

CABINET

17 FEBRUARY 2023

REPORT OF THE PORTFOLIO HOLDER FOR BUSINESS AND ECONOMIC GROWTH

A.7 OPERATIONAL CONSIDERATIONS FOR THE SUNSPOT (JAYWICK SANDS COVERED MARKET AND MANAGED WORKSPACE)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

For Cabinet to agree that the operational management of the Sunspot is no longer outsourced longer term to a third party but delivered by the Council in-house.

To advise Cabinet that the project's external partners will provide on a short term, interim advice and support to the Council for a fee and for Cabinet to receive an update on progress with the construction phase (Jaywick Sands Covered Market and Managed Workspace).

EXECUTIVE SUMMARY

- At their meeting in May 2021, Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands. Cabinet subsequently determined in October 2021 to outsource management of the building, with a direct award to the Colchester Business Enterprise Agency (Colbea) by means of a service contract and licence with a value of £90,000 in year one.
- After a change of management at Colbea, the organisation have subsequently informed the Council they are no longer in a position to take on the licence agreement, which may have been driven by the financial risk associated with the building. These risks will therefore remain with the Council, as set out in elsewhere in this report. Colbea do however remain content to enter into a service contract for a period of 7 months. In order to increase their capacity to deliver at pace however, Colbea will partner with HAT projects for additional support. Colbea have also offered a further service once the 7 months activation period has ended, which will consist of drawing on their specialist expertise in this area to manage staff within the building, until such a time as Council staff are fully trained and self-sufficient.
- As a result of this change in position, it is recommended to bring the operation of the building in house, to be run by staff directly employed by the Council. Colbea currently hold the contract to provide the Council's Business Support Service and are committed to provide the support needed to any future tenants in the Sunspot.
- The activities associated with this in-house approach will be undertaken within the General Fund, with the costs charged to the HRA via existing internal processes. Direct property related transactions such as maintenance and rental income will be accounted for within the HRA. Based on this approach, the financial risks associated with bringing the operation of the building in-house will fall to the HRA. The shorter to medium term impact is set out within this report and in the longer term the operation and management

of the units will be considered as part of the HRA Business Plan.

- It is considered that there are three key options available to refocus Colbea's service contract onto:
 - a. **In-house only:** Council staff activate and run the building: £80,000 net
 - b. **Outsource activation** of the centre from February 2023: Colbea contracted to develop policies, procedures, training and market the building ahead of opening in the summer; £150,000 or
 - c. **(Recommended) Outsource activation and offer short term ongoing management support** for the operation of the centre for 7 months, with the option to continue with a reduced support service after the 7 months has expired, to ensure the council has the required expertise to deliver. £170,000 net.
- It is recommended that subject to c above, Cabinet allocates an **additional £80,000** to the year one operational budget, and in year 2 an **additional £40,000** out of the reserve set aside to support the project.
- The above approach will therefore require an associated reduction in the revenue contribution to the HRA Capital Programme. This inherently increases the construction cost risk but based on the project update set out elsewhere in this report and the additional funding recently secured, this is expected to be successfully managed during the on-going delivery phase of the capital works.
- There are a number of technical accounting changes required to reflect the above, with a delegation set out in the recommendations to enable the required changes to be made.
- The construction costs of the building, which is scheduled to complete in the summer of 2023 have risen and the project is delayed due to significant ground contamination (see Annex A for information). Additional funding towards the development was secured externally from SELEP in December 2022 and ECC in January 2023 and allocated internally.

RECOMMENDATION(S)

It is recommended that Cabinet:

- a) approves that the operational management of the Sunspot (Jaywick Workspace) and is now not outsourced, longer term to a third party but delivered by the Council in-house;
- b) approves reliance on the previous exemption to the Council's Procurement Procedure Rules to proceed with a contract with Colbea together with HAT projects to provide interim management and operational support to the Council for a period of 7 months;
- c) delegates authority to the Corporate Director (Place & Economy) to agree the final terms of the contract in consultation with the Portfolio Holders for Housing and Business and Economic Growth;
- d) approves allocation of an additional £80,000 to the year one operational budget and in year 2 and additional £40,000 that is to be met from a corresponding reduction in the current revenue contribution to the HRA Capital Programme in

2022/23.

- e) Agrees that the operation of the in-house management of the Sunspot be accounted for in the General Fund, with corresponding recharges made to the HRA as appropriate and all related property transactions including management, maintenance and rental payments being accounted for in the HRA; and
- f) agrees a delegation to the Council's S151 Officer to undertake the necessary changes to the budget to reflect the approach set out in e) above within the financial parameters set out within this report and appendices.

REASON(S) FOR THE RECOMMENDATION(S)

To allow the building to open in a timely and efficient manner, giving businesses and the community confidence in the Sunspot and builds a strong reputation with the wider district. The recommendation to operate the building in house, will ensure the Council retains control on this important project and contributes positively towards the ongoing regeneration of Jaywick Sands.

By commissioning Colbea and HAT Projects for a short-term period to provide interim management and operational support, a process for continued success of the building will be established and embedded in the operational culture and as such, contributing towards long term sustainability.

ALTERNATIVE OPTIONS CONSIDERED

1. **To run the building in-house only (without external support).** The Council currently has limited expertise in specific elements of such a project and in particular the letting of commercial workspace. It is considered that supplementing the skills of the Council in facility management with additional support, would ensure a successful outcome.
2. **Outsource activation (without ongoing support).** To provide Colbea and HAT projects with a service contract for the first 7 months only to activate the building and establish the first tenants but omit the proposal for a reduced level of support until such a time as the Council's staff are fully trained. It is considered that this option will not ensure the sustainable future of the building
3. **Re-tender for an operations partner under the original or new terms.** Due to the current financial climate and increased risks, it is highly likely that tenders would have increased since the initial exercise. This would also delay the activation of the building, when it is essential to progress without delay.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Corporate Plan (2020-2024)

The Sunspot responds directly to the corporate priorities identified within the Council's 2020-2024 Corporate Plan and accords with the Community Leadership and Tending4Growth themes:

- Support existing businesses
- More and better jobs
- Develop and attract new businesses
- Maximise our coastal and seafront opportunities

The Project has been identified by Cabinet as a Key Priority Action for 2021/22 (Reference D1) with milestones to deliver against the Corporate Plan

Tendring Economic Strategy (2020 – 2024)

The Tendring Economic Strategy was updated in 2020The Strategy recommends:

- A greater focus on Clacton and Jaywick, noting a decline in economic performance in these locations. This focuses specifically on local participation within communities and addressing long term prosperity; and specifically for Jaywick Sands recommends:
- A need for long term investment in both the physical and human assets of the area to enable a positive economic future for Jaywick Sands. Bold new approaches, built around citizen participation and the building of community capacity, are needed. The response should be locally focussed and long-term, building upon the aspirations of the Jaywick Sands Coastal Community Team to develop a more sustainable and resilient community;

Tendring Local Plan (2013 – 2033)

The proposed development aligns with the strategic vision for the Council's Local Plan (2013 – 2033) which seeks to create resilient, successful mixed communities that address issues of deprivation and support a thriving local economy.

Jaywick Sands is identified under Policy PP14 Priority Areas for Regeneration as a priority for focused investment in “social, economic and physical infrastructure and initiatives to improve vitality, environmental quality, social inclusion, economic prospects, education, health, community safety, accessibility and green infrastructure.”

North Essex Economic Strategy

At a sub-regional level the proposed development corresponds with the aims and objectives of the North Essex Economic Strategy (NEES). This articulates a vision in which citizens live in new and established communities that are well connected and inspire innovation and creativity.

OUTCOME OF CONSULTATION AND ENGAGEMENT

Extensive community and stakeholder engagement and research over the last few years has shown that growing local jobs and the local economy is a key priority for stakeholders and is viewed as an essential part of regenerating Jaywick Sands and lifting it out of the bottom decile of the Index of Multiple Deprivation.

In April 2021 a public consultation had been completed in order to engage with residents on proposals for the development. Feedback from residents has informed the work of the Council's Professional Team.

During the end of 2022 consultation took place with Colbea in regards to the Service Contract and how it can refocused to support the activation and management of the building as well as providing support until such a time as the building is self-sufficient.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input checked="" type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the
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		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	service budget 16th January 2023
<p>Cabinet in October 2021 granted an exemption to the Council's Procurement Procedure Rules following the recommendation from the Council's Section 151 Officer and the Monitoring Officer allowing a direct award to the Council's Operating Partner, Colbea, to enter into a Service Contract for the Management of the Facility and to provide a Business Support Service. Colbea are now unable to provide this service to the Council on a longer-term basis but have offered working together with HAT Projects to provide an interim management and operational support to the Council for a period of 7 months activation. Whilst the length of this proposed contractual support is lower than anticipated in October 2021, the reasons for remaining with Colbea together with HAT Projects are justified, due to their ongoing relationship with the project. After the 7 month activation period Colbea have further offered to extend the contract to provide management support to Council staff within the building, until such time as staff are fully trained and self-sufficient.</p>			
yes <input type="checkbox"/>	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:		
<p>The contract should be on the Council's Standard Terms and Conditions, which is based on monthly payments, with reporting mechanisms on performance.</p> <p>Cabinet also delegated authority to the, then, Interim Corporate Director (Project Delivery), to agree the terms and conditions of the Service Contract, within the context of the principles set out in the Portfolio Holders' joint report, in October 2021, in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth. It is suggested that the final scope and terms of the contract should still be agreed in consultation with the relevant Portfolio Holders.</p>			
FINANCE AND OTHER RESOURCE IMPLICATIONS			
<p><u>Finance</u></p> <p>In May 2021 Cabinet agreed the original budget allocated a budget of £67,000 for the Operating Partners and associate business support. This budget allocated £17,000 to Colbea for their input into the design and business case for the building and £45,000 for year one operating costs.</p> <p>In October 2021 Cabinet agree to increase this budget by a further £45,000 for year one operating costs providing a total budget of £107,000. Colbea claimed £17,000 during the design stage leaving a balance of £90,000.</p> <p>At the same cabinet meeting it was also agreed to add £25,000 to enable EEC to complete works on the road and associated drainage in support of deliver of the project.</p>			

Projections for the operating costs of the building using the suggested rent and current cost of living are;

- including fuel prices it is anticipated that in year 1 a total expenditure of £130,000 would be required (Appendix B). Anticipated income for year 1 would be £50,000.
- to include support activation when the building opens expenditure for year 1 is £200,000
- To also include long term management support expenditure for year 1 is £218,000

	Expenditure	Income	Net	Current Budget	Total
In-house only	£130,000	£50,000	£80,000	£90,000	£10,000
Activation support	£201,000	£50,000	£151,000	£90,000	£61,000
Activation and management support	£218,000	£50,000	£168,000	£90,000	£78,000

On the 11th March 2022, £411,000 was allocated from the New Homes Bonus as a revenue contribution to the HRA Capital Programme to support the construction cost of the building. Based on the current detailed project update (Annexe 1), it is expected that not all of this funding will be required. Therefore, it is proposed to reduce this revenue contribution by a corresponding amount to meet the revenue costs associated with the management of the units being delivered in-house as set out above.

Once the construction phase of the project has been completed, a further review will be undertaken, which could include decisions relating to any underspend of capital resources if relevant. Such decisions could include setting aside such funding to underwrite the ongoing risk to the HRA.

Current funding and budgets are on **Annex A** and an Operation budget forecast is on **Annex B**

It is envisaged that the break-even point will be year 3 with the following occupancy rates:

	Year 1	Year 2	Year 3
All office/ industrial/kiosks	60%	70%	85%
Covered market spaces	80%	80%	80%
Training room utilisation	40%	40%	40%
Café	100%	100%	100%
No. of virtual tenancies	2	2	3
Target income	£7,133	£113,780	£142,415

Sensitivity testing using an increase rate of inflation supports that year 3 will be break-even.

Stress testing has been carried out with regards to voids.

		6 months	Year1	Year2	Year3	Year4	Year5
2 extra voids	Income	5,219	41,494	94,817	118,679	128,582	132,439
	Expense	12,498	213,030	135,698	115,049	118,500	122,055
	Surplus	-7,279	-171,535	-40,882	3,630	10,081	10,384
4 extra voids	Income	5,219	37,345	85,335	106,811	115,724	119,195
	Expense	12,498	213,030	135,698	115,049	118,500	122,055
	Surplus	-7,279	-175,685	-50,363	-8,238	-2,777	-2,860

Accounting for the Property in the HRA

At its meeting on 21st May 2021 Cabinet approved the development of a Covered Market and Managed Workspace facility at Jaywick Sands and made associated decisions to enable the development to proceed. Cabinet agreed to seek approval from the Secretary of State under Section 12 of the Housing Act 1985 to use the land (which is held in the Housing Revenue Account – HRA) for non-housing. The Secretary of State agreed to this request in January 2022.

Although it was agreed to keep the land and property within the HRA, the proposed change in the bringing the management of the units in-house will have an impact on the HRA Business Plan.

As the property is held in the HRA, the usual property related transactions will be accounted for within that fund e.g. management, maintenance and rental / other income. However, it is proposed to account for the management activities associated with the units within the General Fund. As part of existing financial / accounting practices, a recharge will be made from the GF to the HRA to cover the costs incurred. This in effect means that the net financial risk associated with the operation of the units would fall to the HRA. As set out above, the provision of additional funding to establish the in-house approach along with reviewing any potential capital underspend at the end of the capital element of the project supports the management of this risk to the HRA. In the longer term, the risk would be considered as part of updating the HRA Business plan on an on-going basis.

There are various accounting adjustments that are required within the budget to reflect the above approach. A delegation is therefore included within the recommendations above to enable the various changes to be made but within the financial parameters set out within this report and appendices.

Staffing:

In order to operate the building and ensure it is maintained in good working order, tenants are recruited and supported, events and markets are promoted and meeting room is available and rented on a regular basis, it is important that there is a dedicated member of staff is on site. Recruiting to this position will ensure that the resources are available to provide the time required to promote the building and ensure its success.

yes <input type="checkbox"/>	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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There are no additional comments over and above those set out elsewhere in this report. However the Service must continue to closely monitor and report appropriately in respect of the on-going construction costs of the project as it is now has to be delivered against a reduced capital programme budget, which has been required to 'release' the necessary funding to support the costs of bringing the operation of the management of the Sunspot in-house.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Underspend on the £411,000 in reserve are likely to be required in years 1 and 2 or until such time as it is self-sufficient. Forecasts
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	predict that the building will be self-sufficient in year 3
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Policies and procedures will be built on existing TDC documents setting out governance and reporting processes between TDC and Colbea.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Actively marketing any empty units to reduce any void time and provide a variety of opportunities to businesses. Providing solar panels to reduce running costs which have a 5 year pay back.

MILESTONES AND DELIVERY

February/March 2023

- finalise the Service Contract with Colbea and HAT Projects
- commence marketing the building and securing tenants
- recruit a centre manager
- draw up an activation plan

Summer 2023

- Construction complete
- Building open to tenants
- Café, garden and market open to all
- Commencement of summer events

ASSOCIATED RISKS AND MITIGATION

During the management of the facility there is the risk that the Council is unable to recruit a suitable member of staff. This could expose the Council to operational and financial losses linked to void units, management (Human Resources) and day-to-day maintenance costs.

Key remaining risks and constraints include:

Risk	Impact	Mitigation/quantified risk within contingency
Insufficient budget to operate the building	Rent increase or unable to operate the building. There is a wider risk to the GF or the HRA	Retain any underspends in the budget until such time as the building is self-sufficient.
Reduced demand for commercial space in the area.	Operational viability could be compromised if occupancy levels do not reach projected levels.	Net scheme benefits will be realised even if occupancy is far lower than projected.
Predominantly charities and community/ public sector organisations as tenants	Provide the wrong impression to potential businesses. Discourage retail and not increase	Effectively manage the balance of business types and encourage new and emerging SME's to apply for units.

	footfall	
Suitably qualified staff for the facility do not choose to apply for the position.	Programme delay while suitable staffing is found.	A proposal for temporary management of the facility by external operators for the first 7 months is proposed while a suitable candidate is found and trained.

EQUALITY IMPLICATIONS

This development responds to the government's levelling up agenda and will provide a covered market and affordable business space on a gateway site in Jaywick Sands. This will support the local economy, increase opportunities for local entrepreneurship, and grow and retain economic activity and job creation in the local area - the most deprived in the country.

The project forms part of a wider regeneration initiative that aims to lift Jaywick Sands out of the bottom decile of the Index of Multiple Deprivation, improving poor quality housing, stimulating economic growth and maximising the potential of the beach for tourism.

Building Accessibility

The building has been designed with accessibility at the forefront. Tenants and public W.C.'s are gender neutral, accessible for wheel chair users, and have support rails. Baby changings facilities are included. Tenants WCs are fitted with a disabled alarm. A lift will be available for first floor access. Easy access to the community areas and building are part of the design.

SOCIAL VALUE CONSIDERATIONS

Prioritising local businesses through the operation of managed workspace and through targeted business support (information, advice and guidance) will provide the opportunity for Community Economic Development which will revitalize the area, promote sustainability, attract investments, build wealth, encourage entrepreneurship and create jobs

Regeneration of the area with improved public realm including a community garden, outdoor market/events space and a safe pavement connecting the two main residential areas of Jaywick Sands, will have a positive impact on the quality of life currently experienced by residents.

By managing the project directly, there is potential for an impact on local employment, due to the recruitment process which will follow, if this report is approved.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

Under floor heating and an Air Heat pump has been fitted the building which will provide efficient and carbon neutral heat and hot water. Solar light will be fitted to the external areas of the building.

By fitting solar panels with batteries to the roof the power needed from the grid would be greatly reduced. Excess stored energy would be available when solar generation is low. Pay back is 5 years.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

The proposed development is designed in

	line with good practice guidelines, limiting the opportunities for crime and disorder. Subject to approval, the building and its external spaces will be actively managed by stall and the development will create the opportunity to host internal/external activities and events thereby encouraging footfall – animated spaces are generally safer places given the presence of natural/passive surveillance. The building will also be subject to CCTV surveillance, which will be managed (subject to approval) by the Council's Operating Partner.
Health Inequalities	<p>The building will be operated to provide a space that will improve employment opportunities through the provision of managed workspace and through targeted business support (information, advice and guidance) will positively impact on the health and wellbeing of local people.</p> <p>The Covered Market will potentially provide the means through which local people can more readily access fresh fruit and vegetables, thereby providing the opportunity for healthy living with improved health outcomes.</p> <p>Improved public realm including a community garden, outdoor market/events space and a safe pavement connecting the two main residential areas of Jaywick Sands, will have a positive impact on the quality of life currently experienced by residents.</p>
Area or Ward affected	The Sunspot facility is located in the West Clacton & Jaywick Sands electoral ward.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Cabinet adopted the Council's Back to Business recovery plan at its meeting on 13 November 2020, which confirmed that a bid had been submitted to South East Local Enterprise Partnership (SELEP) for a new Covered Market and Managed Workspace facility at Jaywick Sands. Further to that, on 19 February 2021 Cabinet announced the success of that funding bid in the Back to Business Delivery Plan and their intention to deliver the project for Jaywick Sands, *to 'support the local economy, grow local entrepreneurship, and grow and retain economic activity and job creation in the local area.'*



In December 2020, the Council moved to procure its Professional Team (HAT Projects) to lead on the technical design and cost planning of the proposed building and to manage the construction phase through to completion and in May 2021, the Council selected an Operating Partner (Colbea). Colbea assisted HAT Projects with the Building Design (Space Planning) during the pre-construction and construction phases of delivery.

Following feedback from MHCLG, officers reviewed the options of a lease, a licence, and a service contract, considering the financial implications for the Council and the sharing of risk with the Colbea, our Operating Partner, to enable successful project delivery. It was recommended that a Service Contract for Management of the Facility and Business Support Service and Licence to Occupy would enable the most effective project delivery for the benefit of the community, better share risk between the Council and Colbea

A Service Contract and Licence to Occupy, in addition to the new provisions proposed by Colbea the Operating Partner, differed from the original procurement sufficiently that it is no longer viable to continue with the previous procurement exercise in its entirety. One of the options was be to commence a fresh procurement tender to select an Operating Partner against the new terms, however, at this stage, this process would impact on the project's delivery timetable. Given we only received two bids for the original procurement, and the successful Operating Partner was the only applicant with deep experience of managed workspace delivery, it is proposed a direct award is made to Colbea for this part of project.

In October 2021, Cabinet gave their approval to make a direct award to Colbea as Operating Partner for Jaywick Sands Covered Market and Managed Workspace, based on a Licence to Occupy and Service Contract, and to increase the Council's financial contribution for enabling works and the operating costs of the facility for year one.

Colbea has since had a change of management and a decision was made to step back from a Licence to Occupy due to the increased financial risk but were still keen to provide support to the project and to continues with the Service Contract.

PREVIOUS RELEVANT DECISIONS

Decisions made by Cabinet on 8th October 2021.

- (a) notes the feedback from the Ministry for Housing, Communities and Local Government (now the Department for Levelling Up, Housing & Communities) regarding the Council retaining ownership of the Jaywick Sands Covered Market and Commercial Space once constructed;
- (b) grants an exemption to the Council's Procurement Procedure Rules, having considered the recommendation from the Council's Section 151 Officer and the Monitoring Officer, in order to allow a direct award to the Council's Operating Partner, COLBEA, to enter into a Service Contract for the Management of the Facility and to provide a Business Support Service;
- (c) authorises the Interim Corporate Director (Project Delivery), to agree the terms and

conditions of the Service Contract, within the context of the principles set out in the Portfolio Holders' joint report, and in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth;

- (d) endorses the granting of a Licence to COLBEA to occupy the property on terms to be agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth;
- (e) endorses the allocation of up to an additional £70,000 from the budget set aside to support housing in Jaywick to the Jaywick Sands Covered Market and Managed Workspace project, with the final amount being agreed by the Interim Corporate Director (Project Delivery), in consultation with the Portfolio Holder for Housing and the Portfolio Holder for Business and Economic Growth; and
- (f) authorises the Council's Section 151 Officer, in consultation with the Portfolio Holder for Corporate Finance and Governance, to make the necessary changes to the Council's General Fund and Housing Revenue Account budgets to reflect the decisions made.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

[Cabinet Report 21st May 2021: Jaywick Sands Covered Market and Managed Workspace](#)

[Cabinet Report 8th October 2021: Jaywick Sands Covered Market and Managed Workspace](#)

APPENDICES

Annex A: Update to progress and information on solar panels



**Annex A-Update to
the Sunspot (Jaywick)**

Annex B: Financial Forecast



**Annex B - Financial
Forecast for the Sun**

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