Hudson Railway Company Limited and its Lessee Canadian Pacific Railway Company as "Vendor" be approved for the abandoned Canadian Pacific Railway Spur Line identified as the PS LEAD on the terms outlined in the body of this report and in a form satisfactory to the City Solicitor;
- (2) licence agreements and replacement Agreements of Purchase and Sale on terms and conditions satisfactory to the Commissioner of Corporate Services and in a form satisfactory to the City Solicitor for a nominal sum of One Dollar (\$1.00) be approved for the two parcels of land adjoining 362 Wallace Avenue and 158 Sterling Road;

- (3) the City Solicitor be authorized to complete the transactions on behalf of the City, including payment of any necessary expenses and amending the closing date to such earlier or later date as he considers reasonable;
- (4) the PS LEAD be placed under the jurisdiction of the Commissioner of Corporate Services until such time as the Commissioner of Economic Development, Culture & Tourism proceeds with the development of a pathway;
- (5) funds generated from the lease to adjoining property owners of several parcels of land forming part of the spur line, estimated at \$24,500 annually, be utilized in the Facilities and Real Estate Operating Budget to offset interim management costs of approximately \$34,000 over the initial two year period and a one time cost required to secure the metal bridges crossing Dupont and Bloor Streets estimated at \$15,000 for safety/liability issues related to access by the public;
- (6) CH2M Gore & Storrie Limited be retained to complete verification testing of the soil remediation to industrial standards undertaken by CPR and to provide an opinion on the estimated cost of environmental remediation to permit the lands to be used for pathway purposes at a cost not to exceed \$40,000.00 and such cost to be from funds allocated for the purchase of the PS LEAD;
- (7) City Council exempt the PS LEAD lands from its policy of acquiring only lands having soil which meets the Ministry of Environment's requirements for the proposed use (park) as the lands would only be remediated by CPR to industrial standards;
- (8) the Economic Development Culture & Tourism Department's 2000-2004 Capital Budget be adjusted to include \$920,000.00 gross \$ 0.00 net, to be fully funded from the Capital Fund, for the acquisition of the "PS LEAD" from Cariboo to Dundas Street West;
- (9) the Commissioner of Economic Development Culture & Tourism include in the Parks and Recreation 2001-2005 Capital Budget submission a project for the improvement of these lands for trail purposes, including remediation measures;
- (10) this report be forwarded to the Policy and Finance Committee for consideration;  
and
- (11) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The City of Toronto is establishing a network of pedestrian/bicycle pathways and the Economic Development, Culture & Tourism Department is currently completing a Study which identifies a system of off-road multi-use trails which could be developed over the next few years. The St. Lawrence & Hudson Railway Company Limited is the owner of an abandoned spur line

identified as the PS LEAD. Canadian Pacific Railway Company (“CPR”) is the Lessee of the lands comprising the PS LEAD and is referred to in the body of this report as the “owner” of the PS LEAD. This spur line extends southerly from Cariboo Avenue to Dundas Street West, a distance of approximately 1.59 miles and contains a land area of approximately 7.1 acres.

City Council of the former City of Toronto, at its meeting held on July 14, 1997, adopted Executive Committee Report No. 18, Clause 36, thereby approving the acquisition of the PS LEAD. City Council of the former City of Toronto, at its meeting held on August 21, 1997 adopted Communication No. 36 and approved the recommendation of the Budget Review Group that funds in the amount of \$920,000.00 be provided from the Capital Funds From Assets Sold account (now in the Capital Fund) to acquire the PS LEAD.

Due diligence which included preparation of survey plans and identification of encumbrances, physical and legal, against these lands as well as the existing environmental condition was undertaken.

The City retained the services of an environmental consultant to prepare an environmental assessment. It was ascertained during the preparation of the reports that there was a negative environmental impact from certain adjoining properties, the most significant areas being those adjacent to 362 Wallace Avenue, (Glidden), and 158 Sterling Road (Algoods). Negotiations were undertaken with representatives of CPR as to a remediation plan, including measures to protect the City’s interests relative to ownership of lands adjoining both the Glidden and Algoods properties, which are subject to Ministry of Environment Orders.

Comments:

The PS Lead lands are shown as PARTS on seven draft survey plans referred to as Plans 2148, 2149, 2150, 2151, 2152, 2153 and 2154, prepared by the Commissioner of Works & Emergency Services. The lands, described as Parcels 1 to 7, inclusive, are set out below.

**Parcel 1: Plan 2148 – Parts 1-13, Cariboo Avenue to Dupont Street**

The northerly portion of the lands being acquired is “Y” shaped and extends southerly from the CPR’s Mainline, north of Cariboo Avenue to Dupont Street. The lands are shown as Parts 1 to 13 inclusive on Plan 2148. The Commissioner of Economic Development, Culture & Tourism has advised that Parts 1, 2, 5, 6, & 13 should be acquired, however, Parts 3, 4, 7, 8, 9, 10 & 11 would not be required for pathway purposes. Part 12 is encumbered with two signal boxes that cannot be relocated and, therefore would be retained by CPR and does not form part of this transaction. The lands contain a site area of approximately 1.92 acres. It is CP’s desire to dispose of all its surplus lands to the City including Parts 3, 4, 7, 8, 9, 10 & 11.

Legal Description:

The lands are described as being part of Lot 34, Concession 2 From The Bay, Township of York and part of Block A, Registered Plan D-1356 and part of Blocks X and Z,

Registered Plan D-1358 and part of Lots 30, 40 and 41, Registered Plan 797. The lands are shown on unregistered Plan 2148 as Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 13.

**Encumbrances:**

Part of Parts 7 & 8 are encroached substantially with building improvements at 25 Cariboo Avenue; Part 13 is fenced and occupied by the owners of 88 Osler Avenue. Parts 3, 4, 5, 6, 7 & 8 are leased to 116543 Ontario Ltd. in a lease dated May 1, 1997 for a monthly rent of \$1,183.33 and the lease may be terminated upon giving 90 days written notice; and Part 11 is leased to Cypec Holdings Inc., in a lease dated July 1, 1996 for a yearly rent of \$1,170.00. The lease may be terminated upon giving 90 days written notice.

**Environmental Issues:**

Due to a difference in opinion respecting the anticipated clean up costs, it was agreed Parts 4, 5, 6, 7 and 13 would be conveyed on an as is basis with a provision for a purchase price reduction based on CPR's average cost of cleaning other contaminated areas to industrial standards.

**Potential Surplus Lands:**

The Commissioner of Economic Development, Culture & Tourism has advised that Parts 3, 4, 7, 8, 9, 10 & 11 are not required for pathway purposes. It is noted that the owners of 25 Cariboo Avenue have expressed an interest in acquiring the lands adjoining the easterly and westerly limits of their property. Once the acquisition is complete, the extra lands would be reviewed and if appropriate, the lands could be declared surplus to the requirements of the City and offered for sale to the adjoining owners at market value. Potential revenue from this source is estimated at between \$100,000 to \$150,000.

**Parcel 2: Plan 2149, Parts 1, 2 & 3, Dupont Street to Ruskin Avenue**

This strip of land extends from Dupont Street to Ruskin Avenue. The lands contain a site area of 0.98 acres.

**Legal Description:**

The lands are described as being Part of Lot 34, Concession 2 From The Bay, Township of York and are shown on unregistered Plan 2149 as Parts 1, 2 and 3.

**Encumbrances:**

Parts 1 and 2 are subject to encroachments of a fence and utility poles by 0.5 metres to 1.90 metres by Toronto Hydro. CPR has also advised that CPR is an "owner in possession" of Parts 2 and 3 (paper title vested with the estate of June Coupland , Instrument No. 44737 York).

**Parcel 3: Plan 2150 – Parts 1-11, inclusive, Ruskin Avenue to Ernest Avenue**

This strip of land extends southerly from Ruskin Avenue to Ernest Avenue. The lands contain a site area of 1.12 acres.

Legal Description:

The lands are described as being Part of Lot 17, 35, 36 and 50 and Part of Macaulay Avenue (Closed by By-law 1895.3), Registered Plan M-22 Part Block A, Registered Plan M-226 and Part of Lot 34, Concession 2 From The Bay, Township of York. The lands are shown on unregistered Plan 2150 as Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11.

Encumbrances:

Part 2 is encumbered by a sewer shown on Plan EAS 107; The Wallace Avenue pedestrian bridge is owned by the City and located on the northerly portion of Part 2 and is leased to the City of Toronto pursuant to a lease dated May 17, 1994 with an annual rent of \$300.00; Part 2 is encumbered by a chain link fence at west end of Wallace Avenue, adjoining 371 Wallace Avenue; and Parts 3, 5 and 6 are fenced and occupied by the owners of 371 Wallace Avenue.

Environmental Issues:

It is noted that lands adjoining the Glidden Property at 362 Wallace Avenue, extending from the northerly limit of Macaulay Avenue to the southerly limit of Wallace Avenue, are subject to a Ministry of Environment Order. To limit the City's liability, it was agreed that the City would secure access to the lands abutting the Glidden Property, shown as the northerly portion of Part 2 and the southerly portion of Part 8, by way of a Licence Agreement with the transfer of title to the City once Glidden has remediated the lands to the City's satisfaction.

**Parcel 4: Plan 2151 – Parts 1-8, inclusive, Ernest Avenue to Bloor Street West**

This strip of land extends southerly from Ernest Avenue to Bloor Street West. The lands contain a site area of 0.68 acres.

Legal Description:

The lands are described as being part of Lots 33 and 34, Concession 2 From The Bay. The lands are shown on unregistered Plan 2151 as Parts 1, 2, 3, 4, 5, 6, 7 and 8.

Encumbrances:

The following encumbrances apply:



Part 2 contains a Toronto Transit subway structure with no registered agreement ; Part 4 is used as a right of way by GO Transit employees for access purposes; Parts 6 and 8 are subject to a lease with Ontario Hardwood Products Limited dated November 28, 1955 with an annual rent of \$15.00 and the lease may be terminated at any time subject to a rental payment adjustment; and Part 7 is subject to a lease with M & S Salvage Limited, dated June 27, 1996 with a monthly rent of \$770.83 and the lease may be terminated upon giving 90 days written notice.

**Parcel 5: Plan 2152 – Part 1, Bloor Street West to Sterling Road**

This strip of lands extends southerly from Bloor Street West to Sterling Road and contains a site area of 1.11 acres.

Legal Description:

Part of Lots 60 and 62, Registered Plan 287-York and Part of Block E, Registered Plan 1250. The lands are shown on unregistered Plan 2152 as Part 1.

Encumbrances:

The southerly part of Part 1 is encroached approximately 0.29 metres by a fence at 1439 Bloor Street West.

Environmental Issues:

It is noted that lands adjoining the Algoods Property at 158 Sterling Road are subject to a Ministry of Environment Order. To limit the City's liability, it was agreed that the City would secure access to the lands abutting the Algoods Property and portions to its north and south, with the northerly limit more or less being the westerly extension of the north limit of Lot 49, Plan M-44 and the southerly limit being the westerly extension of the north limit of Block D, Registered Plan 1160 by way of a Licence Agreement with the transfer of title to the City once Algoods has remediated the lands to the satisfaction of the City.

**Parcel 6: Plan 2153 – Parts 1, 2 & 3, Sterling Road to Dundas Street West**

This strip of land extends southerly from Sterling Road to Dundas Street West and contains a site area of 0.97 acres.

Legal Description:

The lands are described as being part of Lot 60, Registered Plan 287-York. The lands are shown on unregistered Plan 2153 as Parts 1, 2 and 3.

Encumbrances:

Part 2 is fenced; and Part 3 is fenced on the top of a retaining wall by the owners of 72 Sterling Road.

Parcel 7: Plan 2154 – Parts 1 & 2, Extending southerly from Dundas Street West to the CNR Railway Line

This strip of land extends southerly from Dundas Street West and contains a site area of 0.38 acres.

Legal Description:

The lands are described as being part of Lot 33, Concession 1 from the Bay, Township of York. The lands are shown on unregistered Plan 2154 as Parts 1 and 2.

Encumbrances:

Part 1 is completely occupied by the owners of 222 Lansdowne Avenue with a large retaining wall and metal fence.

Next Steps:

Ms. Belinda James of Fasken Martineau DuMoulin, Barristers and Solicitors, represents Canadian Pacific Railway Company (St. Lawrence & Hudson Railway Company Limited) in this real estate transaction. A first draft of an agreement of purchase and sale has been provided to the City Solicitor for review.

Pertinent terms and conditions of this Agreement are as follows:

Purchase Price:	\$720,000.00 (Approximately)
Purchase Price Adjustments:	Area adjustment based on survey at \$101,250.00 per acre. Adjustment for site remediation for Parts 4, 5, 6, 7 and 13 on Plan 2148, excluding areas subject to encroachments as the City is acquiring these Parts on an “as is” basis.
Site Remediation:	CPR to remediate the lands to industrial standards prior to closing, save and except those lands shown as Parts 4, 5, 6, 7 and 13 on Plan 2148 and those portions which are currently subject to building encroachments or illegally occupied by abutting property owners. CPR is to submit a Remediation Action Plan for the City’s approval, prior to undertaking the remediation.

Closing of the real estate transaction is to occur once the City's environmental consultant has completed its verification testing and confirms the lands have been remediated to industrial standards as outlined in this report.

Licensed Areas:

For those portions of lands forming part of Parts 2 and 8 on Plan 2150 abutting the Glidden Site and part of Part 1 on Plan 2152 abutting the Algoods Site, the City will, at the time the balance of the transaction closes, enter into Licence Agreements and separate replacement Agreements of Purchase and Sale for each of these properties with CPR in a form satisfactory to the City Solicitor and on the understanding that the Licence Agreements will terminate and the lands conveyed to the City once these parcels have been cleaned to the Ministry of Environment Standards and to the City's satisfaction. The purchase price includes full payment for the license fees.

Closing Date of Transaction: December 21, 2000

Other Matters:

(1) Land Survey:

The Commissioner of Works and Emergency Services has prepared a draft of seven survey plans for these lands. Certain minor revisions are required prior to its registration to reflect additional parts to be created to identify licence areas, and additional minor adjustments due to building encroachments.

(2) Environmental Investigation and Land Remediation:

It is noted that the former City of Toronto had a policy of acquiring only lands having soil which meets the requirements of the Ministry of Environment for the proposed use. Any exception to this policy requires prior City Council approval. This policy was adopted to protect the City's interests and financial exposure as environmental conditions could result in significant clean-up costs or future liability to the City.

The City is acquiring the lands from CPR on the basis of its former industrial use and the business arrangement between the parties requires CPR to remediate the majority of the lands to industrial/commercial environmental standards prior to closing.

The City retained the services of CH2M Gore & Storrie Limited to prepare both a Phase I and a Phase II Environmental Investigation. These reports were provided to and reviewed by staff of CPR. Agreement has now been reached between CPR and the City as to the responsibility of both parties in the remediation of the lands comprising the PS LEAD as set out below.

- (a) For those lands adjoining properties referred to as "Glidden and Algoods" that are subject to Orders of the Ministry of Environment and to limit the City's liability, the staff of the City and representatives of CPR are recommending use of these lands be secured for City through the utilization of licence agreements with separate agreements of Purchase and Sale which will close once these lands have been remediated the lands to the satisfaction of the City of Toronto.
  - (b) The licensed areas, are to be remediated to industrial standards.
  - (c) Those lands, subject to physical encumbrances such as retaining walls and walls of adjoining buildings, are not to be remediated by CPR.
  - (d) For the lands located south of Cariboo Avenue and shown on Plan 2148 as Parts 4, 5, 6, 7 & 13 on draft survey Plan 2148, the City would acquire these lands on an "as is" basis and CPR is to adjust the sale price for these parts to reflect the average cost per acre of lands being remediated by CPR to industrial standards.
  - (e) For the balance of the lands comprising the pathway and requiring remediation, CPR is to clean the areas to industrial standards. CPR is to clean the lands to a predetermined depth and will undertake additional environmental testing to determine what if any additional remediation is required. CPR will undertake additional remediation to industrial standards at its costs, if required.
  - (f) CPR will permit the City's environmental consultant access to the PS LEAD to undertake verification testing. The City's consultant, CH2M Gore and Storrie Limited, has advised that the cost to provide this service is not to exceed \$20,000.00. Staff of Economic Development Culture & Tourism has requested further consulting services in order to provide the City with an estimate of the remediation cost to to permit the lands for use proposed by Parks and Recreation. Funds for these consulting work are to be provided from the PS LEAD land acquisition budget.
- (3) Bridges:

The City is to acquire from CPR a metal bridge over Dupont Street located on part of Part 1, Plan 2148 and part of Part 3, Plan 2149. There is also a bridge structure over the Bloor Street road allowance currently owned by CPR which will be conveyed to the City as part of this transaction. Once the real estate transaction has been completed and to limit the City's liability, it would be prudent that the City undertake to secure these bridges until improvements are made to these lands.

(4) Interim Management of Lands:

It is recommended that the lands being acquired be placed under the jurisdiction of the Commissioner of Corporate Services until such time as the Commissioner of Economic Development, Culture & Tourism proceeds with the development of the lands as a pedestrian/bicycle pathway.

The interim management of these lands for the initial two year period is estimated at \$49,000 and is comprised of a one time expenditure at \$15,000 to address security issues relative to the metal bridges crossing Dupont and Bloor Streets and the on going property management costs such as weed cutting and clearing of illegal dumping on the site estimated at \$17,000 per annum. Such costs could be funded for the initial two year period from annual revenues of \$24,500 to be generated from the current leases of various parcels to abutting owners.

(5) Pathway Development

The Economic Development, Culture & Tourism Department is completing a Study entitled "Pre-Engineering/Cost Assessment of Trail Opportunities in Rail and Hydro Corridors" which identifies these lands as integral to a system of off-road multi-use trails which could be developed over the next few years. The lands in question offer an opportunity to complete a trail section from Cariboo Avenue to Dundas Street West, a system which, through future land acquisition, could extend to Strachan Avenue.

The consultant for this Study has identified opportunities and constraints to the improvement of the lands for pathway purposes. A preliminary estimate for the improvements of the pathway from Cariboo Avenue to Dundas Street including the renovation of the two bridges across Dupont and Bloor Streets is estimated at between \$1.8 to \$2.2 million. This work will form the basis for a Capital Budget submission for 2001-2005 Capital program. This program of improvements is expected to be phased over several budget years.

The development program would identify remediation measures required to bring the lands from an industrial standard to one suitable for park purposes and any costs relative thereto. It would also consider such matters as trail surfacing improvements and address issues of access and major entry points, identification and signage, site security and user safety.

The Commissioner of Economic Development, Culture & Tourism and the City Solicitor have reviewed and concur with the contents of this report.

Conclusion:

The acquisition of the PS Lead would provide the City with an opportunity to implement the program of acquiring surplus corridors for public pathway purposes.

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