

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS DATE: March 24, 2009
FROM: KEN GREHM / PETER KRAATZ
SUBJECT: CALIFORNIA TAHOE CONSERVANCY PRIVATE LEASE REVENUE TRANSFER

ACTIONS REQUESTED / RECOMMENDATION

1. Approve a Resolution authorizing the Director of Public Works to execute California Tahoe Conservancy (CTC) Agreement CTA-08023 between the State and Placer County in the amount of \$51,383.
2. Approve a budget revision to appropriate \$25,000 to the National Pollutant Discharge Elimination System (NPDES) FY 2008/2009 budget to offset General Fund Costs.

BACKGROUND / SUMMARY

The California Tahoe Conservancy has received income from long-term leases to private individuals of CTC owned land within the Tahoe Basin. In accordance with State Legislation, the CTC is obligated to transfer 25% of the gross income from these leases to the county in which the lands are located. For Placer County, the local share of the 2008/2009 income collected is \$51,383. A minimum of 50% of these funds must be used for soil erosion control projects, and the remainder can be used as discretionary funds. The Board must approve and execute this agreement in order to allow transfer of the funds for County uses.

Board approval must also be given for use of the funds on any specific project or activity. Public Works proposes to utilize the non-discretionary portion (\$26,383) as required for erosion control projects, in the Tahoe Basin, that in the future may be limited on funding. DPW requests that the discretionary amount (\$25,000) be utilized by the Stormwater Division to help fund the Stormwater program in the Tahoe region.

ENVIRONMENTAL

This action is not a project, as defined in Section 15378 of the California Environmental Quality Act (CEQA), and is exempt from CEQA requirements.

FISCAL IMPACT

Upon final execution of this agreement the California Tahoe Conservancy will provide \$51,383 within 30 days. The funds will provide \$26,383 for DPW erosion control projects and \$25,000 for Stormwater efforts and reduce this Division's reliance on the General Fund.

Attachments:

Resolution
Copy of Lease Revenue Agreement
Budget Revision

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of: A RESOLUTION APPROVING AND AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE THE CALIFORNIA TAHOE CONSERVANCY AGREEMENT CTA-08023 BETWEEN THE STATE AND PLACER COUNTY IN THE AMOUNT OF \$51,383 AND APPROVE A BUDGET REVISION TO APPROPRIATE THE REVENUE TO THE NPDES (STORMWATER) BUDGET

Resol. No:.....

Ord. No:.....

First Reading:.....

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:
Clerk of said Board

Chairman, Board of Supervisors

BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Placer, State of California that this Board approves and authorizes the Director of Public Works to execute the California Tahoe Conservancy (CTC) Agreement CTA-08023 between the State and Placer County in the amount of \$51,383 and Approve a budget revision to appropriate the revenue to the National Pollutant Discharge Elimination System (NPDES) FY 2008/2009 budget by \$25,000.

AGREEMENT NUMBER CTA-08023
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
 STATE AGENCY'S NAME
CALIFORNIA TAHOE CONSERVANCY
 CONTRACTOR'S NAME
PLACER COUNTY
- The term of this Agreement is: **12/31/08** through **6/30/09**
- The maximum amount of this Agreement is: **\$ 51,383.00**
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A - Scope of Work	2 page(s)
Exhibit B - Budget Detail and Payment Provisions	N/A page(s)
Exhibit C - General Terms and Conditions GTC 307	GTC 307
Check mark one item below as Exhibit D.	
<input type="checkbox"/> Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)	N/A page(s)
<input type="checkbox"/> Exhibit - D* Special Terms and Conditions	
Exhibit E - Additional Provisions	None
Contractor Certification Clauses	4 page(s)

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only <input checked="" type="checkbox"/> Exempt per: SCM 4.04 & 5.80
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) PLACER COUNTY		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING		
ADDRESS 175 FULWEILER AVENUE AUBURN, CA 95603		
STATE OF CALIFORNIA		
AGENCY NAME CALIFORNIA TAHOE CONSERVANCY		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING PATRICK WRIGHT, EXECUTIVE DIRECTOR		
ADDRESS 1051 THIRD STREET SOUTH LAKE TAHOE, CA 96150		

EXHIBIT A
SCOPE OF WORK

AGREEMENT REGARDING TRANSFER OF
CALIFORNIA TAHOE CONSERVANCY
PRIVATE LEASE REVENUE TO THE COUNTY OF PLACER

WHEREAS, pursuant to Government Code Section 66908.3 the California Tahoe Conservancy is authorized to lease acquired lands;

WHEREAS, when leases are made to private individuals or groups, the Conservancy shall, upon appropriation by the Legislature, transfer twenty-five percent of the gross income of the leases to the County in which the lands are located;

WHEREAS, fifty percent of the funds received by the County shall be used for soil erosion control projects.

WHEREAS, pursuant to the Budget Act of 2008, Chapter 268-08, the Legislature has appropriated \$51,383.00 to the Conservancy for transfer to the County of Placer;

WHEREAS, the appropriation provides that fifty percent of this amount (\$25,691.50) shall be used by the County of Placer for soil erosion control projects in the Lake Tahoe region, as defined in Section 66905.5 of the Government Code; and

WHEREAS, the Conservancy and the County of Placer seek to complete the distribution of these funds in the manner set forth below.

NOW THEREFORE, the Conservancy and the County of Placer agree as follows:

1. The Conservancy agrees to transfer the sum of \$51,383.00 to the County of Placer within thirty days of the execution of this Agreement.
2. The County of Placer agrees that fifty percent of the funds transferred to the County of Placer (\$25,691.50) shall be used for soil erosion control projects in the Lake Tahoe region.
3. At the time the funds are liquidated the County of Placer agrees to notify the Conservancy of the projects receiving Conservancy funds and items or activities involved.
4. The County of Placer agrees to maintain satisfactory financial records relating to the expenditure of all funds distributed under this Agreement and shall make the records available for auditing and inspection by the Conservancy and the Office of the Auditor General of the State of California. These records shall be retained by the County of Placer for three years following liquidation of the funds distributed for erosion control projects in the Lake Tahoe Basin.

5. The County officer or employee with responsibility for administering this agreement is Tim Hackworth, Department of Public Works or successor.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

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CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)

Federal ID Number

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed

Executed in the County of

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE - PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10430):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

**PLACER COUNTY
BUDGET REVISION**

PAS DOCUMENT NO

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Dept No.	Doc Type	Total \$ Amount	Total Lines
19	BR	\$50,000.00	2

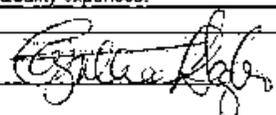
- Cash Transfer Required
- Reserve Cancellation Request
- Establish Reserve Required

- Auditor-Controller
- County Executive
- Board of Supervisors

ESTIMATED REVENUE ADJUSTMENT											APPROPRIATION ADJUSTMENT										
Dept No.	T Code	Rev	FUND	SUBFUND	OCA	PCA	OBJ L-3	Proj. No.	G/L Sub GL	AMOUNT	Dept No.	T Code	Rev	OCA	PCA	FUND	SUBF	Obj L-3	Proj. No.	Proj Detail	AMOUNT
19	008		100		007705	07805	7232			25,000.00	19	014		007705	07805	100		2555			25,000.00
TOTAL										25,000.00	TOTAL										25,000.00

REASON FOR REVISION: Budget revision to increase NPDES revenue appn. by \$25,000 and increase NPDES expenditure appn. by \$25,000 to receive unexpected revenue from CTC and apply to Truckee River Water Quality expenses.

Distribution
All copies to
Auditor

Department Head Ken Grehm 
 Board of Supervisors _____
 Auditor-Controller _____

Date: 2/26/2009
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