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1 after the date of the formation of the PID, the governing body shall resume
2 governance of the district as its board either directly or through the governing
3 body's designees or, at the governing body's option hold an election of new
4 directors by majority vote of the qualified electors and owners in the PID.

5 (E) Elections are to be held in compliance with Sections 5-11-6 and 5-11-
6 7 of the Act.

7 (F) Sections 5-11-7(B) and (F) of the Act provide that either a PID board
8 or the governing body (which for purposes of the Act is the City) may
9 establish provisions for voting by mail and for the returns of the election to be
10 made in person or by mail.

11 (G) Except as provided in Section 5-11-7 of the Act, elections pertaining
12 to a PID are to be held in compliance with the general election laws of the
13 State of New Mexico.

14 (H) In order to establish (1) a uniform policy for all PIDs within the City,
15 (2) procedures by which an election of new directors shall be held, and (3)
16 provisions for voting by mail and the returns of elections, the PID Ordinance is
17 hereby amended to include provisions for the administration of elections of
18 PID board directors, which shall apply in the event the City Council does not
19 elect to resume or continue governance of the district as its board.

20 Section 2. Section 6-9-1(E) ROA 1994, GENERAL POLICIES, is amended
21 to read:

22 "(E) The PID shall be governed by a Board of Directors comprised
23 of members of the City Council, ex officio, or, at the option of the City Council,
24 five members appointed or elected pursuant to Sections 5-11-1 et seq. NMSA
25 ("the Act"). If the City Council is serving as the PID Board, the City Council
26 may, in accordance with law, delegate certain responsibilities of governance
27 of the PID to a committee as approved by the City Council. Advisory
28 committees may, at the option of the PID Board, be utilized."

29 Section 3. Chapter 6, Article 9 ROA 1994 is amended by inserting the
30 following new section:

31 § 6-9-7 PID BOARD ELECTION PROCEDURES.

32 (A) *Applicability; Delegation of Election; Administration to PID Board.*

33 This section shall not apply if the City Council elects to resume governance of

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1 the PID as its board to comply with the terms of a development agreement
2 entered into between the City, the PID, and the developer/landowner, or for
3 other reasons as determined by the City Council in its discretion as authorized
4 under Section 5-11-9(C) of the Act. With respect to elections of PID board
5 members, it is the policy of the City that all elections held pursuant to Section
6 5-11-7 of the Act shall be conducted pursuant to the provisions of this section
7 on behalf of City Council, and the responsibility for the conduct and
8 administration of certain aspects of such board elections pursuant to the
9 provisions of this policy shall be delegated to the board of directors of each
10 PID formed by the City.

11 (1) After a PID is organized and the first board is appointed, the
12 PID board shall govern the conduct of all subsequent regular and special
13 elections of the PID, determine when all subsequent regular and special
14 elections of the PID are to be held, may consult with and obtain guidance and
15 assistance from the City Clerk concerning the conduct of such elections, and
16 shall act as the canvassing board for the purpose of interpreting procedures
17 and deciding controversies or other matters arising in the conduct of the
18 elections.

19 (2) All powers and authority delegated to the board pertaining to
20 the conduct of regular or special elections may be exercised in the absence of
21 the board by the secretary or by an assistant secretary appointed by the
22 board. The person named by the board who is responsible for the conducting
23 of the election shall be the City Clerk.

24 (B) *Call for Nominations.*

25 (1) Not less than 70 days nor more than 90 days before a regular
26 special district election, the City Clerk shall provide notice of a call for
27 nominations for the election and such notice shall be posted in at least three
28 (3) public places within the PID and shall be published in full, in English and
29 Spanish, once a week for at least two (2) consecutive weeks before the 70th
30 day prior to the election in the *Albuquerque Journal* or another newspaper of
31 general circulation within the PID. The call shall state the date of the election,
32 the number of PID directors to be voted upon at the election, where a
33 nomination and acceptance form may be obtained, the deadline for submitting

1 the nomination and acceptance form to the City Clerk, information on
2 obtaining a ballot if the election will be by mail-ballot only, the name and
3 address of the City Clerk, and a brief summary of the information described in
4 subsection (B)(2) of this Section.

5 (2) The call for nominations shall include either (i) a summary of
6 the basic annual and periodic responsibilities of the PID board, including
7 items (a) through (e), or (ii) the method by which interested persons may
8 obtain the summary. Annual and periodic board responsibilities include:

- 9 (a) Adoption of an open meetings resolution;
- 10 (b) Preliminary and final approval of an annual budget
11 sufficient to pay debt service on outstanding district bonds and annual
12 administrative costs;
- 13 (c) Exercise of remedies to collect delinquent PID special
14 levies;
- 15 (d) Approval of audited financial statements; and
- 16 (e) Approval of continuing disclosure reports prepared on
17 behalf of the PID.

18 (3) The City Clerk shall provide the information described in
19 subsection (B)(2) of this Section promptly to all persons accepting
20 nominations for board positions.

21 **(C) Nominations.**

22 (1) Not less than 60 days before the date of the election, any
23 resident qualified elector or owner who desires to be or designate a candidate
24 for the office of a PID director shall file a nomination and acceptance form or
25 letter signed by the resident qualified elector or owner and, as applicable, the
26 designee for the office of PID Director.

27 (2) On the date of signing the nomination and acceptance form or
28 letter, the candidate for director shall be a resident qualified elector, owner, or
29 the designee of a resident qualified elector or owner.

30 (3) The nomination and acceptance form or letter shall state the
31 name of the PID in which the election will be held, the date of the election, the
32 full name of the candidate as it is to appear on the ballot, and a statement that
33 the candidate is a resident qualified elector, owner, or the designee of a

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1 resident qualified elector or owner. Unless physically unable, all parties
2 submitting and identified on a nomination and acceptance form or letter shall
3 sign their own signature and shall print (a) their names, (b) their mailing
4 addresses, (c) their telephone number, (d) the address of the property owned,
5 resided, or represented, including the street number and name, and (e) the
6 date of signature on the nomination and acceptance form or letter. All
7 signatures or marks on the nomination and acceptance form or letter shall be
8 acknowledged by a notary public.

9 (4) The nomination and acceptance form or letter shall be filed
10 with the City Clerk of the PID in which the election will be held, and the City
11 Clerk shall verify the sufficiency of the information contained therein and shall
12 return any insufficient nomination form to the candidate with a written
13 description of the insufficiency. A nomination and acceptance form that is
14 insufficient may be amended at any time after filing but prior to 3 p.m. on the
15 30th day before the election.

16 (5) Notwithstanding the foregoing, the City Council, at its option,
17 may nominate one or more candidates. The City Council or its designee shall
18 provide a list of any candidate(s) nominated by the City Council to the City
19 Clerk of the PID in which the election will be held not less than 60 days before
20 the date of the election. The City Council shall have no duty to nominate any
21 candidate unless the PID has not delivered payment for all costs of the
22 improvements to be financed by the PID, as described in the implementing
23 legislation. If the City Council is required to nominate candidates, the list of
24 nominees shall consist of no less than three City employees.

25 (D) *Time for Holding Elections; Manner of Election; Notice.*

26 (1) Except as otherwise provided in subsection (D)(2) of this
27 section, regular PID elections shall be held on the first Tuesday after the first
28 Monday in August in every other even-numbered year.

29 (2) Special elections may be held on the first Tuesday after the
30 first Monday of the month in which held, but in no event on a date within 42
31 days before any statewide election, as provided by Section 1-12-71 NMSA
32 1978.

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1 (3) At least 60 days prior to a PID Board election, the City Clerk
2 shall request that the County Clerk provide to the City Clerk a list of the names
3 and addresses of registered electors of the city who are also registered
4 electors of the PID.

5 (4) At least 60 days prior to a PID Board election, the City Clerk
6 shall request that the County Assessor provide to the City Clerk a list of the
7 names and addresses of the owners of real property in the district on the
8 current property tax assessment roll.

9 (5) The City Clerk shall prepare a voter list of registered electors
10 residing within the PID and owners of property within the PID from the lists
11 provided by the County Clerk and County Assessor.

12 (6) The City Clerk shall prepare and provide to the City Clerk a
13 form of ballot containing the names of the eligible candidates.

14 (7) If the PID Election is conducted as regular municipal election,
15 or where as otherwise required by law, the City Clerk shall follow the early
16 voting and absentee voting procedures in Section 3-8-37.1 NMSA 1978. In the
17 event of a mail ballot only election, the following procedures shall be followed:

18 (a) The City Clerk shall make available at the Office of the
19 City Clerk beginning no later than 20 days before the date of the election a
20 regular ballot to any person whose name appears on the voter list or who
21 provides an affidavit of ownership signed by that person. The City Clerk shall
22 record the names and mailing addresses of each person receiving a regular
23 ballot.

24 (b) The City Clerk shall make available at the Office of the
25 City Clerk a provisional ballot to any person not appearing on the voter list,
26 but claiming eligibility to vote as either a qualified resident elector or owner of
27 property within the PID. The City Clerk shall record the name and mailing
28 address of any person to whom a provisional ballot is given, and shall keep
29 copies of any evidence presented by such person in support of the claim of
30 eligibility. If during the canvass the PID Board determines it has insufficient
31 information to determine whether a person given a provisional ballot is a
32 qualified elector, it shall provide written notification to such person that he or
33 she may present additional evidence of eligibility to the PID Board, and shall

1 describe the means by which such evidence may be presented and that the
2 evidence must be presented before the end of the canvassing period of 30
3 days, as provided in Section 5-11-7(G) NMSA 1978.

4 (c) Ballots shall be available to prospective electors at the
5 Office of the City Clerk, or, upon written request, shall be mailed to the
6 requesting person, until the close of business on the Friday immediately
7 preceding the date of the election.

8 (8) At least one polling place shall be provided for a PID board
9 election that is not a mail ballot only election. The City Clerk shall select the
10 most convenient and suitable public building or public school building within
11 the PID that can be obtained. If no public building or public school building is
12 available, the City Clerk shall provide some other suitable place, which shall
13 be the most convenient and appropriate place obtainable within or near the
14 PID, considering the purpose for which it is to be used.

15 (E) *Voter Eligibility.*

16 (1) No person shall be permitted to vote in any election unless
17 that person is a resident qualified elector or property owner as defined in
18 section 5-11-3 NMSA 1978.

19 (2) Each voter may cast the applicable number of votes
20 authorized in the Act. As provided in Section 5-11-7 NMSA 1978, a property
21 owner who is also a qualified resident elector shall not be entitled to an
22 additional vote as a result of residing within the PID. The following
23 procedures shall be implemented to prevent a single property owner and all
24 persons related to a property owner (i.e. a related person within the meaning
25 of Treasury Regulation 1.150-1(b), Internal Revenue Code Sections 144(a), 267,
26 707(b) or 1563(a)) (collectively a "Single Property Owner") from maintaining
27 continued effective control of the PID Board through the election of members
28 that perpetuate such control; notwithstanding any other provision of the Act
29 or this Ordinance, irrespective of the actual number of votes cast by a Single
30 Property Owner, and in accordance with the City's home rule powers granted
31 in Article X, Section 6 of the New Mexico Constitution:

32 (a) With respect to an election of new directors to seats
33 initially held by the 2 directors of a PID appointed to four-year terms by the

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1 City Council (the "Class 4 Directors"), a Single Property Owner shall be
2 permitted to cast votes sufficient in number to elect and fill no more than 1 of
3 the Class 4 Directors. The remaining Class 4 Directors' seat on the PID Board
4 shall be filled by a City Councilor whose district includes the PID boundaries.

5 (b) With respect to an election of new directors to seats
6 initially held by the 3 directors of a PID appointed to six-year terms by the City
7 Council (the "Class 6 Directors"), a Single Property Owner shall be permitted
8 to cast votes sufficient in number to elect and fill no more than 2 of the Class 6
9 Directors. The remaining Class 6 Directors' seat on the PID Board shall be
10 filled by the City Council's President.

11 (c) In the event that an election of the Class 4 Directors and
12 the Class 6 Directors occurs in a single election, Subsections 6-9-7(E)(2)(a)
13 and (b) of this PID Ordinance shall apply and, subject to Subsections 6-9-
14 7(E)(2)(d) and (e) of this PID Ordinance, a Single Property Owner shall only be
15 permitted to elect one Class 4 Director and two Class 6 Directors.

16 (d) In the event that a Single Property Owner casts votes
17 which would otherwise be sufficient in number to elect more than one Class 4
18 Director, the candidates receiving the smallest number of votes cast by the
19 Single Property Owner shall be eliminated. In the event that a Single Property
20 Owner casts an equal number of votes for two (2) or more of the Class 4
21 Directors, the PID Board shall determine the candidate or candidates to be
22 eliminated by any method deemed fair and impartial by the PID Board, e.g.
23 selecting names from a hat, drawing playing cards, etc.

24 (e) In the event that a Single Property Owner casts votes
25 which would otherwise be sufficient in number to elect more than two Class 6
26 Directors, the candidates receiving the smallest number of votes cast by the
27 Single Property Owner shall be eliminated. In the event that a Single Property
28 Owner casts an equal number of votes for three (3) or more of the Class 6
29 Directors, the PID Board shall determine the candidate or candidates to be
30 eliminated by any method deemed fair and impartial by the PID Board, e.g.
31 selecting names from a hat, drawing playing cards, etc.

32 (f) If a Single Property Owner does not cast a majority of
33 the votes in an election of new directors, the foregoing procedures described

1 in Subsections 6-9-7(E)(2)(a), (b), (c), (d), and (e) of this PID Ordinance shall
2 not apply and the members of the PID Board shall be elected by majority vote
3 of the resident qualified electors and property owners in accordance with the
4 Act and the remaining sections of this PID Ordinance.

5 (3) Any person requesting a ballot by mail for any election as a
6 resident qualified elector or property owner shall sign an affidavit that the
7 person is an elector of the PID. The affidavit shall be on a form that contains
8 in substance the following:

9 FORM OF AFFIDAVIT

10 _____ does hereby declare and warrant that (s)he is
11 either (1) the owner of record title of _____ acres of real property located in
12 the ____ Public Improvement District known as lot(s)/tracts _____, located in
13 _____ Subdivision, within the _____ Public Improvement District or (2)
14 is a resident qualified elector (i.e. a person who resides within the boundaries
15 of the _____ Public Improvement District and who is qualified to vote in
16 the general elections held in the state pursuant to Section 1-1-4 NMSA 1978).
17 I, _____ (printed name), reside at _____
18 (address), am an elector of this (name of PID) and desire to vote at this
19 election. I do solemnly swear (or affirm) that I am qualified to vote in this PID
20 election as:

21 _____ A resident of the district or area to be included in the district for
22 not less than thirty days; or

23 _____ The owner of taxable real property situated within the boundaries
24 of the PID.

25 I have not voted previously at this election.

26 Date _____

27 Signature of elector

28 _____

29 (F) *Notice of Election.* Pursuant to Section 5-11-7(A) NMSA 1978, a
30 notice of election shall be posted in at least three (3) public places within the
31 PID not less than 20 days before the election and shall be published in full, in
32 English and Spanish, once a week for at least two (2) consecutive weeks

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1 before the election in the *Albuquerque Journal* or another newspaper of
2 general circulation within the PID. The notice shall indicate the following:

3 (1) Ballots may be obtained at the Office of the City Clerk or, upon
4 written request received not later than the close of business on the Friday
5 immediately preceding the election, will be mailed to the requesting person.

6 (2) Each elector may cast the applicable number of votes
7 authorized in the Act for up to five (5) candidates listed on the ballot. A
8 property owner shall receive a ballot for each one-fifth of an acre owned, as
9 identified in the property owner's affidavit required by Section 5-11-7.D NMSA
10 1978. The PID shall calculate the actual number of acres or portions of acres
11 owned by a property owner in accordance with Section 5-11-6.B NMSA 1978.

12 (3) Ballots must be returned to the Office of the City Clerk no later
13 than 7:00 p.m. on the date of the election. Mail-in ballots must be received in
14 the Office of the City Clerk by 7:00 p.m. on the date of the election.

15 (4) If voting will be in-person, the hours during the day, not less
16 than six, in which the polls will be open.

17 ***(G)Form of Ballot; Voting and Canvassing Results.***

18 (1) The City Clerk will make ballots available to prospective voters
19 at the Office of the City Clerk. In addition, upon request, the City Clerk shall
20 mail a ballot to requesting persons upon the presentation of a title report or
21 other evidence establishing ownership of property within the PID, or the
22 presentation of evidence establishing that the person is eligible to vote under
23 the PID Act (i.e. the voter is a resident qualified elector who resides within the
24 boundaries of the PID and is qualified to vote in general elections held in the
25 state pursuant to Section 1-1-4 NMSA 1978). All property owners voting in the
26 Election must execute an affidavit stating that they are the owner of land in the
27 PID and stating the area of land in acres owned within the PID. Completed
28 ballots, whether delivered by hand or U.S. Mail, must be received by 7:00 p.m.
29 on the date of the election at the Office of the City Clerk. The form of ballot
30 shall contain in substance the following:

31 **FORM OF BALLOT**

32 _____ PUBLIC IMPROVEMENT DISTRICT

33 DISTRICT BOARD ELECTION

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1 Each owner of real property located in the _____ Public
2 Improvement District (the "PID"), located in the City of Albuquerque, New
3 Mexico and each resident qualified elector, if any, residing in the PID
4 ("Voters") may vote for up to five (5) candidates. To select a candidate, follow
5 arrow to the right of the candidate's name and fill in the oval that corresponds
6 with the candidate for whom you are voting. The ____ candidates receiving
7 the most affirmative (YES) votes will be elected as the new PID board
8 members of the PID. The polling place for the election will be _____, and
9 the polls will be open on _____, __, 20__, between the hours of _____
10 a.m. and _____ p.m. There will be no polling place for the election, which will
11 be conducted by mail ballots only. Completed ballots must be received by
12 7:00 p.m. on _____, __, 20__, at the Office of the City Clerk, 600 2nd NW,
13 7th floor, Albuquerque, New Mexico, 87102.

14 (Voters may vote YES for up to five (5) candidates. Any ballot in which a
15 Voter votes for more than five (5) candidates will be held invalid and such
16 ballot will not be counted. Should a Voter inadvertently vote for more than five
17 (5) candidates, the Voter may request a replacement ballot prior to or on the
18 day of the Election, which replacement ballot must be completed and
19 submitted before 7:00 p.m. on the day of the Election.)

- 20 1. [CANDIDATE NAME] → ○
21 2. [CANDIDATE NAME] → ○
22 3. [CANDIDATE NAME] → ○
23 4. [CANDIDATE NAME] → ○
24 5. [CANDIDATE NAME] → ○
25 6. [CANDIDATE NAME] → ○
26 7. [CANDIDATE NAME] → ○
27 8. [CANDIDATE NAME] → ○

28 Etc.

29 (2) The place for the receipt of completed ballots for the Election
30 shall be the Office of the City Clerk, 600 2nd NW, 7th floor, Albuquerque, New
31 Mexico, 87102.

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1 (3) Completed ballots, whether delivered by hand or U.S. Mail,
2 must be received by 7:00 p.m. on _____, __, 20__ at the Office of the City
3 Clerk.

4 (4) The ___ candidates receiving the most votes, as evidenced by
5 the certificate of canvassing prepared by the City Clerk, will be elected as the
6 new members of the PID board.

7 (5) The ballots are expected to be counted and the results tallied
8 in the Office of the City Clerk, 600 2nd NW, 7th floor, Albuquerque, New
9 Mexico, 87102 by the close of business on _____, 20__. In any event,
10 canvassing shall be completed within thirty (30) days of the Election and the
11 City Clerk shall prepare a certificate of canvassing for recording in the PID
12 board's minute book by the PID Clerk, which certificate will indicate the total
13 number of votes cast, the total number of votes cast for each candidate, and
14 will specify which five candidates received the most votes. The certificate of
15 canvassing shall be signed by a presiding judge of the Election.

16 (6) Candidate names shall be placed on the ballot in the order in
17 which valid nominations were received.

18 (H) *Transfer of Property Title to Qualify Electors.* No person shall take or
19 place any interest in title to taxable property in the name of another, whether a
20 fractional undivided interest or otherwise, or enter into a contract to purchase
21 or sell taxable property, for the purpose of attempting to influence the
22 outcome of any PID election. Any ballot cast in violation of this subsection as
23 determined in an election contest conducted pursuant to Section 1-14-1 et
24 seq. NMSA 1978, shall be void.

25 (I) *Board Member Terms.* Subsequent PID board members shall
26 have six (6) year terms.

27 (J) *Quorum.* A majority of the number of director positions filled
28 at the time of a PID board meeting shall constitute a quorum for the carrying
29 out of PID board duties.

30 (K) *Definitions.* The terms defined in Section 5-11-2 NMSA 1978
31 shall have the same meaning when used herein unless otherwise indicated.

32 (L) *Further Authorization.* The City Clerk, the Chairperson of the
33 PID board and the PID Clerk of a PID are authorized and directed to take all

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1 action necessary or appropriate to effectuate the provisions of this Section 6-
2 9-7. The PID Clerk shall consult with and seek the assistance of the City Clerk
3 as he or she deems necessary or convenient, but is authorized and directed to
4 take any and all steps necessary for the proper conduct of the election,
5 including giving timely notice of the election by proclamation by publication
6 and posting thereof and compliance with the Federal Voting Rights Act and
7 any other matters of federal or state election law.

8 Section 4. SEVERABILITY CLAUSE. If any section, paragraph,
9 sentence, clause, word, or phrase of this Ordinance is for any reason held to
10 be invalid or unenforceable by any court of competent jurisdiction, such
11 decision shall not affect the validity of the remaining provisions of this
12 Ordinance. The Council hereby declares that it would have passed this
13 Ordinance and each section, paragraph, sentence, clause, word, or phrase
14 thereof irrespective of any provision being declared unconstitutional or
15 otherwise invalid.

16 Section 5. COMPILATION. Sections 2 and 3 of this Ordinance shall be
17 incorporated in and made part of the Revised Ordinances of Albuquerque,
18 New Mexico, 1994.

19 Section 6. EFFECTIVE DATE. This Ordinance shall take effect five (5)
20 days after publication by title and general summary.


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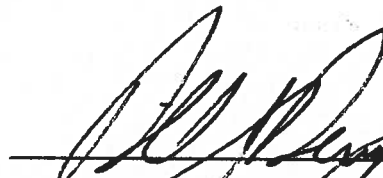
1 PASSED AND ADOPTED THIS 16th DAY OF June, 2014
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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5 Excused: Jones

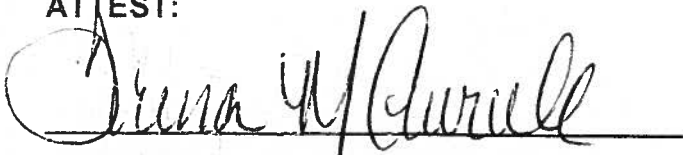
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8 
9 Ken Sanchez, President
10 City Council

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14 APPROVED THIS 27th DAY OF June, 2014

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18 Bill No. F/S O-14-12

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22 Richard J. Berry, Mayor
23 City of Albuquerque

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27 ATTEST:

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30 Trina M. Gurule, Acting City Clerk

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