



Los Angeles County  
Department of Regional Planning



*Planning for the Challenges Ahead*

June 5, 2012

Richard J. Bruckner  
Director

Robert Searcy, Cable Engineering Services  
10640 Sepulveda Blvd., Suite 1  
Mission Hills, CA 91345

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**REGARDING: PROJECT NO. R2012-00364-(3)  
CONDITIONAL USE PERMIT NO. 201200033  
Caltrans public ROW adjacent to 1829 Decker Canyon Road in the Malibu Coastal Zone**

Dear Applicant:

Hearing Officer Paul McCarthy, by his action of June 5, 2012 **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or and other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at the 5:00 p.m. on June 19, 2012.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

Upon completion of the appeal period, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact [TSeawards@planning.lacounty.gov](mailto:TSeawards@planning.lacounty.gov) of the Zoning Permits West at (213) 974-6462 or e-mail at [TSeawards@planning.lacounty.gov](mailto:TSeawards@planning.lacounty.gov). Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,  
DEPARTMENT OF REGIONAL PLANNING  
Richard J. Bruckner  
Director

Mi Kim, Supervising Regional Planner  
Zoning Permits West Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: DPW (Building and Safety), Zoning Enforcement,

MKK:TSS

## **FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES**

**PROJECT NUMBER R2012-00364-(3)  
CONDITIONAL USE PERMIT NUMBER 201200033**

### **REQUEST**

The applicant is requesting a conditional use permit (CUP) to authorize the construction, operation, and maintenance of a new wireless telecommunications facility (WTF) located in the public right-of-way (ROW) adjacent to 1829 Decker Canyon Road in the Malibu Coastal Zone in the Malibu Zoned District of unincorporated Los Angeles County. The WTF project requires the construction and placement of equipment at two locations. The WTF will replace an existing 45-foot long utility pole with a new 45-foot long utility pole that will have six (6) antennas that are four-feet long. The antennas will be mounted to a 10-foot cross arm that will be hanging at 25 feet above grade. The replacement utility pole will reach a height of 38 feet and 6 inches above grade. Associated equipment will be located in an underground vault adjacent to the new utility pole, with two (2) 34-inch tall ventilation stacks on top. Approximately 275 feet southwest from the wireless site in the public ROW, the project will also replace an existing above-ground Meyers Meter Power Pedestal that will serve the project with a newer, upgraded version of the same equipment on an existing concrete pad.

**HEARING DATE:** June 5, 2012

### **PROCEEDINGS**

A duly noticed public hearing was held on June 5, 2012 before the Regional Planning Hearing Officer. The applicant's agent, Robert Searcy, testified of the importance of this wireless location as it is currently an underserved area, and that he had read and accepts the findings and conditions.

There being no further testimony, the Hearing Officer closed the public hearing and approved Project R2012-00364-(3) with conditions.

### **FINDINGS**

1. The project consists of the construction, operation, and maintenance of a wireless telecommunications facility that will replace an existing 45-foot long utility pole with a new 45-foot long utility pole that will have six (6) antennas that are four-feet long and will be mounted to a 10-foot cross arm that will be hanging at 25 feet above grade. The height of the utility pole will be 38 feet, 6 inches above grade. Other associated equipment at this location includes two (2) 34-inch tall ventilation stacks, and other associated wireless equipment that will be located in an underground vault adjacent to the new utility pole. Approximately 275 feet southwest from the wireless site in the public ROW, the project will also replace an existing above-ground Meyers Meter Power Pedestal that will serve the project with a newer, upgraded version of the same equipment on an existing concrete pad.
2. The project is located in the public right-of-way (ROW) adjacent to 1829 Decker Canyon Road in the Malibu Coastal Zone in the Malibu Zoned District of unincorporated Los Angeles County.

3. The Site Plan depicts the dirt parkway turnout area where AT & T proposes replacing the existing 45-foot tall pole with a new 45-foot tall pole that will have six (6) antennas that are four-feet long, mounted to a 10-foot cross arm that will be hanging at 25 feet above grade. The utility pole is on the north side of Decker Canyon Road and reaches a height of 38-feet, 6-inches above grade. Directly southwest from the utility pole in the same turnout area will be a new manhole cover for a new underground, 610.55 cubic-foot equipment cabinet area that will house associated radio and ancillary wireless equipment, and two 10-inch diameter, 34-inch tall ventilation stacks. Approximately 275 feet southwest from the wireless site on the north side of Decker canyon Road in the ROW there exists an already graded area and concrete pad with existing electronic cabinets and other equipment. At this site, the project will also replace an existing above-ground Meyers Meter Power Pedestal with a newer, 17-inch by 30-inch by 15" tall upgraded version of the same equipment.
4. Construction of the proposed project will require an encroachment permit from Caltrans and a Coastal Development Permit from the Coastal Commission in addition to the approval of the conditional use permit.
5. The project site is located in the Caltrans ROW and therefore, there is no land use or zoning designation for the proposed project site. The land around the subject site is regulated by the Malibu Land Use Plan, which does not provide a land use designation for the public ROW, nor does it address wireless facilities.
6. The existing land uses that surround the project site include single-family residences and undeveloped, rugged rural land.
7. The project site is surrounded by parcels zoned A-1-1 (Light Agricultural – 1 Acre Minimum Required Lot Area).
8. Title 22 of the Los Angeles County Code (Zoning Ordinance) does not specify WTF as a use. The County has used a comparable use, radio/television stations/towers, to regulate WTF. Radio and television stations and towers are subject to a conditional use permit in all zones; therefore, a WTF is also subject to a conditional use permit.
9. The applicant, and the proposed WTF pole would fall under the jurisdiction of the Joint Pole Association (JPA), which is an association of power and communication utilities created in 1906 to share poles and lines, arrange for lease and ownership agreements, and use California Public Utilities Code General Orders 128, 165, and 95 to assign space to conductors, equipment, and antennas. The Joint Pole Agreement is an agreement among various utilities, including the Department of Water and Power, and telecommunication providers that pertains to the ways, means, standards, procedures and methods for members to jointly own or occupy utility poles and their appurtenances so as to maintain the least number of poles on streets, roads, highways, alleys, private property and other places. Although the Agreement Handbook restates the safety requirements for attachments on utility poles imposed by State law, the Joint Pole Agreement is contractual in nature and does not function as governmental regulation.
10. The project is compliant with all height requirements. There is no height limit in the public ROW, but the Department of Regional Planning ("Department") guidelines for WTF allow a WTF in the public right-of-way to reach a maximum of 50 feet, and the project will reach a height of 38 feet, 6-inches above grade.

11. The project is compliant with the Department's WTF placement guidelines, which states that a WTF in the public right-of-way shall not interfere with the public's unobstructed use of highways, sidewalks, or trails. As depicted on the site plan, the project is proposed to be located in the Caltrans ROW along Decker Canyon Road. There are no sidewalks and trails on or near the project site, and the project will not result in any impact to the roadway.
12. The Department's WTF guidelines require that all appurtenant equipment be placed underground unless deemed infeasible by the Director. The majority of the associated wireless equipment is proposed to be undergrounded in the same dirt turn around area as the utility pole except for two ventilation stacks that are required to ensure the underground equipment is maintained in a safe and temperate environment. Approximately 275 feet southwest from the wireless site on the north side of Decker canyon Road in the ROW there exists an already graded area and concrete pad with existing electronic cabinets and other equipment. At this site, the project will also replace an existing above-ground Meyers Meter Power Pedestal with a newer, 17-inch by 30-inch by 15" tall upgraded version of the same equipment, so no additional, new above-ground equipment will be added because of the project.
13. The project is compliant with the aesthetic requirements for WTFs. The Department's development guidelines for WTFs state that ground-mounted WTFs shall be integrated through design and/or colors that are consistent with the existing sidewalks or locally existing natural materials. The existing WTF design is appropriate for the site and area and is compatible with the development of the surrounding area. There are currently additional utility poles and WTF equipment on the same ROW, and the proposed project would be constructed in a similar manner. The photo-simulations for the proposed project show that the design of the project is similar to other existing utility and wireless infrastructure on the site. Additionally, the applicant has stated that they will re-plant native grasses and shrubs to further conceal the proposed above-ground wireless equipment.
14. The proposed project is compatible with the development of the project site and the surrounding area. The existing WTF design is appropriate for the site and area and is compatible with the development of the surrounding area. There are currently additional utility poles and WTF equipment on the same ROW, and the proposed project would be constructed in a similar manner. The photo-simulations for the proposed project show that the design of the project is similar to other existing utility poles in the area. Additionally, the applicant has stated that they will paint the new pole to match the exterior of other poles in the area.
15. The subject property is adequately served by public and private service facilities as necessary. A WTF does not require sewer or water service.
16. The subject property is adequately served by highways and streets of sufficient width and improved as necessary to carry the kind and quantity of traffic associated with this project. The project will require an average of one monthly maintenance visit per month, which the existing street system can accommodate.
17. Staff has not received any letters or phone calls in opposition of the project.

18. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
19. The project is an application to construct, operate and maintain an unmanned WTF that involves the construction of a small structure. Therefore, the proposed project is exempt from the California Environmental Quality Act under Class 3 – New Construction or Conversion of Small Structures, under California Environmental Quality Act (CEQA) reporting requirements.
20. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to 15 years.
21. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13<sup>th</sup> Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits West Section, Los Angeles County Department of Regional Planning.

**BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:**

- A. That the proposed use is consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

Therefore, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a conditional use permit as set forth in Section 22.56.040 and Section 22.56.090 of the Los Angeles County Code.

**HEARING OFFICER ACTION**

1. I have considered the Class 3 – New Construction or Conversion of Small Structures Categorical Exemption for this project and certify that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 201200033 is **APPROVED**, subject to the attached conditions.

c: Hearing Officer, Building and Safety

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4/5/12

**CONDITIONS OF APPROVAL  
DEPARTMENT OF REGIONAL PLANNING  
PROJECT NO. R2012-00364-(3)  
CONDITIONAL USE PERMIT NO. 201200033**

**PROJECT DESCRIPTION**

The project is a conditional use permit (CUP) for the construction, operation, and maintenance of a new wireless telecommunications facility (WTF) located in the public right-of-way (ROW) adjacent to 1829 Decker Canyon Road in the Malibu Coastal Zone in the Malibu Zoned District of unincorporated Los Angeles County and consists of replacing an existing 45-foot tall utility pole with a new 45-foot tall utility pole that will have six antennas that are four-feet long and will be mounted to a 10-foot cross arm that will be hanging at 25 feet above grade; other associated equipment including two 34-inch tall ventilation stacks and wireless equipment that will be located in an underground vault adjacent to the new utility pole; and the replacement of an existing above-ground Meyers Meter Power Pedestal that will serve the project with a newer, upgraded version of the same equipment on an existing concrete pad, and subject to the following conditions of approval:

**GENERAL CONDITIONS**

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant and until all required monies have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 8, shall be effective immediately upon final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. **This grant shall terminate on June 5, 2027.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
8. This grant shall expire unless used within five (5) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for eight (8) biennial inspections **(one every other year) for fifteen years**. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission

("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.

11. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
12. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
13. All development pursuant to this grant shall conform with the requirements of County Department of Public Works.
14. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

15. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.

#### PERMIT SPECIFIC CONDITIONS

16. The facility shall be operated in accordance with all applicable regulations of the State Public Utilities Commission and the Federal Communications Commission.
17. Upon completion of construction of the facility, the permittee shall submit to the Zoning Enforcement Section of the Department of Regional Planning written certification that the radio frequency electromagnetic emissions levels comply with adopted Federal Communications Commission (FCC) limitations for general population/uncontrolled exposure to such emissions when operating at full strength and capacity. If other WTFs are located on the subject property or on adjacent parcels, the aforementioned report shall include the radio frequency electromagnetic emissions of said WTFs.
18. Insofar as is feasible, the operator shall cooperate with any subsequent applicants for wireless communications facilities in the vicinity with regard to possible co-location. Such subsequent applicants will be subject to the regulations in effect at that time.

19. Any proposed WTF that will be co-locating on the proposed facility will be required to submit the same written verification of emissions and include the cumulative radiation and emissions of all such facilities to the Zoning Enforcement Section of the Department of Regional Planning.
20. External lighting, including security lighting, shall be on motion sensors, be of low intensity, fully shielded and directed away from any adjacent residences. Pole mounted lighting is prohibited on the leasehold unless the facility is disguised as a light pole. Antenna lighting is prohibited. Beacon lights are prohibited unless required by the FAA.
21. The project shall be developed and maintained in substantial compliance with the approved plans marked Exhibit "A". Placement and height of all pole mounted equipment shall be in substantial conformance with that shown on said Exhibit "A". The facility shall be built as depicted in the photo simulations presented at the public hearing.
22. Within 30 days of change in service provider ownership, the permittee shall provide the Zoning Enforcement Section of the Department of Regional Planning the name and contact information of the new property owner or service provider.
23. The finished surface of the facility shall not be glossy or reflective in nature unless such finish is necessary to blend into existing design features. The finish shall be graffiti-resistant and shall have a color that blends in with the immediately surrounding environment.
24. The facility shall be maintained in good condition and repair, and shall remain free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and discolorations; visible rust or corrosion on any unpainted metal areas. Any damage from any cause shall be repaired within 30 days of notice. Weathered, faded or missing parts/materials used to disguise/camouflage the facility shall be maintained and/or replaced within 30 days of notice. Provided landscaping shall be maintained at all times and shall be promptly replaced if needed.
25. Upon request, the permittee/operator shall submit annual reports to the Zoning Enforcement Section of the Department of Regional Planning to show compliance with the maintenance and removal conditions.
26. The Department of Regional Planning project number, conditional use permit number and permittee contact information shall be prominently displayed on the facility where it can be easily viewed at or near eye level.

#### PROJECT SITE SPECIFIC CONDITIONS

27. Construction of the facility shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday. Routine maintenance and emergency repairs of the facility may occur at any time.
28. Any new equipment added to the facility will require a Revised Exhibit "A" and shall not compromise the design of the facility.
29. The operator shall remove such facility within six (6) months after its lawful operation has ceased, and restore the site as nearly as practicable to its original condition.

30. Prior to the construction of the project, the permittee shall obtain an encroachment permit from the California Department of Transportation (CalTrans) if one is not already issued, and shall also contact the Los Angeles County Department of Public Works Street and Highways Dedications Section for any applicable requirements. The permittee shall provide a copy of the encroachment permit to the Zoning Enforcement Section of the Department of Regional Planning.
31. All projects located in the right-of-way shall be constructed to the County's standards and codes to the satisfaction of the Department of Public Works and/or any other applicable agency.
32. This grant entitles the permittee to install the wireless telecommunications facilities on the existing or a replacement utility pole but does not entitle the permittee to retain the pole for its sole use or to install a new pole for its facilities in the event the existing pole is removed, such as to accommodate the undergrounding of utilities. Notwithstanding the provision of Condition 8 if the existing pole is removed prior to the termination date of this grant, this grant shall thereupon terminate. The applicant shall then be required to obtain a new conditional use permit to either relocate its facilities or to install a new pole or poles to continue the use at the present location. Application for a conditional use permit at such time shall be subject to the regulations then in effect.
33. Upon termination of this grant or after the construction of this facility, the facility has ceased to operate; the permittee shall remove such facility and clear the site of all equipment within six months of the cease of operation date. The permittee shall restore the site as nearly as practicable to the condition prior to the installation of the subject facility. Failure to remove such facility as required herein shall constitute a public nuisance and be subject to appropriate enforcement actions by the Zoning Enforcement Section of the Department of Regional Planning and any other government agency.
34. The facilities shall be on flat rate power. No additional meter boxes contained outside existing facilities as shown in approved Exhibit "A," are authorized by these grants.
35. The height of the facility shall not exceed 38-feet, 6-inches tall.
36. The placement of the facility shall not interfere with the public's unobstructed use of highways, sidewalks or trails, or unobstructed access from private property to highways and other public access.
37. If street parking is prohibited on the street where the facility is located and on nearby side streets, the permittee shall obtain an approved traffic plan for the parking of maintenance vehicles from the Department of Public Works.

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