

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: April 20, 2010

Consent Regular
 Workshop Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: a Department of the Army Consent to Easement Agreement (Agreement) to use Corps of Engineers Right-of-Way to construct improvements to the George Bush Boulevard Bridge over the Intracoastal Waterway in Delray Beach.

SUMMARY: Approval of this Agreement will allow Palm Beach County to construct improvements to the George Bush Boulevard Bridge within the Federal right-of-way of the Intracoastal Waterway.

District 4 (PK)

Background and Justification: Palm Beach County (County) is preparing to construct certain improvements to the George Bush Boulevard Bridge and its approaches within the Federal right-of-way of the Intracoastal Waterway in Delray Beach. The Department of the Army has assigned number SAJ-2010-00196 to the County's permit application for the construction of those improvements which include the repair of the existing bridge support piles and bents, construction of new bridge support piles and bents and the installation of sidewalk railing. A part of the permit application fee requires payment of a non-refundable administrative fee in the amount of \$300 to accompany this Agreement. This construction necessitates the Board of County Commissioners (BCC) executing this Agreement. This Agreement grants the County permission to enter the Federal right-of-way of the Intracoastal Waterway to construct the required improvements. This Agreement is only in effect until said improvements have been completed and accepted by the BCC. The approval of this action is in the best interest of the County and its citizens.

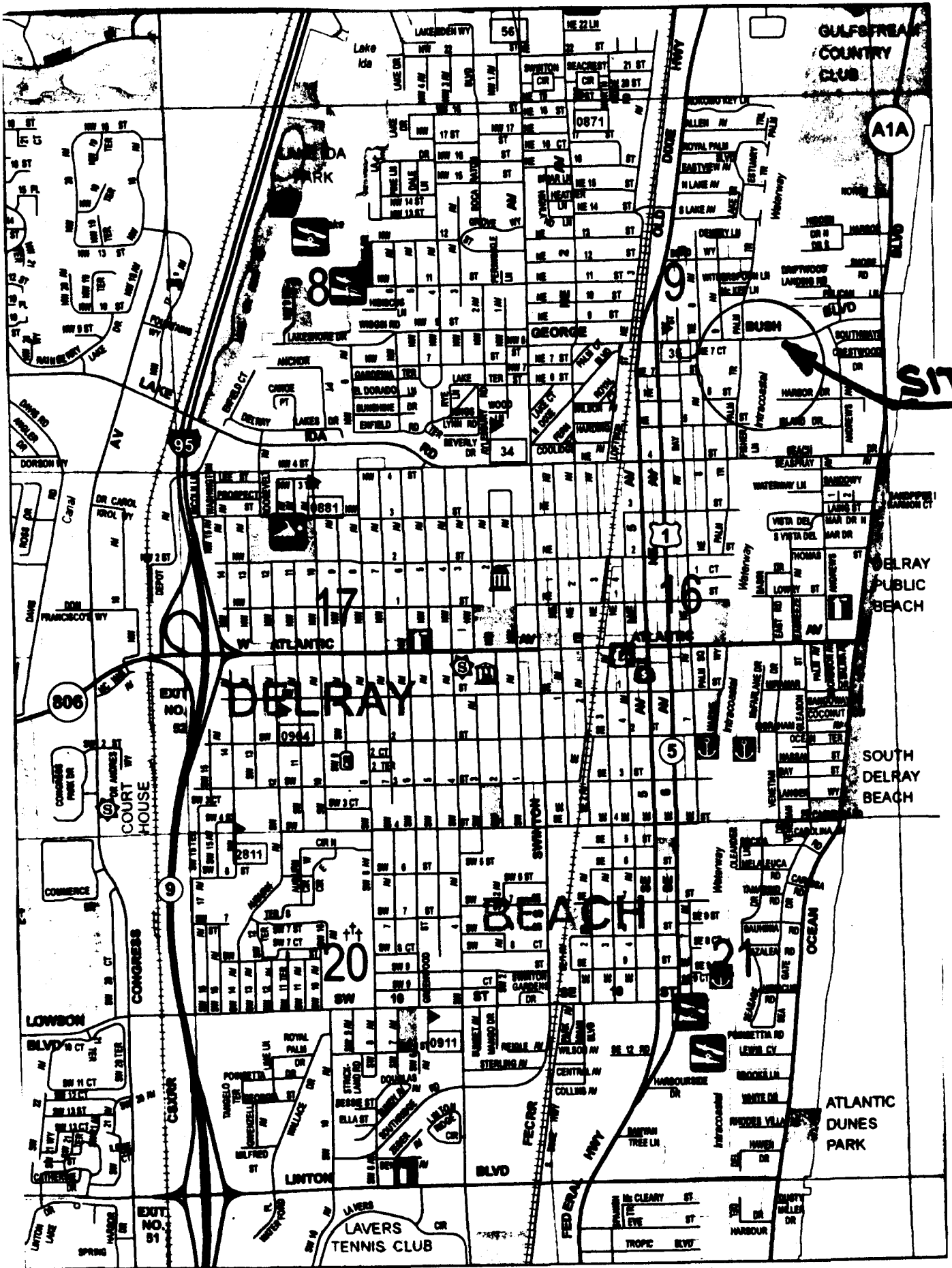
Attachments:

1. Location Map
2. Department of the Army Consent to Easement Agreement to use Corps of Engineers Right-of-Way (4 originals)

Recommended by: *Ornelis A. Fernandez* 3/18/10 *[Signature]*
Division Director Date

Approved by: *S. T. Well* 3/22/10 *[Signature]*
County Engineer Date

ATTACHMENT 1
LOCATION MAP



**DEPARTMENT OF THE ARMY
CONSENT TO EASEMENT
TO USE CORPS OF ENGINEERS RIGHT-OF-WAY**

Consent No. DACW17-9-10-0046
Project: Intracoastal Waterway,
Jacksonville to Miami, Palm Beach
County, Florida
Tract Nos. 757 and 759

THIS CONSENT TO EASEMENT AGREEMENT, made by and between the **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, hereinafter referred to as the "Government", acting by and through the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, hereinafter referred to as "said officer," and **Palm Beach County, Florida**, hereinafter referred to as the "Grantee":

WHEREAS, the Government has acquired a right-of-way easement over the above-numbered tracts of land, which easement, by its terms, reserves to the Government, in perpetuity, the right to use said easement for the construction, improvement, and maintenance of the Intracoastal Waterway, Jacksonville to Miami, Palm Beach County, Florida; and

WHEREAS, the Grantee has requested permission to construct, use, maintain, and remove a bridge in, on, across, over, and under a portion of the lands identified as Tract Nos. 757 and 759, Section 9, Township 46 South, Range 43 East, Palm Beach County, Florida. The area comprising 0.21 acres, more or less, is shown in red on Exhibit "A" attached hereto and made a part hereof.

NOW THEREFORE, this consent is granted and accepted under the following conditions:

1. That it is understood that this consent is effective only insofar as the property rights of the Government in the land to be occupied are concerned, and that it does not relieve the Grantee from the necessity of obtaining grants from the owners of the fee and/or other interests, therein, nor does it obviate the requirement that the Grantee obtain State or local assent required by law for the activity authorized herein.

2. That any proposed improvements or use authorized herein shall not be commenced until appropriate rights shall have been

obtained by the Grantee from the record owners and encumbrancers of the fee title to the lands involved, or until the Grantee has obtained all Federal, State, or local permits required by law.

3. That the proposed improvements or use authorized herein shall be consistent with the terms and conditions of this consent; and that any improvements or use not specifically identified and authorized shall constitute a violation of the terms and conditions of this consent which may result in a revocation of this consent and in the institution of such legal proceedings as the Government may consider appropriate, whether or not this consent has been revoked or modified.

4. That the exercise of the privileges hereby consented to shall be without cost or expense to the Government and under the supervision of and subject to the approval of the said officer having immediate jurisdiction over the property and subject to such regulations as he may from time to time prescribe, including, but not limited to, the specific conditions, requirements, and specifications set forth in paragraph 14 below.

5. That the Grantee shall supervise and maintain the said improvements and cause it to be inspected at reasonable intervals, and shall immediately repair any damage found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said improvements or the making of any repairs thereto, the premises shall be restored immediately by the Grantee, at the Grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of said officer.

6. That any property of the Government damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to the satisfaction of the said officer, or in lieu of such repair or replacement, the Grantee shall, if so required by said officer and at his option, pay to the Government an amount sufficient to compensate for the loss sustained by the Government by reason of damage to or destruction of Government property.

7. That the Government shall not be responsible for damages to the property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee, or the persons of Grantee's officers, agents, servants, or employees, or others

who may be on said premises at the invitation of the Grantee or the invitation of one of them, arising from Governmental activities on or in the vicinity of the said premises, and the Grantee shall hold the Government harmless from any and all claims to the extent allowed by law.

8. That the Government shall in no case be liable for any damage, either hidden or known, to any improvements herein authorized which may be caused by any action of the Government, under the rights obtained in its easements, or that may result from the future operations undertaken by the Government, and no claim or right to compensation shall accrue from such damage, and if further operations of the Government require the alteration or removal of any improvements herein authorized, the Grantee shall, upon due notice, from said officer, alter or remove said improvements without expense to the Government and subject to the supervision and approval of the said officer and no claim for damages shall be made against the Government on account of such alterations or removal.

9. That construction and/or operation, maintenance, and use of any improvements incident to the exercise of the privileges herein granted shall be in such a manner as not to conflict with the rights of the Government, nor to interfere with the operations by the Government under such rights nor to endanger lives and safety of the public.

10. That this consent may be terminated by the Government or said officer upon reasonable notice to the Grantee if the Government or said officer shall determine that any improvements or use to which consent is herein granted interferes with the use of said land or any part thereof by the Government, and this consent may be annulled and forfeited by the declaration of the Government or said officer for failure to comply with any or all of the provisions and conditions of this consent, or for nonuse for a period of two (2) years, or for abandonment.

11. That upon relinquishment, termination, revocation, forfeiture, or annulment of this consent, the Grantee shall vacate the premises, remove all property of the Grantee therefrom, and restore the premises to a condition satisfactory to the said officer. If the Grantee shall fail or neglect to remove the said property and so restore the premises, then at the option of the Government or said officer, the said property shall either become the property of the Government without compensation therefor, or the Government or said officer, may cause it to be

removed, and the premises to be so restored at the expense of the Grantee, and no claim for damages against the Government, or its officer or agents, shall be created by or made on account of such removal and restoration.

12. That the Grantee within the limits of its respective legal powers shall comply with all Federal, interstate, State, and/or local governmental regulations, conditions, or instructions for the protection of the environment and all other matters as they relate to real property interests granted herein.

13. That the Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the District Engineer, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and the site and the material shall be protected by the Grantee from further disturbance until a professional examination of them can be made or until a clearance to proceed is authorized by the District Engineer.

14. That construction shall be in accordance with the drawings attached hereto and made a part hereof as Exhibit "B" and with Department of the Army Permit No. 2010-00196 (NW-EGR), incorporated herein by reference. That no additional structures shall be constructed waterward of the Government's right-of-way line and that any structures currently within the right-of-way must be removed by the Grantee, at Grantee's expense, if future needs of the Government so require.

15. That this consent may not be transferred to a third party without the prior written notice to the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and by the transferee's written agreement to comply with and be bound by all the terms and conditions of this consent. In addition, if the Grantee transfers the improvements authorized herein by conveyance of realty, the deed shall reference this consent and the terms and conditions herein and the consent shall be recorded along with the deed in the Registrar of Deeds or with other appropriate official.

This consent is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand, by
authority of the Secretary of the Army, this _____ day of
_____ 2010.

UNITED STATES OF AMERICA

BY: _____
JOHN M. BAKER
Chief, Real Estate Division
U.S. Army Engineer District
Jacksonville, Florida

AGREED TO AND ACCEPTED

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

BY: _____
Burt Aaronson, Chair
Board of County Commissioners

ATTEST:

Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

APPROVED AS TO TERMS AND CONDITIONS:

By: *Ornelis A. Ferrand*
Department of Engineering & Public Works

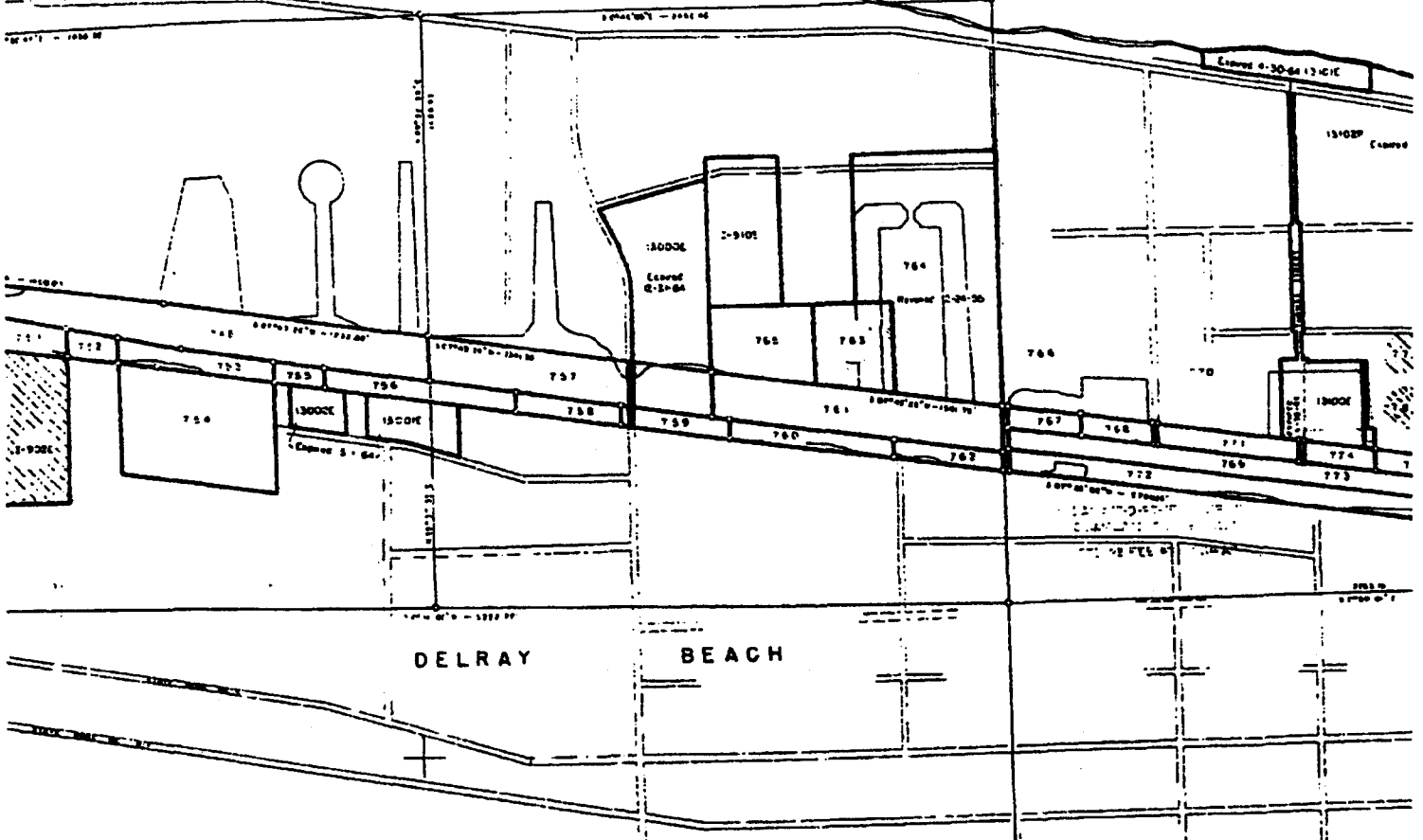
APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Assistant County Attorney

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13200E-7
13200E

ATLANTIC



13000E conveyed to
dated 10-19-64 12.13 ac. reorganized on part of Tr 13100E)

13000E conveyed to
dated 10-19-64 10.27 ac. reorganized on part of Tr 13100E)

13000E conveyed to
dated 7-2-68

13000E 1/2 acre is portion of Tr 764;
reorganized, Inc. by Ordinance 608 4-28-65

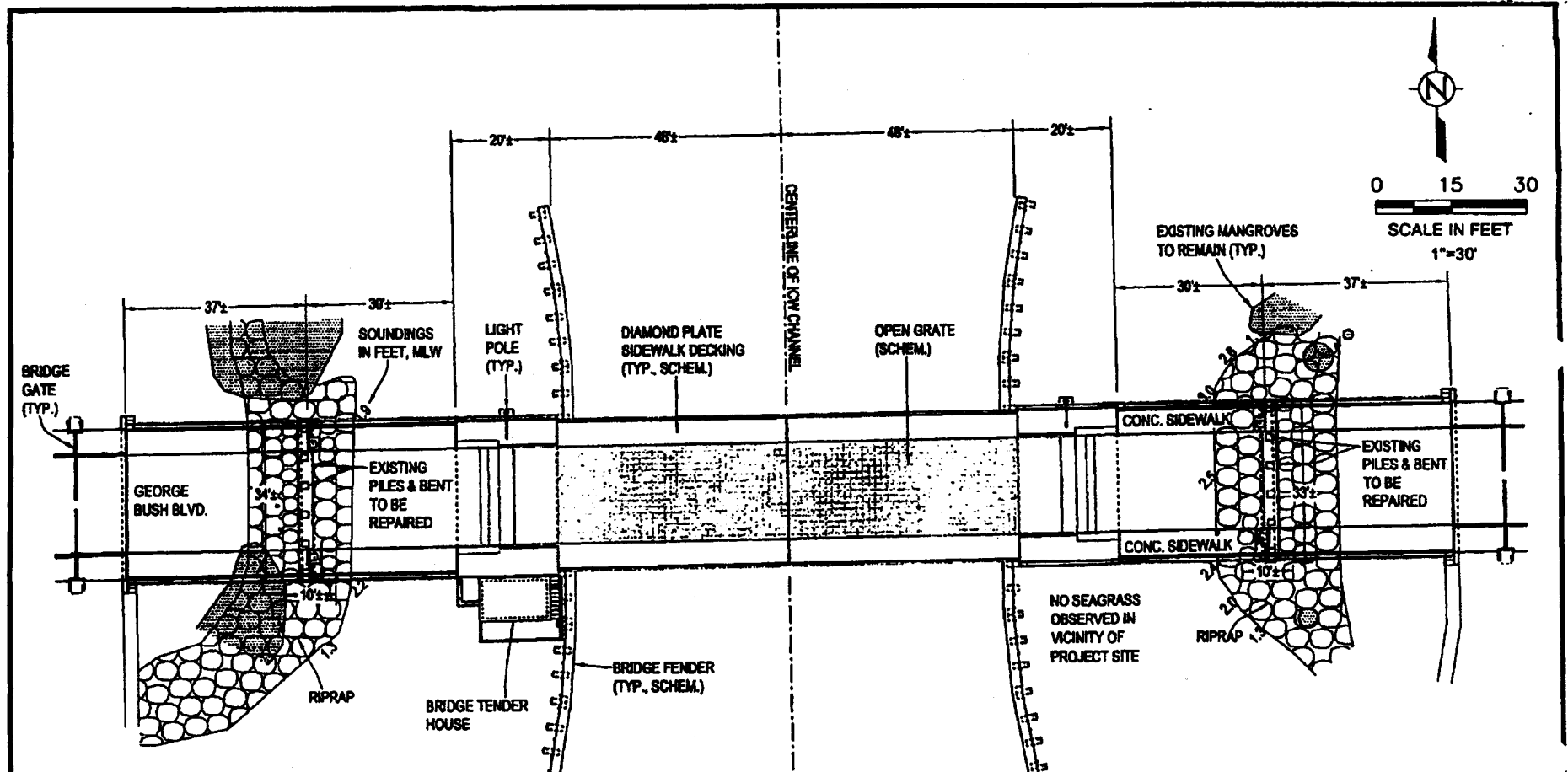
13000E conveyed to Joseph Heston by O.C.D. dated 1-27-68

1-901E, CONVEYED TO BARBARA L. YAKE BY O.C.D. DATED

9 16
8 17

DATE	DESCRIPTION
12-30-60	TR 1-901E DISPOSED OF
31-MAR-62	TR 1-901E REVISED TO CONY
6-30-72	Supplemental deed to 6-30-72
6-30-72	Tr 13100E Expired 12-30-6
6-30-69	Revised to 6-30-69 due to no
6-30-69	Agreed rights for P&L 1
6-30-68	Revised to 6-30-68 due to 50
6-30-68	Tract 13000E - 2 (formerly Tr
6-30-68	Portion of Tract 779 reorganized
1-20-68	Tr 13200E - 1 & 2 - 2 Expired
2-2-64	Tr 13000E Expired
11-1-64	Tr 13200E - 1 & 2 Expired

EXHIBIT 8




ATLANTIC
INTRACOASTAL
WATERWAY

PLAN VIEW - EXISTING CONDITION

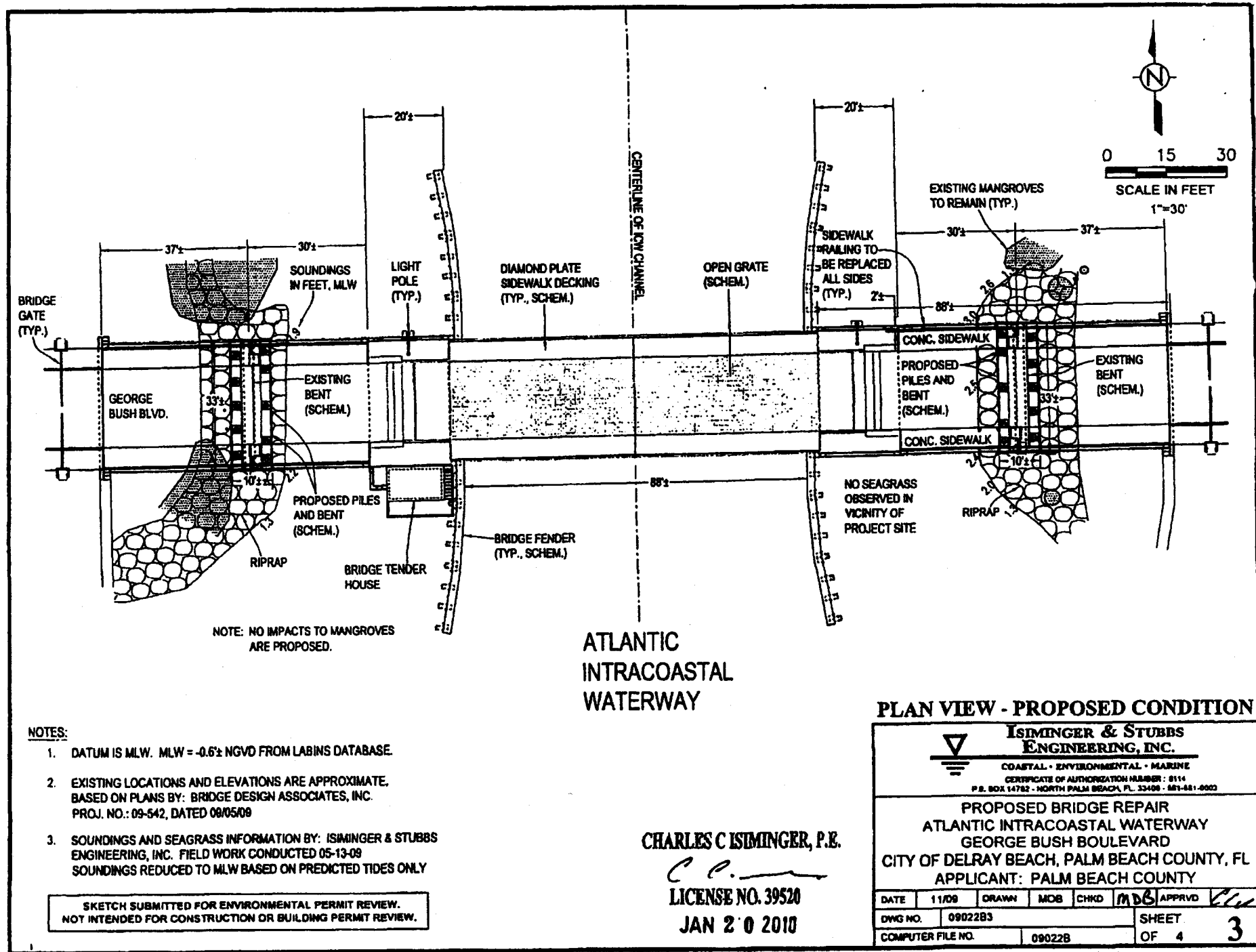
- NOTES:**
1. DATUM IS MLW. MLW = -0.6'± NGVD FROM LABINS DATABASE.
 2. EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE, BASED ON PLANS BY: BRIDGE DESIGN ASSOCIATES, INC. PROJ. NO.: 09-542, DATED 09/05/09
 3. SOUNDINGS AND SEAGRASS INFORMATION BY: ISMINGER & STUBBS ENGINEERING, INC. FIELD WORK CONDUCTED 05-13-09. SOUNDINGS REDUCED TO MLW BASED ON PREDICTED TIDES ONLY

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

CHARLES C ISMINGER, P.E.
C. C. Isminger
LICENSE NO. 39529
JAN 2 '0 2010

 ISMINGER & STUBBS ENGINEERING, INC. <small>COASTAL - ENVIRONMENTAL - MARINE CERTIFICATE OF AUTHORIZATION NUMBER: 6114 P.O. BOX 14792 - NORTH PALM BEACH, FL 33408 - 361-481-0093</small>							
PROPOSED BRIDGE REPAIR ATLANTIC INTRACOASTAL WATERWAY GEORGE BUSH BOULEVARD CITY OF DELRAY BEACH, PALM BEACH COUNTY, FL APPLICANT: PALM BEACH COUNTY							
DATE	11/09	DRAWN	MDB	CHKD	MDS	APPRVD	<i>[Signature]</i>
DWG NO.	09022B2					SHEET	
COMPUTER FILE NO.	09022B					OF 4	
						2	

C. C. Isminger



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1. DATUM IS MLW. MLW = -0.6'± NGVD FROM LABINS DATABASE.
 2. EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE. BASED ON PLANS BY: BRIDGE DESIGN ASSOCIATES, INC. PROJ. NO.: 09-542, DATED 08/05/09
 3. SOUNDINGS AND SEAGRASS INFORMATION BY: ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK CONDUCTED 05-13-09. SOUNDINGS REDUCED TO MLW BASED ON PREDICTED TIDES ONLY

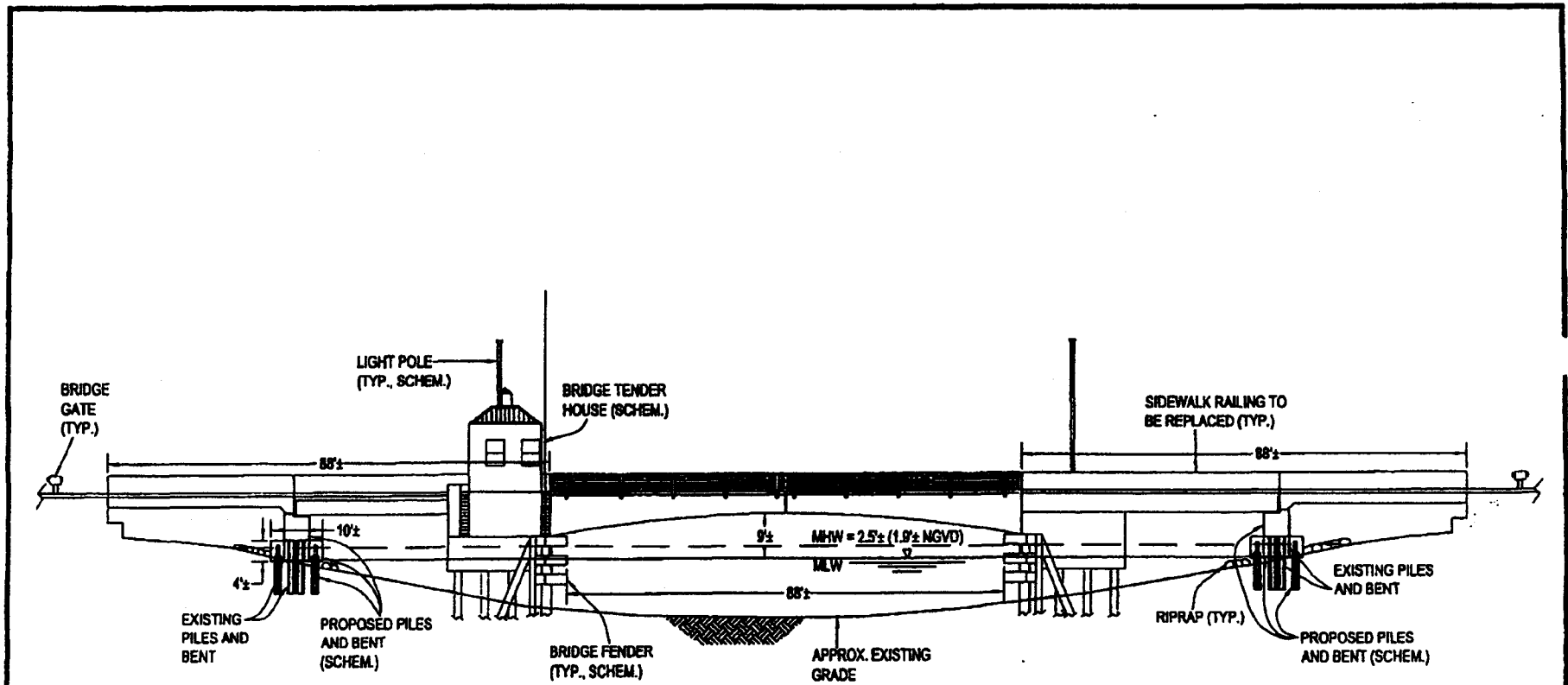
SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.
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**ATLANTIC
 INTRACOASTAL
 WATERWAY**

CHARLES C ISIMINGER, P.E.
C.C.
 LICENSE NO. 39520
 JAN 2 0 2010

PLAN VIEW - PROPOSED CONDITION

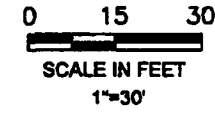
 COASTAL • ENVIRONMENTAL • MARINE CERTIFICATE OF AUTHORIZATION NUMBER: 0114 P.O. BOX 14782 • NORTH PALM BEACH, FL 33408 • 561-681-0002						
PROPOSED BRIDGE REPAIR ATLANTIC INTRACOASTAL WATERWAY GEORGE BUSH BOULEVARD CITY OF DELRAY BEACH, PALM BEACH COUNTY, FL APPLICANT: PALM BEACH COUNTY						
DATE	11/09	DRAWN	MOB	CHKD	MDS	APPROVD
DWG NO.	0902283				SHEET	
COMPUTER FILE NO.	090228				OF 4	
						3



NOTE: MANGROVES NOT SHOWN FOR CLARITY. NO IMPACTS TO MANGROVES ARE PROPOSED.

NOTE: NO REDUCTION IN VERTICAL OR HORIZONTAL CLEARANCE IS PROPOSED

SOUTH ELEVATION



NOTES:

- DATUM IS MLW. MLW = -0.6'± NGVD FROM LABINS DATABASE.
- EXISTING LOCATIONS AND ELEVATIONS ARE APPROXIMATE, BASED ON PLANS BY: BRIDGE DESIGN ASSOCIATES, INC. PROJ. NO.: 09-542, DATED 09/05/09
- SOUNDINGS BY: ISIMINGER & STUBBS ENGINEERING, INC. FIELD WORK CONDUCTED 05-13-09. SOUNDINGS REDUCED TO MLW BASED ON PREDICTED TIDES ONLY

SKETCH SUBMITTED FOR ENVIRONMENTAL PERMIT REVIEW.
NOT INTENDED FOR CONSTRUCTION OR BUILDING PERMIT REVIEW.

CHARLES C ISIMINGER, P.E.
Charles C. Isiminger
LICENSE NO. 39520
JAN 2 '0 2010

ELEVATION

 ISIMINGER & STUBBS ENGINEERING, INC. COASTAL - ENVIRONMENTAL - MARINE CERTIFICATE OF AUTHORIZATION NUMBER: 0114 P.O. BOX 14782 - NORTH PALM BEACH, FL 33408 - 561-681-0903							
PROPOSED BRIDGE REPAIR ATLANTIC INTRACOASTAL WATERWAY GEORGE BUSH BOULEVARD CITY OF DELRAY BEACH, PALM BEACH COUNTY, FL APPLICANT: PALM BEACH COUNTY							
DATE	11/09	DRAWN	MDB	CHKD	MDB	APPRVD	<i>MDB</i>
DWG NO.	0902284					SHEET	
COMPUTER FILE NO.	090228					OF 4	
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