

AMENDED AND RESTATED AGREEMENT BETWEEN THE COUNTY OF PLACER AND THE NORTH LAKE TAHOE RESORT ASSOCIATION, DBA NORTH TAHOE COMMUNITY ALLIANCE

This Amended and Restated Agreement (“Agreement”) is made by and between the County of Placer, a political subdivision of the State of California (“County”) and the North Lake Tahoe Resort Association, Inc., a California Nonprofit Public Benefit Corporation, doing business as the North Tahoe Community Alliance (“NTCA”) (hereinafter sometimes referred to individually as “Party” and collectively as “Parties”).

Whereas, on March 26, 1996, Placer County voters approved an increase in the rate of Transient Occupancy Tax from eight percent to ten percent for that portion of the County of Placer legally described as the “North Lake Tahoe Transient Occupancy Tax Area”. The two percent additional Transient Occupancy Tax was reauthorized for two additional ten-year terms in 2002, and 2012. On June 7, 2022, voters reauthorized the additional two percent for a total of ten percent Transient Occupancy Tax a third time, effective October 1, 2022, and in place until ended by voters; and

Whereas, on January 23, 2018, the County formed the Capital Projects Advisory Committee, including a resolution of establishment, to recommend allocation of the two percent Transient Occupancy Tax (“TOT”) funds to capital projects consistent with the Tourism Master Plan (TMP). A new resolution for the establishment of Capital Projects Advisory (CAP) Committee was approved by the County’s Board of Supervisors (“Board”) on September 27, 2022, which expanded the scope of capital project advisement to include the June 2022 Measure A Ballot Language; most notably housing projects and program needs; and

Whereas, on March 9, 2021, the County, with the assistance of the NTCA, formed the North Lake Tahoe Tourism & Business Improvement District (“TBID”), effective July 1, 2021, which assesses all lodging, restaurant, retail and activities and attractions businesses located with the designed boundaries of the TBID for an initial term of 5 years. This action allowed for Transient Occupancy Tax funds which were historically allocated for destination marketing services provided by the North Lake Tahoe Resort Association, to be available for other regional priorities. During the term of the TBID, the County and NTCA wish to ensure a percentage of the “freed up” Transient Occupancy Tax proceeds continue to be allocated to transportation and workforce housing projects and programs in eastern Placer County; and

Whereas, the TBID has an initial five (5) year term; and

Whereas, both the County and NTCA recognize the importance of continued funding of transportation and workforce housing programs and projects in eastern Placer County; and

Whereas, a 5-year agreement was executed between the County and NTCA in September 2021 (“Original Agreement”), including establishment of a TOT Committee

to advise the Board of Supervisors on expenditures of housing and transportation focused funds. The purpose of the TOT Committee is to focus on identifying affordable housing and transportation programs and projects in the eastern portion of the County. Said programs and projects shall be consistent with policies and programs contained in the Housing Element, the Placer County Housing Work Plan, the TART Systems Plan, the Tourism Master Plan, Transportation Demand Management, the PCTPA Transportation Plan, TRPA Transportation Plan and the Placer County Resort Triangle Transportation Plan; and

Whereas, the County and NTCA seek to amend and restate the Original Agreement to better align the administration and oversight of the TOT and CAP Committees under the NTCA; creating efficiencies and facilitating a long range and comprehensive community led vision for the needs within the North Lake Tahoe area into the future.

Now, therefore, for and in consideration of the mutual promises and agreements herein contained, it is agreed by and between the Parties hereto as follows:

1. TERM. The term of this Agreement shall be from July 1, 2021 until June 30, 2026. ("Term").
2. TERM EXTENSION. If the TBID is renewed for a ten (10) year period, the Parties may consider but are not obligated to extend the Term of this Agreement ("Term Extension").
3. TOT INVESTMENT ALLOCATIONS AND PAYMENTS
 - a. HOUSING/TRANSPORTATION: Commencing in the fiscal year 2021-22 and continuing each fiscal year during the Term of this Agreement, the County agrees to allocate twenty-one percent (21%) of TOT proceeds generated in the North Lake Tahoe TOT Collection Area of Placer County on an annual fiscal year basis and retain the same in a separate County account for expenditure on workforce housing and transportation programs and projects in the eastern portion of the County ("TOT Allocation"). Any funds remaining at the end of a particular fiscal year may be carried forward to the next fiscal year during the Term of this Agreement for workforce housing and transportation projects.
 - b. INFRASTRUCTURE PROJECTS: On June 7, 2022, voters reauthorized the additional two percent for a total of 10 percent North Tahoe Transient Occupancy Tax a third time, effective October 1, 2022, and in place until ended by voters. The County agrees to allocate twenty percent (20%) of TOT proceeds generated in the North Lake Tahoe TOT Collection Area of Placer County on an annual fiscal year basis and retain the same in a separate County account for expenditure on infrastructure projects in the eastern portion of the County ("CAP Allocation") associated with goals outlined in the Tourism Master Plan and Measure A ballot language. Any funds remaining at the end of a particular fiscal

year may be carried forward to the next fiscal year during the Term of this Agreement for projects.

c. County shall pay to NTCA based on a written invoice from NTCA the following amounts during the Term of this Agreement for management of the TOT Committee and CAP Committee, and for such other services as are described on attached Exhibit A (“Management Fee”):

1. \$102,625 for FY2022-23.
2. \$150,000 for FY2023-24.
3. \$150,000 plus a cost-of-living adjustment (“COLA”) not to exceed 3% for FY2024-25.
4. The FY2024-25 contract amount plus the COLA not to exceed 3% for FY2025-26.

d. The COLA shall be based upon the California Department of Industrial Relations Consumer Price Index in an annual amount not to exceed three per cent (3%.)

e. The parties agree that the Management Fee shall be deducted equally from the TOT Allocation and the CAP Allocation each fiscal year.

4. COMMUNITY ADVISORY COMMITTEES

a. TOT COMMITTEE

1. Formation. The County agrees for the Term of the TBID that a committee made up of members outlined below shall be formed to make recommendations to the Board of Supervisors for uses of the TOT Allocation (“TOT Committee”). NTCA shall form and manage said committee and see appointments through a public process and notify the County in writing of the committee members.

2. Membership. The TOT Committee should include representation and seek appointments from transportation and workforce housing organizations including but not limited to:

- (i) Mountain Housing Council or future regional housing entity
- (ii) Truckee North Tahoe Transportation Management Association
- (ii) Other organizations focused on transportation and workforce housing

Representatives with expertise and/or advocates of transportation and workforce housing not associated with these organizations may be selected to meet this requirement.

The TOT Committee shall also include up to two advisory seats for County representatives appointed by the County Executive Officer. County

representatives will be selected based on experience in transportation, affordable housing and policy development in eastern Placer County. NTCA shall update the County in writing when committee members change.

3. Scope of TOT Committee. The TOT Committee will focus on identifying workforce housing and transportation programs and projects in the eastern portion of the County. Said programs and projects shall be consistent with policies and programs contained in the Housing Element, the Placer County Housing Work Plan, the TART Systems Plan, the Tourism Master Plan, Transportation Demand Management, the Placer County Transportation Planning Agency's Regional Transportation Plan and the Tahoe Regional Planning Agency's Regional Transportation Plan. By-laws or similar organizational parameters will be established to assist the TOT Committee in reviewing such programs and projects, rating the same and provide a process to recommend the same to the Board.

b. CAPITAL PROJECTS ADVISORY COMMITTEE (CAP COMMITTEE)

1. Formation. The County agrees for the Term of the TBID, the NTCA shall establish a Capital Projects Advisory Committee ("CAP Committee") for the purposes of supporting implementation of the Tourism Master Plan, the Transient Occupancy Tax Investment Policy, and Measure A ballot language passed by voters on June 7, 2022. This committee will annually, or more frequently, recommend capital projects to the NTCA Board of Directors for it to recommend for approval to the Board on community supported infrastructure projects in eastern Placer County to be funded by the additional two percent Transient Occupancy Tax collected in North Lake Tahoe. The NTCA shall notify the County in writing of the committee members.

2. Membership. Committee members shall represent a diverse range of North Tahoe business associations, special districts, ski resorts, and general community members with experience in capital project delivery. Members should reside in, hold a business license for a business based in, or be a delegate of an employer with a business license for a business based in eastern Placer County.

The committee shall also include up to two advisory seats for County representatives appointed by the County Executive Officer. County representatives will be selected based on experience in capital project delivery and/or policy development in eastern Placer County. NTCA shall update the County in writing when committee members change.

3. Scope of CAP Committee. The CAP Committee will focus on implementing the goals of the Tourism Master Plan and Measure A ballot language in compliance with the Transient Occupancy Tax Investment Policy and to identifying innovative projects in the eastern portion of the County. Said projects shall be consistent with policies and programs contained in the Housing Element, the Placer County Housing Work Plan, the TART Systems Plan, the Tourism Master Plan, Transportation Demand Management, the Placer County

Transportation Planning Agency's Regional Transportation Plan and the Tahoe Regional Planning Agency's Regional Transportation Plan and the Resort Triangle Transportation Plan. By-laws or similar organizational parameters will be established to assist the CAP Committee in reviewing such programs and projects, rating the same and provide a process to recommend the same to the Board.

c. ADMINISTRATION: This Agreement shall fund the first phase of public outreach to develop the TOT Committee and transition the CAP Committee to NTCA as well as the process by which said committee(s) will recommend TOT Allocation to the Board. The advisory process shall be presented to the Board for comment prior to execution of committee recommendations. NTCA agrees that all reports from, and reports of actions taken by, both the TOT Committee and CAP Committee shall include comments from County members of those committees and reports of all votes taken.

d. COMMUNITY ENGAGEMENT: The NTCA, on behalf of the TOT Committee and CAP Committee, shall coordinate with other organizations and community-based groups to ensure alignment with regional goals and initiatives consistent with the defined areas of focus above. The NTCA shall also engage the public to develop recommendations to the Board for uses of the TOT Allocation.

e. FUTURE COMMITTEE CONSOLIDATION: The County recognizes the added administrative time and cost to convene and manage two committees for advisement to the Board and supports the future co-convening or consolidation of the TOT Committee and CAP Committee into one committee while maintaining the specific TOT allocation and goals defined above.

5. TERMINATION.

a. TBID Term Expiration. If the TBID is not extended beyond the initial five (5) year term or at termination of the TBID, whichever occurs first, this Agreement shall terminate. In such an event, the County agrees to enter into a new one-year agreement with NTCA for allocation of twenty-one percent (21%) of TOT proceeds generated in the North Lake Tahoe TOT Collection Area commencing the fiscal year following termination of the TBID. The scope of work for said agreement shall be negotiated separately but is anticipated to include support for tourism marketing as well as workforce housing and transportation projects and programs. Said scope of work will also include funding for CAP Committee support.

b. TBID Early Termination. If the TBID is terminated during the initial five (5) year term, this Agreement shall terminate as of the date of the TBID termination. In the event of early termination, the County is under no obligation to accelerate the time frame for a new agreement identified under 5(a).

c. c. Termination Without Cause. The Parties may mutually agree to terminate this Agreement prior to expiration of the Term without cause. In such event, unspent TOT proceeds after the date of termination may be allocated by the County for other purposes. In the event of early termination, the County is under no obligation to prepare or execute a new agreement identified under 5(a).

6. COUNTY'S POLICE POWER. NTCA recognizes and agrees that the County cannot contract away its police power in how it ultimately decides to spend TOT funds. If none of the recommendations of the NTCA Committee(s) pursuant to Section 4 are financially viable in any given fiscal year, NTCA acknowledges that the County may expend TOT funds for programs and projects it identifies as necessary to deliver services and/or maintain infrastructure.

7. GENERAL

a. Hold Harmless and Indemnification Agreement. NTCA hereby agrees to protect, defend, indemnify, and hold County free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by County arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the County) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of this Agreement. NTCA agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the NTCA. NTCA also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against NTCA or the County or to enlarge in any way the NTCA's liability but is intended solely to provide for indemnification of Placer County from liability for damages or injuries to third persons or property arising from NTCA's negligent performance pursuant to this Agreement.

b. Insurance. NTCA shall file with County concurrently herewith a Certificate of Insurance, in companies acceptable to County, with a Best's Rating of no less than A-:VII showing the following:

1. WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily

injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to NTCA's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the NTCA.

Contractor shall require all Subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

2. GENERAL LIABILITY INSURANCE:

a. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of NTCA, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

Contractual liability insuring the obligations assumed by NTCA in this Agreement.

b. One of the following forms is required:

- (i) Comprehensive General Liability;
- (ii) Commercial General Liability (Occurrence); or
- (iii) Commercial General Liability (Claims Made).

c. If NTCA carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

®One million dollars (\$1,000,000) each occurrence

®Two million dollars (\$2,000,000) aggregate

d. If NTCA carries a Commercial General Liability (Occurrence) policy:

(i) The limits of liability shall not be less than:

®One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

®One million dollars (\$1,000,000) for Products-Completed Operations

®Two million dollars (\$2,000,000) General Aggregate

(ii) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

e. Special Claims Made Policy Form Provisions:

NTCA shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

(i) The limits of liability shall not be less than:

®One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)

®One million dollars (\$1,000,000) aggregate for Products Completed Operations

®Two million dollars (\$2,000,000) General Aggregate

(ii) The insurance coverage provided by NTCA shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of policies be different.

3. ENDORSEMENTS:

a. Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

b. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as an additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

c. "The insurance provided by the NTCA, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."

4. AUTOMOBILE LIABILITY INSURANCE:

a. Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

b. Covered vehicles shall include any automobiles/trucks used in performance of this Contract, whether owned, non-owned, or hired.

5. PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000).

If NTCA sub-contracts in support of NTCA's work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the subcontractor in an amount not less than one million dollars (\$1,000,000) in aggregate.

The insurance coverage provided by the NTCA shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

6. ADDITIONAL REQUIREMENTS:

a. Premium Payments - The insurance companies shall have no recourse against the County and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

b. Policy Deductibles - NTCA shall be responsible for all deductibles in all of the NTCA's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

c. NTCA's Obligations - NTCA's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

d. Verification of Coverage – NTCA shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the NTCA's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

e. Material Breach - Failure of the NTCA to maintain the insurance required by this Agreement or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

f. Cancellation Notice – In the event Insurance Coverages are cancelled, suspended, voided, or reduced in coverage or in limits, NTCA shall provide written notice to County at NTCA's earliest possible opportunity and, in no case, no later than 5 days after NTCA is notified of the cancellation.

c. Notices. Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, sent certified or registered, and addressed to the Parties as follows:

COUNTY OF PLACER

Stephanie Holloway, Deputy County Executive Officer

775 North Lake Blvd.

Tahoe City, CA

shollow@placer.ca.gov

NORTH TAHOE COMMUNITY ALLIANCE

Tony Karwowski, CEO

100 N. Lake Tahoe Blvd.

Tahoe City, CA 96145

Tony@northlaketahoecommunityalliance.com

Any notice so delivered personally shall be deemed to be received on the date of delivery and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

d. Amendments. No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all Parties.

e. Assignment. No Party shall assign, transfer, or otherwise dispose of this Agreement in whole or in part to any individual, firm or corporation without the prior written consent of each of the other Parties. Subject to the provisions of the preceding sentence, this Agreement shall be binding upon, and inure to the benefit of, the respective successors and assigns of the Parties hereto.

f. Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any suit, action, or proceeding brought under the scope of this Agreement shall be brought and maintained to the extent allowed by law in the Placer County Superior Court. The parties each waive any federal court removal and/or original jurisdiction rights they may have.

g. Authority. Each undersigned Party agrees it has the legal authority to execute this Agreement.

h. Entire Agreement. This Agreement sets forth the entire understanding between the Parties as to the subject matter of the Agreement and merges all prior discussions, negotiations, letters of understanding, or other promises, whether oral or in writing.

i. Counterparts / Facsimiles This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

In witness, whereof, the parties have executed this Agreement on the day and year written below.

PLACER COUNTY:

Placer County, Board Chair

Date

APPROVED AS TO FORM:

County Counsel

Date

NORTH LAKE TAHOE RESORT ASSOCIATION,
dba NORTH TAHOE COMMUNITY ALLIANCE

Name

Date

Title: _____

APPROVED AS TO FORM:

Attorney for NLTRA, dba NTCA

Date

EXHIBIT A: SCOPE OF SERVICES

FY22-23 Tasks

Task 1: Management and Administration to co-convene the CAP Committee

- a. Coordinate CAP Committee meetings with Placer County staff including preparation of agendas and meeting materials.
- b. Facilitate CAP Committee meetings with Placer County staff.
- c. Promote the CAP Committee's call for project proposals through NTCA website, newsletters, and other messaging venues.
- d. Evaluate the project proposals and in coordination with Placer county staff, provide feedback to the CAP Committee on the projects
- e. Recommend updates to the CAP Committee's framework, priorities, and process in alignment with the NTCA's Economic Health and Community Vitality Investment Program.

Task 2: Management and Administration of the TOT Committee

- a. Coordinate with outside consultants (Lew Edwards and FM3) to create a statistically valid survey of local residents on current community priorities.
- b. Create an additional survey available to the general public based off the consultant created survey to gather additional data.
- c. Analyze data gathered from both surveys and use this data to help inform the development of the Economic Health and Community Vitality Investment Program. The Economic Health and Community Vitality Investment Program is the structure that the TOT committee will utilize to determine which projects to recommend for funding.
- d. Convene the TOT Committee and ensure Brown Act compliance.
- e. Solicit projects that align with Housing and transportation priorities as outlined in the five-year agreement and the "Economic Health and Vitality Investment Program" to recommend to the Board of Supervisors.

FY23-24, FY 24-25, and FY 25-26 Tasks

Task 1: Management and Administration of the CAP Committee

- a. Convene the CAP Committee on a regular schedule and ensure Brown Act compliance.
- b. Create a call for capital and infrastructure projects for potential funding through the Economic Health and Community Vitality Investment Program and promote the call for projects through NTCA website, newsletter, and other opportunities.

- c. Evaluate the project proposals to ensure consistency with guiding documents and community priorities and recommend projects to the CAP Committee for funding consideration.
- d. Manage the CAP Committee process in coordination with the TOT Committee to facilitate a streamlined process for bringing recommendations to the Board of Supervisors
- e. Manage and monitor the projects, programs, and services recommended by the committee and approved by the Board of Supervisors
- f. Develop and implement a plan of consolidation with the TOT Committee for increased efficiency in recommendation on priority projects in North Lake Tahoe

Task 2: Management and Administration of the TOT Committee

- a. Convene the TOT Committee and ensure compliance with the Brown Act
- b. Implement and further refine the Economic Health and Community Vitality Investment Program, including but not limited to program criteria, priorities, and calls for projects, programs, and services.
- c. Solicit projects that align with Housing and transportation priorities as outlined in the five-year agreement and the “Economic Health and Vitality Investment Program” to recommend to the the Board of Supervisors.
- d. Engage with the county to evaluate the LOIs as part of the “call” for projects that align with the priorities outlined in the “Economic Health and Vitality Investment Program,” Tourism Master Plan, and Measure A.
- e. Manage the TOT Committee process in coordination with the CAP Committee to facilitate a streamlined process for bringing recommendations to the Board of Supervisors
- f. Manage and monitor the projects, programs, and services recommended by the committee and approved by the Board of Supervisors
- g. Communicate the progress and success of all approved projects, programs, and services to the appropriate stakeholders and community through the NTCA communication roadmap.
- h. Convene public outreach to educate, seek input and update the success of the programs sponsored by the TOT/TBID dollars at work.

Task 3: Management of TOT-TBID Dollars At Work Online Campaign

- a. Maintain updated online content related to the TOT-TBID Dollars at Work Campaign
- b. Incorporate feedback from Placer County to ensure consistent messaging
- c. Develop logo guidelines in coordination with Placer County for projects and programs receiving dollars recommended by both the CAP and TOT Committees and approved by the Board of Supervisors.

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