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Prepared by: Rinda Y. Allison
Klein, Thorpe & Jenkins, Ltd.
20 North Wacker Drive
Chicago, IL 60606



Doc#: 0525245188 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 09/09/2005 03:25 PM Pg: 1 of 15

For Recorder's Use Only

DEVELOPMENT AGREEMENT (PATIO RETAIL CENTER, 7850 WEST 159TH STREET)

INTRODUCTION

1. This Agreement is entered into this 23rd day of August, 2005, by and between the VILLAGE OF ORLAND PARK, an Illinois Municipal Corporation (hereinafter referred to as the "Village"), and MARQUETTE BANK, as trustee under Trust #14650, dated October 13, 1998, Owner of the Subject Property (legally described below (hereinafter referred to as "Owner") and LUKE ZATARSKI and JOHN KOLOPOULOS, Developers of the Subject Property (hereinafter collectively referred to as "Developer").

2. The Property subject to this Agreement, legal title to which is vested in Owner (excepting such portion as is dedicated to the public), is legally described as follows:

LOT 2 IN THE PATIO SUBDIVISION, A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Parcel 27-13-317-000-0000
The said property is hereinafter referred to as the "Subject Property."

3. The Subject Property is generally located at the northwest corner of 159th Street and 78th Avenue, at 7850 West 159th Street, and consists of 1.5 acres.

4. The Subject Property will be developed by Developer for a one-story retail building (with potential office uses as well) having a total of 10,660 square feet in the BIZ General Business District pursuant to the Village's Land Development Code (the "Code"), with an amendment to the special use permit for Patio Restaurant, which included a plan for an office building at this location. The amendment to the special use permit will include modifications to the parking and detention setback requirements.

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5. The Village of Orland Park is a Home Rule Unit pursuant to the provisions of the Illinois Constitution, Article VII, Section 6, and the terms, conditions and acts of the Village under this Agreement are entered into and performed pursuant to the Home Rule powers of the Village and the statutes in such cases made and provided.

RECITALS:

1. The parties hereto desire that the Subject Property be developed in the Village for a one-story retail building, subject to the terms and conditions as hereinafter set forth and that the Subject Property be developed in the manner as set forth in this Agreement.

2. The Owner has petitioned the Village for an amended special use in the BIZ General Business District as more fully hereinafter set forth.

3. The parties hereto have fully complied with all relevant statutes of the State of Illinois and ordinances of the Village including the filing of a petition by Developer to enable development as herein provided. The Village has caused the issuance of proper notice and the conduct of all hearings by all necessary governmental entities to effectuate the plan of development herein set forth.

4. All reports by all relevant governmental entities have been submitted enabling appropriate action by the Village Board of Trustees to achieve the following:

(a) Adoption and execution of this Agreement by ordinance;

(b) Adoption of such ordinances as are necessary to effectuate the terms and provisions of this Agreement including the granting of a special use permit amendment pursuant to the terms and conditions of this Agreement;

(c) The adoption of such other ordinances, resolutions and actions as may be necessary to fulfill and implement this Agreement pursuant to the terms and conditions herein contained.

5. The parties hereto have determined that it is in the best interests of the Village, the Owner and the Developer and in furtherance of the public health, safety, comfort, morals and welfare of the community to execute and implement this Agreement and that such implementation of this Agreement and development of the Subject Property pursuant to its terms and conditions will constitute an improvement of the tax base of the Village, be in implementation of the comprehensive plan of the Village and will constitute a preservation of environmental values.

6. Owner covenants and agrees that it will execute all necessary directions and issue all necessary instructions and take all other action necessary to perform its obligations hereunder.

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SECTION ONE: Zoning, Plan Approval and Design Standards.

A. The Village, upon the necessary hearings before the relevant governmental bodies having taken place pursuant to statute and ordinances in such cases made and provided and pursuant to requisite notice having been given, will by proper ordinance cause the above-described Subject Property to be classified under the Code as being granted an amended special use permit under the BIZ General Business District for a revised site plan for Patio Retail Center.

B. The Subject Property shall be developed substantially in accordance with the Site Plan appended hereto and incorporated herein as EXHIBIT A entitled "Patio Retail Building" prepared by James Papoutsis Architect, dated August 1, 2004, last revised September 22, 2004, date stamped September 29, 2004, Sheet Numbers A-1.1. The Developer agrees that the Subject Property shall be developed substantially in accordance with said Site Plan (EXHIBIT A) as approved or as may be subsequently amended and approved by the Village, and in accordance with supporting preliminary and final engineering drawings and plans to be submitted to the Village Engineer for review and approval, subject to and conditioned upon the following:

1. That the front sidewalk along the parking stall row be widened to 7 feet to accommodate car overhangs;
2. That an erosion control and sedimentation plan and a photometric plan be submitted;
3. That a Landscape Plan that complements the existing Patio Restaurant be submitted within 60 days of Village Board approval; and
4. That building code related items be met;

C. The Subject Property shall also be developed substantially in accordance with the Elevations Plan titled, "Patio Retail Building" prepared by James Papoutsis Architect, dated August 1, 2004, date stamped September 29, 2004, Shee. Nos. A-2.1, A-2.2 and A-2.3 subject to the conditions that:

1. An alternative gate be provided for the trash enclosure that will not detract from the well designed building and site, subject to Village staff approval; and
2. That a Signage Plan be submitted for the development.

SECTION TWO: Contributions.

As a condition of obtaining a building permit, Developer shall pay to the Village the Fair Share Road Exaction Fee - \$1.15 per square foot. For the 10,660 square foot retail building, as provided by Section 5-112(K) (6) of the Code, the fee will be \$12,259.00.

The Village shall solely determine how said sum so paid shall be allocated and disbursed.

SECTION THREE: Storm Water Retention/Detention and Storm Sewers.

Storm Water run off emanating from the Subject Property shall be retained or detained in accordance with a storm water management system for the Subject Property, as finally may be required and approved by the Village. Such system shall include all storm water management

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facilities, including both on-site and off-site storm sewers, if needed, in accordance with final engineering plans approved by the Village. The design criteria, construction and maintenance of the storm sewers shall be in accordance with all standards of the Village in force on the date of final plat approval for each phase, and also all standards of the Metropolitan Water Reclamation District of Greater Chicago in effect at the time of final plat approval, and shall be completed by Developer at Developer's expense. All storm water detention/retention facilities shall be maintained by Developer.

SECTION FOUR: Water Supply.

Developer shall be required to construct and install at its expense all necessary on-site water mains to service the Subject Property. All such water mains shall be constructed and installed in accordance with the Code and final engineering plans approved by the Village. Owner shall pay to the Village the required water connection charge(s) based upon the size of the connection(s) in accordance with Village ordinances.

SECTION FIVE: Sanitary Sewers.

Developer shall be required to construct and install at its expense all necessary sanitary sewers to service the Subject Property in accordance with the Land Development Code of the Village and final engineering plans approved by the Village. Said sewers shall be sized as required by the Village. All required fees are due before a building permit is issued.

SECTION SIX: Sidewalks.

Developer will provide sidewalks as shown on the Site Plan.

SECTION SEVEN: Easements.

Owner agrees at the time of approval of this Development Agreement to grant to the Village, and/or obtain grants to the Village of, all reasonably necessary easements for the extension of sewer, water, street, or other utilities, including cable television, or for other reasonable improvements which may serve not only the Subject Property, but other territories in the general area, provided same do not unreasonably interfere with the operation of Developer's or its tenants' business or the business of those located adjacent to the Subject Property.

All such easements to be granted shall name the Village and/or other appropriate entities designated by the Village as grantee hereunder. It shall be the responsibility of Owner and Developer to obtain all easements, both on-site and off-site, necessary to serve the Subject Property.

SECTION EIGHT: Developmental Codes and Ordinances and General Matters.

The development of the Subject Property shall be in accordance with the existing building, zoning, subdivision, storm water retention and other developmental codes and ordinances of the Village as they exist on the date hereof, or as are in existence during

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development of the Subject Property. Planning and engineering designs and standards shall be in accordance with the then existing ordinances of the Village, or in accordance with the statutes and regulations of other governmental agencies having jurisdiction thereof if such standards are more stringent than those of the Village of Orland Park at such time.

No occupancy permit shall be issued for any building prior to the completion and acceptance by the Village of the required public improvements. Any required public improvements shall be completed within one (1) year from the date hereof, and the Developer shall deliver to the Village an irrevocable letter of credit (the form of security Developer has elected to provide) in a form satisfactory to and from a bank or financial institution and in an amount as provided in the Land Development Code. Said letter of credit is to include all costs related to required lighting, landscaping, roadway, sidewalk, sewer and water lines and storm water management facilities. The Director of the Village Engineering Department may, in his discretion permit the amount of said letter of credit to be reduced from time to time, as major public improvements are completed.

SECTION NINE: Utilities.

All electricity, telephone, cable television and gas lines shall be installed underground, the location of which underground utilities shall be at the Developer's option.

SECTION TEN: Impact Requirements.

Developer and Owner agree that any and all contributions, dedications, donations and easements provided for in this Agreement substantially advance legitimate governmental interests of the Village, including, but not limited to, providing its residents, with access to and use of public utilities, streets, fire protection, and emergency services. Developer and Owner further agree that the contributions, dedications, donations and easements required by this Agreement are uniquely attributable to, reasonably related to and made necessary by the development of the Subject Property.

SECTION ELEVEN: Binding Effect and Term and Covenants Running with the Land.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record of the Subject Property, assignees, lessees and upon any successor municipal authorities of said Village and successor municipalities, for a period of seven (7) years from the date of execution hereof and any extended time that may be agreed to by amendment.

The terms and conditions of this Agreement relative to the payment of monies to the various contributions to the Village, granting of easements to the Village, and the developmental standards established herein shall constitute covenants which shall run with the land.

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SECTION TWELVE: Notices.

Unless otherwise notified in writing, all notices, requests and demands shall be in writing and shall be delivered either (i) personally, (ii) by United States Certified mail, postage prepaid, return receipt requested, or (iii) via nationally recognized overnight carrier service, as follows:

For the Village:

1. Daniel J. McLaughlin
Village President
14700 South Ravinia Avenue
Orland Park, Illinois 60462
2. David P. Maher
Village Clerk
14700 South Ravinia Avenue
Orland Park, Illinois 60462
3. E. Kenneth Friker
Village Attorney
Klein, Thorpe & Jenkins, Ltd.
15010 S. Ravinia Avenue
Orland Park, Illinois 60462

For the Owner

1. Marquette Bank as trustee under Trust No. 14650, dated October 13, 1998
6155 South Polaski Rd., Chicago IL 60629
Attn: Glenn E. Skinner, Jr.

For the Developer

1. Luke Zatarski
10836 West 133rd Street
Orland Park, Illinois 60462
2. John Kolopoulos
Patio Food Products
7220 W. 91st Street
Bridgeview IL 60455

or such other addresses that any party hereto may designate in writing to the other parties pursuant to the provisions of this Section.

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SECTION THIRTEEN: Signs.

The location of any sign upon the Subject Property shall be in accordance with an approved Signage Plan and the Village's Land Development Code.

SECTION FOURTEEN: Reimbursement of Village for Legal and Other Fees and Expenses.

A. To Effective Date of Agreement.

The Developer, concurrently with the issuance of a building permit, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

- (1) the costs incurred by the Village for engineering services in accordance with the provisions of the Code; and
- (2) all reasonable attorneys' fees incurred by the Village; and
- (3) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expense.

B. From and After Effective Date of Agreement.

Except as hereinafter provided, within thirty (30) days of receipt of written demand by Village made by and through its President, Developer from time to time shall promptly reimburse Village for all enumerated reasonable expenses and costs incurred by Village in the administration of the Agreement, including and limited to engineering fees, attorneys' fees and out of pocket expenses involving various and sundry matters such as, but not limited to, preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Developer upon its request, by a sworn statement of the Village; and such costs and expenses may be further confirmed by the Developer at its option from additional documents relevant to determining such costs and expenses as designated from time to time by the Developer.

Notwithstanding the immediately preceding paragraph, Developer shall in no event be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by Village ordinances or otherwise.

In the event that any third party or parties institute any legal proceedings against any party hereto, which relate to the terms of this Agreement, then, in that event, the Developer on

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notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

- (1) Developer shall not make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment affecting the Village, without the approval of the Village.
- (2) If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between Village and Developer and/or Owner on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Developer shall reimburse the Village from time to time on written demand from the President of Village and notice of the amount due for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other reasonable expenses of litigation, incurred by the Village in connection therewith.

In the event the Village institutes legal proceedings against the Developer for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Developer all expenses of such legal proceedings incurred by the Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith. The Developer may, in its sole discretion, appeal any such judgment rendered in favor of the Village.

SECTION FIFTEEN: Warranties and Representations.

The Owner represents and warrants to the Village as follows:

1. Other than Owner and Developer, no entity or person has any interest in the Subject Property or its development as herein proposed;
2. Owner is the legal title holder and the owner of record of the Subject Property as indicated on the first and second pages of this Agreement.

Developer represents and warrants to the Village as follows:

1. Developer has provided the legal description of the Subject Property set forth in this Agreement and the attached exhibits and to Developer's knowledge, said legal description is accurate and correct.
2. Developer proposes to develop the Subject Property in the manner contemplated in this Agreement.

SECTION SIXTEEN: Continuity of Obligations.

Notwithstanding any provision of this Agreement to the contrary, including but not limited to the sale or conveyance of all or any part of the Subject Property by Owner, Owner and

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Developer and their successors-in-interest shall at all times during the term of this Agreement remain liable to Village for its faithful performance of all obligations imposed upon Owner and Developer by this Agreement until such obligations have been fully performed or until Village, at its sole option, has otherwise released Owner and/or Developer from any or all of such obligations.

SECTION SEVENTEEN: No Waiver or Relinquishment of Right to Enforce Agreement.

Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

SECTION EIGHTEEN: Village Approval or Direction.

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

SECTION NINETEEN: Singular and Plural.

Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

SECTION TWENTY: Section Headings and Subheadings

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of any of the provisions hereunder whether covered or relevant to such heading or not.

SECTION TWENTY-ONE: Recording.

A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Developer.

SECTION TWENTY-TWO: Authorization to Execute.

The officers of the Owner executing this Agreement warrant that they have been lawfully authorized to execute this Agreement on its behalf. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. Owner and Village shall, upon request, deliver to each other, at the respective time such entities cause their authorized agents to affix their signatures hereto, copies

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of all bylaws, resolutions, ordinances, partnership agreements, letters of direction or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

SECTION TWENTY-THREE: Amendment.

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties hereto relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

SECTION TWENTY-FOUR: Counterparts.

This Agreement may be executed in two or more counterparts, each of which taken together shall constitute one and the same instrument.

SECTION TWENTY-FIVE: Curing Default.

The parties to this Agreement reserve a right to cure any default hereunder within thirty (30) days from written notice of such default, or such additional time as is reasonably required to cure the default so long as the cure of default is commenced within said thirty (30) days, and efforts to effect such cure of default are diligently prosecuted to completion.

SECTION TWENTY-SIX: Conflict Between the Text and Exhibits.

In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

SECTION TWENTY-SEVEN: Severability.

If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve Village from performance under such invalid provision of this Agreement.

SECTION TWENTY-EIGHT: Definition of Village.

When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

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SECTION TWENTY-NINE: Execution of Agreement.

This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he signs this Agreement on page 1 hereof which date shall be the effective date of this Agreement.

VILLAGE OF ORLAND PARK, an Illinois Municipal Corporation

By: David McRough
Village President

ATTEST:

By: David Blake
Village Clerk

OWNER:

MARQUETTE BANK, as trustee under Trust No. 14650, dated October 13, 1998

By: [Signature]
Its ASST. VP & TRUST OFFICER

This instrument is executed by the Marquette Bank, not personally, but only as Trustee, and no personal liability is assumed by or shall be enforced against said Marquette Bank because of or on account of the making of this instrument.

DEVELOPER:

Luke Zatarski
Luke Zatarski

[Signature]
John Koliopoulos

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ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
 COUNTY OF C O O K)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that DANIEL J. MCLAUGHLIN, personally known to me to be the President of the Village of Orland Park, and DAVID P. MAHER, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 31st day of August, 2005.

Mary Shanahan

 Notary Public

My Commission expires _____



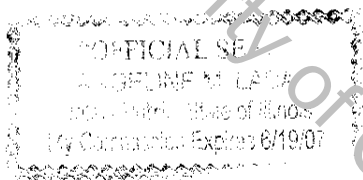
Notary Public
 Clerk's Office

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named GLENN E. SKINNER JR., who is ASST. V.P. & TRUST OFFICER of Marquette Bank, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Marquette Bank as trustee under Trust Number 14650, dated October 13, 1998, for the uses and purposes therein set forth.

GIVEN under my hand official seal, this 14~~th~~ day of AUGUST, 2005.



Angelina M. Leba
Notary Public

My Commission expires 6/19/2007

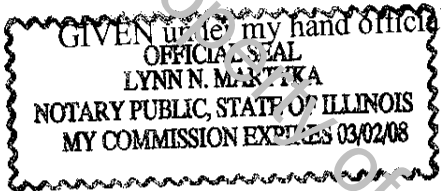
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Luke Zatarski, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand official seal, this 5th day of August, 2005.



Lynn N. Martyka
Notary Public

My Commission expires _____

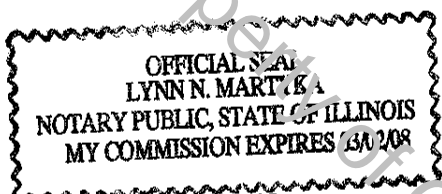
Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that John Koliopoulos, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand official seal, this 5th day of August, 2005.



Lynn N. Martynka
Notary Public

My Commission expires _____

Cook County Clerk's Office

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OVERSIZE

**EXHIBIT
FORWARD
TO BASEMENT
FOR
SCANNING**

RECORDED DATE _____

CASHIER # / NAME _____

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