

1 STATE OF NEW YORK

2 COUNTY OF BROOME

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4 In the Matter of the  
5 Proposed Spark Broome, LLC, Project

6 - - - - -

7 A Public Hearing held at 243 Main Street, Johnson  
8 City, New York, on the 9th day of October, 2019,  
9 commencing at 5:00 PM.

10  
11 BEFORE: JOSEPH B. MEAGHER  
12 Counsel for Broome County  
13 Local Development Corporation

14  
15 REPORTED BY: CZERENDA COURT REPORTING, INC.  
16 71 State Street  
17 Binghamton, New York 13901-3318  
18 KEVIN CALLAHAN  
19 Shorthand Reporter  
20 Notary Public  
21 Binghamton - (607) 723-5820  
22 (800) 633-9149  
23  
24

In the Matter of a Public Hearing

1                   HEARING OFFICER:     Good evening,  
2                   gentlemen.  My name is Joe Meagher, and I'm  
3                   counsel to the Broome County Industrial  
4                   Development Agency.

5                   The Agency is conducting a hearing  
6                   pursuant to General Municipal Law 859-A to  
7                   seek public comment on an application for  
8                   financial assistance submitted by Spark  
9                   Broome, LLC, in connection with the proposed  
10                  redevelopment, renovation and equipping of a  
11                  150,000-square-foot, two-story former Sears  
12                  building located within the Oakdale Mall in  
13                  the Village of Johnson City, Town of Union,  
14                  County of Broome and State of New York.

15                  The acceptance of the filing by the  
16                  Agency does not infer any position on the  
17                  approval or disapproval of the financial  
18                  assistance requested.  No position will be  
19                  taken by the Agency until the public hearing  
20                  is concluded.

21                  A copy of the application along  
22                  with a cost-benefit analysis prepared by the  
23                  Agency is available for your review at the  
24                  offices of the Agency during regular

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1 business hours.

2 Notice of this hearing was  
3 published in the PRESS & SUN BULLETIN on  
4 September 25, 2019.

5 I request that each person wishing  
6 to speak state his or her name, and if  
7 you're speaking on behalf of an entity or  
8 organization, please, identify that entity  
9 or organization.

10 The hearing will remain open until  
11 all public comment is concluded.

12 First I'm going to ask Tom Gray,  
13 Senior Deputy Director of Operations for the  
14 Agency, to explain the benefits that have  
15 been requested by Spark Broome, LLC.

16 MR. GRAY: Thanks, Joe.

17 The Project Spark Broome, LLC, will  
18 involve the redevelopment, renovation and  
19 equipping of the 150,000, plus or minus,  
20 square foot, two-story building to be  
21 subdivided and repurposed with a strategic  
22 mix of tenants as an inside plaza including  
23 office, commercial and retail spaces  
24 situated within the former Sears building

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1                   located in the Oakdale Mall, 501 Reynolds  
2                   Road, Village of Johnson City, Town of  
3                   Union, Broome County, New York.

4                   The company has requested financial  
5                   assistance from the Agency in the form of  
6                   abatement of sales and use taxes and  
7                   mortgage taxes, as well as an abatement of  
8                   real property taxes deviating from the  
9                   Agency's uniform tax exception policy.

10                  Copies of the application are  
11                  available at the office of the Agency for  
12                  your review. We are located at 5 South  
13                  College Drive, Suite 201, Binghamton, New  
14                  York.

15                  All comments made at this public  
16                  hearing will be transcribed by our reporter  
17                  and presented to the Agency's Board of  
18                  Directors for their review prior to any  
19                  decision on the application.

20                  HEARING OFFICER: Thank you, Tom.

21                  All right. John, I'm going to turn  
22                  to you first and ask if you wish to speak on  
23                  the record.

24                  MR. SOLAK: Yes, I do.

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1 HEARING OFFICER: Proceed.

2 MR. SOLAK: My name is John Solak.

3 First let me reiterate some of my  
4 concerns. We have a public hearing being  
5 conducted by the legal counsel for the  
6 Broome County IDA, who has a contractual  
7 relationship with the Broome County IDA, who  
8 is not an officer of the Broome County IDA  
9 or is not an appointed board member. This  
10 is a concern because public hearings are  
11 defined as a meeting of the body in which  
12 the body takes testimony. A quorum must be  
13 present. Here we do it differently.

14 Now, Kevin McLaughlin once said  
15 that he checked with several IDAs in the  
16 past, and they do it the same way we do it  
17 here in Broome County. However, I've  
18 checked with IDAs, also, and they do it the  
19 proper, legal and the just way to do this.

20 One of the things about taking  
21 testimony is you look people in the eye and  
22 you're there to see them fidget and to  
23 squirm and to observe their demeanor.  
24 Without that and just reading a cold

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1 transcript that is hardly taking testimony.  
2 So, I view this public hearing as being  
3 invalid because of those reasons.

4 Now, secondly, the board, the  
5 village board, has already approved this.  
6 Now, there's been some concern in the past  
7 at IDA meetings who goes first. The City of  
8 Binghamton was always going last, and a lot  
9 of the votes taken at the IDA were passed  
10 through, as well, the city, or the  
11 municipality still has to approve this.

12 Now, in this case now the village  
13 board has, indeed, approved this. So, this  
14 is the last stop on the train, which puts  
15 the IDA in the position, the awesome  
16 position, the burdensome position of  
17 inflicting disagreement upon the entire  
18 county at large, not just the village and  
19 the Town of Union, because it is those  
20 taxpayers that will pay for imbalances  
21 created.

22 We have to look at the history of  
23 this deal, and Jason Garnar announced it.  
24 He announced it shortly after several

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1 contributions were made to him by the  
2 Matthews Family interest. They are one of  
3 his biggest campaign donors. Jason Garnar  
4 said on WNBC that he had to do something  
5 about the Oakdale Mall, that he had to save  
6 the Oakdale Mall. This was contrary to  
7 positions earlier in which he claimed that  
8 it was not his charge to save the Oakdale  
9 Mall.

10 So, he fashions a lease, or a lease  
11 was brought to him that had the highest  
12 square footage in Broome County, 15-plus a  
13 square foot for office space, when there's  
14 suitable space all over Broome County in the  
15 \$12 range, be it at Glendale, be it at Metro  
16 Center, be it all over. Now, Jason Garnar  
17 justified this deal that it was 60 or 80,000  
18 in total cheaper than the existing lease.  
19 Now, in any form of endeavor you don't  
20 say -- you don't justify a new mistake by  
21 saying it's cheaper than the past mistake  
22 that you've made.

23 And the county legislature and Dan  
24 Reynolds approved this. My county

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1            legislator, Bob Wesler, didn't even think  
2            about the jobs that he was losing in his  
3            district, didn't want to hold it up, wanted  
4            those jobs to leave the downtown area and  
5            come over here.

6                        Now, the fact of the matter is when  
7            this deal was announced, the Matthews  
8            Family's Sparks, LLC, didn't even own this  
9            building. This was only acquired after the  
10           fact of the lease being approved. Now, the  
11           question -- by the county legislature.

12                      Now, the question is is there a  
13            lease? And it is incumbent upon the Broome  
14            County IDA to have a copy of this lease, an  
15            executed copy of this lease, by -- by Broome  
16            County to see exactly what's in it.  
17            Otherwise, we're flying blind and going on  
18            say-sos of people that may or may not be  
19            accurate.

20                      One of the things that is pointed  
21            out in this lease is that Sparks, LLC, has  
22            a -- will refrain from challenging the tax  
23            assessment. Well, they're already getting a  
24            huge reduction in the assessment because of



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1           the payment in lieu of taxes, which is a de  
2           facto huge reduction in the taxes.

3                       Now, this has unintended  
4           consequences. The Sears building is in  
5           legal proceedings against the Town of Union,  
6           I believe, for some back -- back -- no? No?

7                       MR. COOK:     It's been settled.

8                       MR. SOLAK:    That settled? When  
9           was that settled?

10                      MR. COOK:    Last -- the end of last  
11           year. They filed again, but it's not valid.

12                      MR. SOLAK:    Has it been ruled by  
13           the Court as being invalid?

14                      MR. COOK:    No. But we have the  
15           documentation. We supplied it to the  
16           attorneys, and I think it's in due course.

17                      Sorry to interrupt you.

18                      MR. SOLAK:    Yeah. No. No. I  
19           mean, I'm -- you know, that's all right.

20                      MR. COOK:    That's not anything you  
21           would necessarily know.

22                      MR. SOLAK:    Yes. Right. Well,  
23           again, we go back to what is known and what  
24           is not and what the board will have in terms

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1 of papers in front of them when they vote on  
2 this thing.

3 Now, if -- I'm of the opinion that  
4 if a court hadn't kicked this out with an  
5 official decision, then that would still  
6 make the assessment challenge from Sears,  
7 Seritage, whatever their entity is, still  
8 have a fighting chance to reduce it and  
9 that -- unless there was -- and then this is  
10 another thing. If this deal was cooking  
11 with the owners of the Sears property,  
12 perhaps, that was -- that was the quid pro  
13 quo in there, but we don't know it. So,  
14 those are the questions that I'm throwing  
15 out to the board.

16 Now, I think -- now, the form, and  
17 I've remarked about this in the past, that  
18 the IDA has the developers fill out as far  
19 as reputation and lawsuits and that kind of  
20 things goes back five years. I've mentioned  
21 this that it should will go back longer.  
22 Indeed, if the Matthews Family was involved  
23 in this and this form went back, say, seven  
24 years instead of five, they would have to

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1           fess up to the EIT fiasco.

2                       So, I will now talk about the  
3           reputation of the Matthews Family, which I  
4           believe deserves to be noted on the record  
5           here. Matthews Family has been involved in  
6           numerous bankruptcy proceedings including  
7           the bankruptcy proceeding of 18 or 15  
8           entities throughout the United States of  
9           America and one big, grand omnibus  
10          bankruptcy proceeding in Syracuse and not to  
11          mention the EIT bankruptcy where the  
12          principals of EIT shortly before declaring  
13          bankruptcy took out a million dollars for  
14          themselves each. This is no small thing  
15          that should be overlooked.

16                      Developers have reputations, and I  
17          think that any thinking person would realize  
18          that when you look at the Matthews Family's  
19          operations from urban renewal, which Jim  
20          Matthews and other individuals were secret  
21          partners with Murray Walter and Murray  
22          Walter suddenly drops dead and all of a  
23          sudden the partners, including Jim Matthews,  
24          suddenly claim a secret interest in Murray

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1           Walter's operation and they were all bidding  
2           against each other for jobs in the urban  
3           thing. And the other people involved in  
4           that, and I won't leave them out, Ed Nezlick  
5           was involved in that and so was the  
6           Sarkisians. So, this is a curious way of  
7           doing business that you bust out entities  
8           and you -- and it's a small community and  
9           you do this without reservation, without  
10          shame, and this is an integral part of the  
11          Matthews Family thing. As I mentioned,  
12          their contributions to Jason Garnar, one of  
13          his -- their largest contributors to his  
14          campaign is the Matthew Family real estate  
15          interests. So, this is very, very bad.

16                 So, wrapping that up, does the  
17          board have the lease in front of them? If  
18          they don't have a signed and executed lease,  
19          then they cannot possibly refer to this as  
20          being a good pilot or a bad pilot because  
21          they don't have the lease. We know that  
22          it's a premium price. Now, why would you  
23          grant a lease at a premium rate, a square  
24          footage rate, that I believe is a record for

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1           such space in Broome County? Why would you  
2           have any tax reductions whatsoever when you  
3           have that hanging out there?

4                        So, now we go to the schedule  
5           and -- of pavements, and, again, this sets a  
6           bad example. Now, far from saving -- saving  
7           the mall -- and we should note here that in  
8           your application to the IDA it cites Lourdes  
9           Hospital and the brewery paying around \$5,  
10          \$7 a square foot. The fact of the matter is  
11          and the simple fact of the matter is this is  
12          a rip-off. The county could have bought  
13          this property for 3 million, improved at  
14          4-and-a-half million and saved the taxpayers  
15          about \$12 million, and it wouldn't be a  
16          payment in lieu of taxes.

17                       Now, what does this do to the rest  
18          of the mall? Well, it puts the rest of the  
19          mall in a precarious position and puts the  
20          Matthews Family in the driver's seat that  
21          they want to be in because they can,  
22          essentially, pressure the existing owners of  
23          the mall or the bond holders, whoever, is  
24          going to think that they have some sort of

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1 track record.

2 So, these are things that are very  
3 distressing. I believe that this is a fixed  
4 deal.

5 Now, job creation requirements are  
6 the key. The Agency has done a very, very  
7 poor job in enforcing job creations. And  
8 you know if job creation is not important,  
9 then every homeowner in the city and village  
10 in Broome County and all over should get  
11 payments in lieu of taxes because they can  
12 create construction projects of their own  
13 and hire construction workers to remodel  
14 their place, and nobody has yet proposed  
15 that ordinary homeowners would be getting  
16 payments in lieu of taxes.

17 So, this is a bad deal. It's a  
18 continuing of the saga of crooked developers  
19 doing business with newly formed LLCs with  
20 no track record. And, again, the reason  
21 that I'm talking about the Matthews Family  
22 is this is an entity. Sparks, LLC, has no  
23 track record of doing anything. So, you  
24 must go back to the principals involved in

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1           this deal and look at their reputation and  
2           their ability to execute this strange,  
3           strange deal.

4                       Now, the county workers, there's  
5           going to be -- if you look at it wholly,  
6           there's no indication really that there's  
7           going to be any change in the Lourdes  
8           Hospital numbers, any change in the county  
9           numbers of any kind of meaningful level that  
10          would justify a payment in lieu of taxes to  
11          this level.

12                      So, this is going to depress the  
13          property values of the Oakdale Mall. There  
14          is no question about it. Just the sale of  
15          the building can be used by anyone near that  
16          area, and I'm talking about the former Giant  
17          Plaza, I'm talking about the Toys "R" Us,  
18          Wegman's, anybody can say across the street,  
19          anybody can now say with the Sears  
20          transaction in place, that wouldn't have  
21          been in place if Jason Garnar didn't  
22          facilitate this lease, that real estate  
23          values are at huge reductions to what they  
24          are listed on the assessment thing.

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1                   So, this -- the board of directors  
2                   need to ask all these questions. It needs  
3                   to hold this over. It needs to have -- and  
4                   I note here tonight that there's no one from  
5                   Broome County government here that can shed  
6                   any light on the lease itself, can make any  
7                   statement that can be held accountable under  
8                   the court reporter's capable stenography.  
9                   So, there's no one from Broome -- the only  
10                  person that's here is the representative  
11                  from Sparks, LLC, and the Town of Union  
12                  Assessor. So, we're flying in the blind  
13                  here. And if these individuals with the  
14                  county don't appear before the IDA, if the  
15                  Matthews Family does not do the IDA the  
16                  courtesy of showing up at the meeting and  
17                  answering questions, then I think this  
18                  should be rejected.

19                  And I've taken enough of your time,  
20                  so thank you very much.

21                  HEARING OFFICER: Thank you, John.

22                  Does anyone else wish to be heard?

23                  (Whereupon there was no response)

24                  HEARING OFFICER: Is the Mayor



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1 still here?

2 MR. COOK: I'm not sure where he  
3 went. I don't know if he -- his phone is  
4 here, so I don't think he's gone for good.  
5 I'm not sure what he has going on.

6 HEARING OFFICER: Let's wait until  
7 the Mayor comes back and see if he wishes to  
8 be heard.

9 Mayor Deemie, Mr. Solak has  
10 concluded his remarks. Do you wish to be  
11 heard with respect to this project?

12 MR. DEEMIE: Yeah. I wish I could  
13 have heard all of his remarks there, but I  
14 missed a lot of them.

15 HEARING OFFICER: Before you  
16 continue, Greg, would you mind moving to  
17 this chair.

18 MR. DEEMIE: No.

19 HEARING OFFICER: I think it would  
20 be easier for Kevin to see you.

21 MR. DEEMIE: Mayor Deemie, Village  
22 of Johnson City.

23 There was one comment made at the  
24 beginning that the village has approved this

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1           plan or this pilot. All we did was give  
2           approval as we were in agreement with it.  
3           We didn't totally approve the pilot. Our  
4           part was to -- since it's a deviated pilot,  
5           we have to give the agency approval to move  
6           forward, but if we say, no, it doesn't go  
7           anywhere. Now it's up to them to decide,  
8           correct, if they want to move forward with  
9           it and pass it on and work with the Spark,  
10          LLC.

11                        So, kind of just so that's, you  
12          know, straightened out there that we  
13          approved it in the sense that we agree with  
14          it, and I agree with it, too. My board  
15          agreed with it. We're in full favor of it.  
16          We feel it's necessary to keep progress  
17          going in the Oakdale Mall and the Village of  
18          Johnson City.

19                        I understood a lot of the concerns  
20          that Mr. Solak had in regards to, you know,  
21          costs being, you know, burdens on the rest  
22          of the county and so forth. Well, that's  
23          everywhere in the county. It's not just  
24          Johnson City, but if we don't do something,

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1 we're not going to have anything, we're not  
2 going to move forward on the mall.

3 So, this is a positive, you know,  
4 project for the mall. We did add some  
5 stipulations to it when we did vote on our  
6 resolution. I don't know if you realized  
7 that or not, John. What we put in our  
8 resolution was in order for this pilot to go  
9 forward that they would have to secure a  
10 15-year lease with the county. They would  
11 have to secure a 15-year lease with  
12 Ascension Health and that they would --  
13 there would be no reassessment, that they  
14 would not be able to ask for a reassessment  
15 on the property during the term of the  
16 pilot, okay.

17 MR. SOLAK: Well, how would you --  
18 if the IDA approves it, how would you stop  
19 it?

20 A JUROR: That needs to be put  
21 into the pilot as part of the pilot, the  
22 wording in the pilot.

23 HEARING OFFICER: That would be  
24 the proposal as set forth by the village to

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1 the IDA.

2 MR. COOK: Correct. So, we put  
3 those stipulations in place just to -- you  
4 know, because there's lots of pilots today  
5 where people half way through their pilot  
6 ask for a reassessment on their property,  
7 you know, and that doesn't help matters any  
8 so --

9 MR. SOLAK: So, what would you do  
10 if the IDA approved it without your  
11 stipulations? What would be the village's  
12 recourse?

13 HEARING OFFICER: According to our  
14 rules, we wouldn't be able to.

15 MR. DEEMIE: No.

16 HEARING OFFICER: And often it's  
17 anticipated that there would be a  
18 reassessment because if a pilot is based  
19 solely on percentages, you're going to pay  
20 50 percent of what the real taxes would be,  
21 for example, in that case the landowner  
22 would have a right to ask for reassessment  
23 because he should be paying 50 percent of  
24 what the real taxes would be without the

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1 pilot. But if it's a flat payment --

2 MR. DEEMIE: Right.

3 HEARING OFFICER: -- that's built  
4 in over time --

5 MR. COOK: Correct.

6 HEARING OFFICER: -- they're  
7 agreeing to pay that amount regardless of  
8 what the assessment on the property is.

9 MR. DEEMIE: And correct me if I'm  
10 wrong, too, Joe or Eric, that this is  
11 starting now. The taxes they're paying to  
12 start out are current tax now that are being  
13 paid by Sears that is starting out. It's  
14 not going to start lower. It's going to  
15 start right where it is at this point and go  
16 up from there.

17 So, that's why we feel it's a good  
18 project, a good pilot for the village. We  
19 understand that, you know, big projects need  
20 help in order to go forward to move forward.  
21 So, in our mind and in the village's minds  
22 that we're all on board with this project  
23 and think it's -- you know, needs to move  
24 forward.

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1                   MR. SOLAK:     Have you requested the  
2                   lease from the county?  I mean, do you have  
3                   any idea if there is a signed lease at this  
4                   point?

5                   MR. DEEMIE:     That I don't know,  
6                   and, like I said, in order for the pilot --  
7                   that would be up to the Agency to determine  
8                   whether that lease has been taken care of or  
9                   not.  Like I said, ours was the resolution,  
10                  this is what our requirements are.  We pass  
11                  it to the Agency.  They would take it from  
12                  there and make sure that everything is in  
13                  place in order for the pilot to go forward  
14                  so -- but other than that, I am, you know,  
15                  in favor of moving forward with this.

16                  HEARING OFFICER:     That's correct.

17                  MR. DEEMIE:     Thank you.

18                  HEARING OFFICER:     Thank you,  
19                  Mayor.

20                  MR. DEEMIE:     You're welcome.

21                  HEARING OFFICER:     Does anyone else  
22                  wish to be heard?

23                  (Whereupon there was no response)

24                  HEARING OFFICER:     There being no

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1 further comments, I will let the record  
2 reflect it is now 5:27 PM and I'm going to  
3 call this hearing to a conclusion.

4 And as I do I'm going to request  
5 that the notice of public hearing, affidavit  
6 of publication, letter to the taxing  
7 authorities, affidavit of mailing and  
8 affidavit of posting, copies of which I will  
9 be handing to the reporter, be spread upon  
10 the record of these proceedings.

11 Thank you all very much.

12 Appreciate it.

13 (Whereupon the hearing concluded at  
14 5:27 PM)

15 (Whereupon Exhibits 1 through 5  
16 were marked for identification)

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EXHIBIT:	PAGE :
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4        Affidavit of mailing	23
5        Affidavit of posting	23

- - - - -



1 STATE OF NEW YORK :

2 COUNTY OF BROOME :

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4 I, KEVIN CALLAHAN, Shorthand Reporter, do  
5 certify that the foregoing is a true and accurate  
6 transcript of the proceedings in the matter of Proposed  
7 Spark Broome, LLC, Project, held in Johnson City,  
8 New York, on October 9, 2019.

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KEVIN CALLAHAN

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Shorthand Reporter

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Notary Public

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CZERENDA COURT REPORTING, INC

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71 State Street

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Binghamton, New York 13901-3318

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