



MEMORANDUM

TO: Mayor and City Council

CC: Elaine Hart, Interim City Manager
Robert Goode, P.E., Assistant City Manager

FROM: Sam Angoori, P.E., Interim Director
Austin Resource Recovery

DATE: February 15, 2017

SUBJECT: Policy Considerations for City waste management contracts

The purpose of this memo is to provide Council with the policy questions that are regularly impacting City waste management contracts. In response to the February 14, 2017, Council Work Session, staff identified the following eight (8) policy questions for Council consideration and direction:

1. Which landfill(s) does Council prefer to send City managed landfill trash?
2. Should ARR continue to provide waste management services for special events? Such as coordinating dumpster service, providing staff to manage trash/recycling containers, and provide other services such as street sweeping.
3. In order to achieve higher diversion rates, should the City require City contractors to sort through mixed material collected from curbside customers as a result of a flood or storm?
4. Does Council have a preferred method to manage used utility poles treated with creosote?
5. Based on conversations with Council and the Zero Waste Advisory Commission (ZWAC), staff identified four specific areas of service that seemed appropriate for consolidation under the current solicitation. If Council directs staff to re-solicit, should consolidation continue for all four areas of service?
6. Should the City continue to competitively solicit all waste management contracts managed by Austin Resource Recovery?
7. If Council directs staff to re-solicit, should staff return with an ordinance in order for Council to waive the Anti-Lobbying Ordinance?
8. Should ARR provide collection service to commercial properties?

Although each issue has varying levels of complexity, a one-page synopsis of each policy question is provided to assist in the analysis and discussion.

Policy Question #1: Which landfill(s) does Council prefer to send City managed landfill trash?

Austin is part of the Capital Area Council of Governments (CAPCOG), a regional planning organization spanning 10 counties. There are three (3) existing landfills in the CAPCOG region and one (1) proposed landfill, all locations are identified in the map labeled Attachment A:

- Waste Management Austin Community Landfill in northeast Austin, Texas, approximately 10.9 miles from downtown Austin. The facility is owned and operated by Waste Management.
- Texas Disposal System in Creedmoor, Texas, approximately 13.6 miles from downtown Austin. The facility is owned and operated by Texas Disposal Systems (TDS).
- Williamson County Landfill and Recycling Center (Wilco) in Hutto, Texas, approximately 35.2 miles from downtown Austin. The facility is owned by Williamson County and operated by Waste Management.
- 130 Environmental Park Landfill proposed in Lockhart, Texas, approximately 24.4 miles from downtown Austin. Green Group Holdings, LLC intends to “include a municipal solid waste landfill, a facility for processing recyclable materials, and an industrial park.” The facility is anticipating breaking ground in late 2017.

City Council and ZWAC have expressed concern about utilizing the Waste Management Community Landfill in northeast Austin, but the City Council has not specifically prohibited use of the facility for City contracts. Since this landfill is legally permitted by the State of Texas, staff did not feel that we could administratively prohibit its use and by that prohibition affect commercial competition.

Council may wish to consider the following benefits and challenges to clarifying landfill preferences:

Benefits:

- Staff could include preferred facilities in the solicitation process; and
- Vendors would then able to determine in advance if they are able to meet Council’s landfill preferences and submit proposals accordingly.

Challenges:

- Utilizing landfills further from Austin may increase bid proposal costs;
- Transporting landfill trash further from Austin has a higher carbon footprint and impact on the environment
- Residents located near landfills may experience negative quality of life impacts such as high truck traffic volumes, odor issues, increased litter, etc.; however, this may occur regardless because these are legally open landfills
- Landfill operations vary in their ability to address surrounding community concerns and minimize their facility’s greenhouse gas emissions.

Policy Question #2: Should ARR continue to provide waste management services for special events? Such as coordinating dumpster service, providing staff to manage trash/recycling containers, and provide other services such as street sweeping.

In 2009, the City Council adopted Resolution No. 20091022-04 directing the City Manager to implement recycling at City sponsored events and include costs in future budgets so that the event would not have to pay for this service. Council's reasoning included stakeholder concerns about being held to certain standards discussed during development of a "green events ordinance." Some standards included placing trash containers next to diversion containers, regularly monitoring containers to minimize contamination, and reporting diversion rates.

Special events often require dumpster service due to the large volumes of material produced during the event and the need to store materials until collection during the next business day. City Co-Sponsored events approved by council resolution are eligible, but not required, to receive dumpster services under City contract. Utilizing the City contract also allows Council to waive costs for recycling services as noted in the resolution. Since services are provided by a contracted vendor, Austin Resource Recovery (ARR) pays the invoice and includes funding in its budget essentially subsidizing the event.

ARR's special events waste management services include staffing for on-site container management (set up, take down, and monitoring). These services are offered because the Council resolution was based on stakeholder concerns about the standards discussed during the green events ordinance process. One key provision of the green events ordinance included a requirement to establish minimum staffing levels to monitor containers. ARR's services were established to test the necessity for minimum staffing levels.

The Department recognizes that the services it offers to special events are in competition with other private service providers and is seeking Council direction. The benefits and challenges to ARR providing special event waste management services include:

Benefits:

- City Co-Sponsored events continue to receive waste management services that can be waived by Council (saving the event the cost of this service)
- ARR can make regular improvements to waste diversion efforts at the event

Challenges:

- Fees waived impact the Austin Resource Recovery budget
- ARR staffing levels are impacted to provide services for evening and weekend events
- As noted by the Parkland Events Task Force, City Co-sponsored events are not held to specific criteria such as achieving a certain diversion rate
- Competes with private haulers

Policy Question #3: In order to achieve higher diversion rates, should the City require City contractors to sort through mixed material collected from curbside customers as a result of a flood or storm?

Emergency storm events generally result in two key waste streams:

- Storm debris – fallen tree limbs, brush, etc. that are impacted as a result of the storm;
- Flood debris – damaged items removed from homes due to water damage

ARR is able to compost the vast majority of storm debris generated. For example, during the 2015 Memorial Day Flood, ARR diverted over 95 percent of storm debris, primarily brush. Flood debris, the material brought to the curb by residents, tends to be mixed between recyclable and non-recyclable materials. When customers separate electronics, appliances, tires, and other recyclable items at the curb, ARR is able to collect the material separately and recycle them appropriately. However, ARR must rely on customers to source separate. Unseparated material is collected by cranes and placed in dumpsters or roll-offs for disposal.

The benefits and challenges of requiring the vendor to sort through the mixed material after it has been collected from flood impacted neighborhood include:

Benefits

- Increases community diversion rate
- Places the onus of separation on the vendor, not the flood victims

Challenges:

- Assuming processing occurs at a permitted landfill, possible cost increases could involve:
 - Hiring additional employees to sort mixed materials (approximately \$3,000 per day of a storm event)
 - Cost of possible registration changes (\$5,000)
 - Unknown premium to process materials that could have a health and safety concerns
- Uncertain markets for the material due to contamination concerns (e.g. sewage, etc)

Policy Question #4: Does Council have a preferred method to manage used utility poles treated with creosote?

Chemically treated utility poles are hard to recycle. All utilities have limited options. ARR staff researched diversion options for used utility poles treated with creosote. There are four methods currently available to all utilities and each have their own challenges:

- **Reuse** – some utilities offer utility poles to the public for reuse as fence posts and other salvage purposes. However, there are concerns to offering chemically treated poles for use by the public which may use the poles in an unsafe manner.
- **Incineration/Waste-to-Energy** – some utilities grind and chip up the utility poles use as fuel at waste-to-energy facilities, considering this practice as “recycling” or diversion. From a Zero Waste perspective, waste-to-energy systems are lowest on the hierarchy of best use. Additionally, the environmental community has expressed concern about the carbon footprint impact of waste-to-energy systems.
- **Landfill Disposal** – from a Zero Waste perspective, disposal is the last option on the hierarchy of best use.
- **Storage** – facilities with enough space can simply collect the poles and store them on-site. Staff is concerned that “reuse” can in reality turn into long-term storage. So, if Council chooses “reuse”, staff recommends Council directs staff to verify that the vendor is indeed reusing the poles by requiring documentation of reuse and providing proof of sale as well as limits to storage time.

Identifying a preferred method to manage utility poles will equip Austin Energy and ARR with the direction needed to re-solicit a contract for Class 2 and non-hazardous waste if Council chooses that path.

Policy Question #5: Based on conversations with Council and the Zero Waste Advisory Commission (ZWAC), staff identified four specific areas of service that seemed appropriate for consolidation under the current solicitation. If Council directs staff to re-solicit, should consolidation continue for all four areas of service?

Purchasing best practice is to solicit for similar or like services. In the current solicitation, the following four areas service areas include the collection and processing of:

1. Trash, recycling, and composting from City buildings;
2. Trash, recycling, and composting from emergency situations such as storm events;
3. Trash, recycling, and composting from eligible special events; and
4. Class 2 and non-hazardous waste, including utility poles.

Including special events in a new solicitation process will depend on Council's decision to Policy Question# 2 regarding ARR's role in providing services to special events. The remaining areas of service focus on the collection and processing of materials from various City departmental activities such as operating city buildings, managing storm events, and operating power plants.

The benefits and challenges of consolidating these services under one solicitation include:

Benefits:

- Assists with sustainability reporting. Information is currently spread throughout various departmental contracts, making it difficult to calculate and report on sustainability initiatives, especially Zero Waste efforts
- Ensures consistent service levels and pricing for the City's numerous departments and facilities
- Staff could solicit all services under a consolidated solicitation process, but award separate contracts.
- Requires less time and resource to manage one contract versus multiple contracts

Challenges:

- Ensuring qualified vendors submit proposals and establish partnerships or subcontracting relationships accordingly
- Vendors may refuse to bid, but may lodge complaints about the proposals received
- With unclear direction about overarching policy issues, contracts will be delayed

Policy Question #6: Should the City continue to competitively solicit all waste management contracts managed by Austin Resource Recovery?

As per the City Charter, “Before the City makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition unless exempted by state statute.” (City of Austin FSD Purchasing Office, Operating Policies and Procedures Manual, Purchases Over City Manager’s Authority). In waste management situations, the exemption by state statute would apply in the case of an emergency or a procurement necessary to preserve or protect the public health or safety of the municipality’s residents.

Over the last few solicitations it has been suggested that the City not seek competition for waste management contracts through a broader application of the emergency exemption – as some of the grounds for emergencies include health and safety which can be linked to waste management services. Historically, the City has typically limited the application of the emergency exemption only to circumstances when the emergency precludes or limits the City’s time to perform competition. This broader interpretation of the emergency exemption may suggest that any products or services used in support of public health and safety are exempt from competition. While this is a possible interpretation, it has largely not been the City’s interpretation.

With competition, the market determines a fair price for services. If the City only negotiated with one vendor every time, we would never know what other services are available that could achieve the same results faster, at a potentially lower cost, and with less environmental impacts. More importantly, negotiating with only one service provider may limit opportunities for other market participants to establish partnerships for subcontracting, invest in infrastructure, offer services to other businesses at lower costs, or create new jobs. For example, several large and small scale haulers may subcontract with another contractor to process compostables or to process recyclables. Negotiating with only one service provider may negatively impact the growth of other Zero Waste supporting infrastructure.

The benefits and challenges to continuing to competitively solicit all waste management contracts managed by ARR include:

Benefits:

- Level playing field for all potential bidders
- Broad support for subcontracting relationships and partnerships that grow the Zero Waste infrastructure
- Avoids dependency on one vendor

Challenges:

- Significant staff time to develop, issue, and review solicitations
- Vendors may refuse to bid, but may lodge complaints about the proposals received
- With unclear direction about overarching policy issues, contracts are delayed

Policy Question #7: If Council directs staff to re-solicit, should staff return with an ordinance in order for Council to waive the Anti-Lobbying Ordinance?

There are important benefits and challenges to consider when determining if Council should waive the Anti-Lobbying Ordinance for the re-solicitation:

Benefits:

- All vendors will be on a level playing field. Currently, vendors who have submitted proposals are not able to talk to Council or staff. However, a competitor who has not submitted a bid is able to freely speak with Council publicly or privately.
- Possibly increased competition

Challenges:

- All vendors will be able to directly lobby Council, Council staff, and/or City staff
- Increased likelihood of misperceptions with competing lobbyists sharing conflicting data

Policy Question #8: Should ARR provide collection service to commercial properties?

City Code Section 15-6-11(C) and 15-6-12(A) and (B) limits the services ARR provides to single family residences, duplexes, tri-plexes, and four-plexes. Commercial properties, including apartments, that received ARR service prior to January 1, 2015 were grandfathered and could remain with ARR service. Basically, dumpsters are provided and serviced by private haulers. ARR only provides cart service.

As a result of these provisions, ARR does not have the equipment (dumpsters, roll-offs, or appropriate trucks) necessary to service large scale commercial properties, including City facilities. Moreover, staff is keenly aware of private hauler concerns that any move to purchase dumpsters or other related equipment could be perceived as the City attempting to compete against private haulers for commercial business.

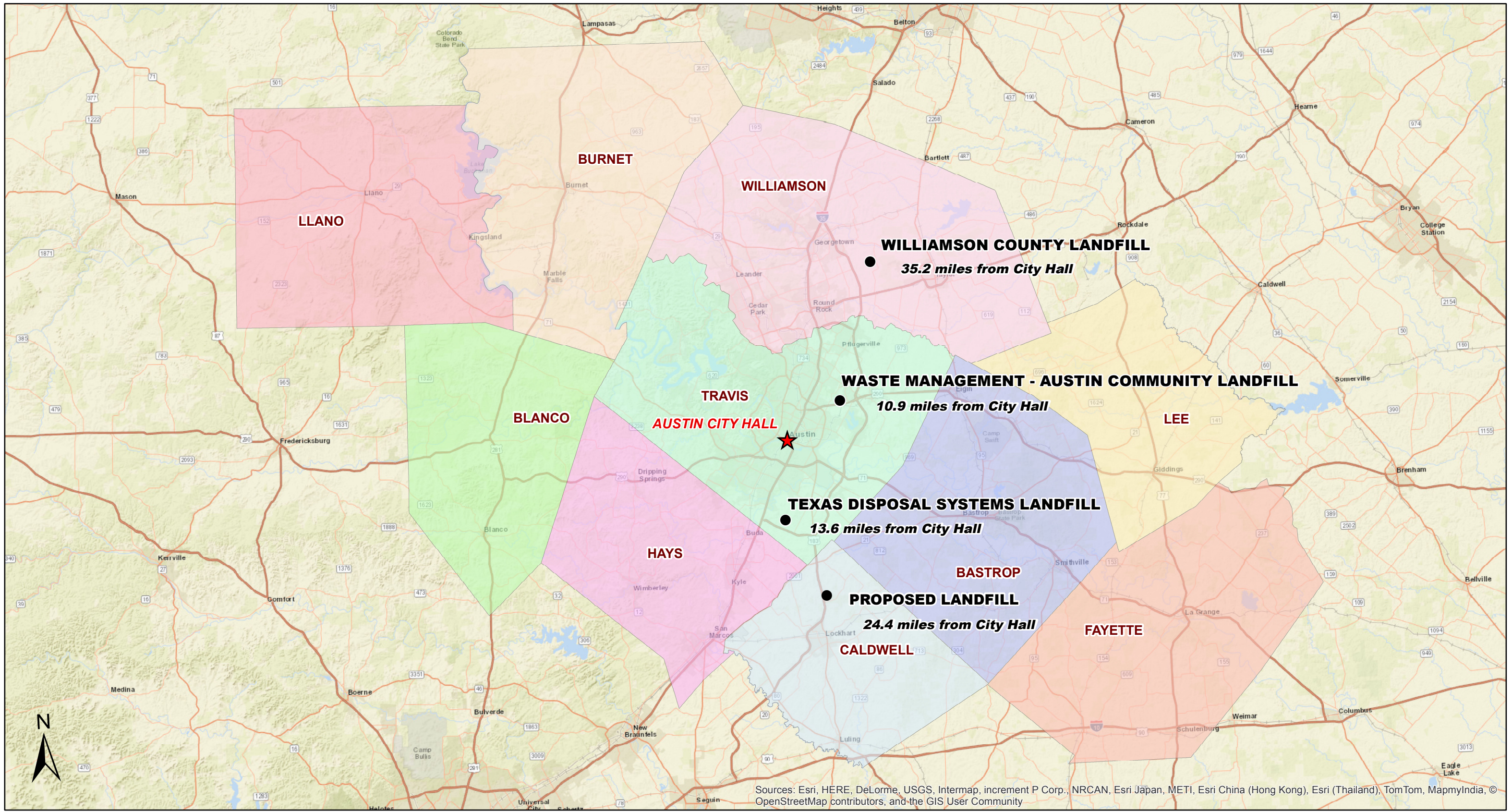
Authorizing ARR to provide dumpster collection service to commercial properties has the following benefits and challenges:

Benefits:

- ARR would be able to service its own facilities and send material to a Council-preferred landfill and other processing facilities
- ARR would provide guaranteed URO-compliant service, including composting service
- Businesses could include ARR services on their utility bills

Challenges:

- Initial operational and capital costs (staffing, equipment, space for operations, marketing, billing requirements). Service would be fully paid by fees once in operation
- Would cost at least \$5.6 million to acquire the resources to launch this program
- ARR would be competing with private haulers



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Municipal Landfills in 10 County CAPCOG Region

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