

**RESOLUTION NO. 78603**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE URBAN VILLAGE IMPLEMENTATION AND AMENITY FRAMEWORK WHICH ESTABLISHES URBAN VILLAGE AMENITY INCENTIVE PROGRAM THAT APPLIES TO APPLICATIONS TO REZONE SITES IN URBAN VILLAGE PLAN AREAS FROM COMMERCIAL TO RESIDENTIAL OR MIXED USE RESIDENTIAL USES**

**WHEREAS**, in 2011 the City Council adopted the Envision San José 2040 General Plan (“General Plan”) designating various areas of the City of San José (“City”) as Urban Villages, which are areas that are planned for a variety of uses centered around accessible and walkable neighborhood-serving commercial and office uses and access to mass transit; and

**WHEREAS**, the City has been underserved by employment uses, so the General Plan strives to achieve a balance between needed employment generating uses and residential uses of land so that people who reside in San José may also work in San José near their homes; and

**WHEREAS**, the City experiences pressure from the development community to convert land designated for employment uses to residential use, which generally results in a substantial increase in land value for the owner/developer; and

**WHEREAS**, the City Council may consider amendments to zoning from commercial to residential or mixed use residential uses in designated urban villages in accordance with the process and procedures for implementation of Urban Village Amenities, as defined in the “Urban Village Implementation and Amenities Framework” attached hereto and incorporated herein by reference as Exhibit “A” (“Framework”); and so long as any such project contributes to and incorporates into the project as agreed upon conditions of approval the Urban Village Amenities defined in the “Urban Village

Implementation and Amenities Framework” attached hereto and incorporated herein by reference as Exhibit “A” (“Framework”), and in accordance with the process and procedures for implementation of Urban Village Amenities; and

**WHEREAS**, The City Council conducted a duly noticed public hearing on the proposed Framework

**WHEREAS**, pursuant to Section 15168(c)(2) of the CEQA Guidelines, the City of San José has determined that the proposed Framework is pursuant to, in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the “FEIR”), for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011, and Supplemental Environmental Impact Report (the “SEIR”), through Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto, and does not involve new significant effects beyond those analyzed in the FEIR and SEIR; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed Framework; and

**WHEREAS**, this Council of the City of San José has considered and approves the information contained in the FEIR and related City Council Resolution No. 76041 and the SEIR and related City Council Resolution No. 77617, and Addenda thereto, and the determination of consistency therewith prior to acting upon or approving the subject Framework.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

Section 1. The Recitals above are incorporated herein as findings.

Section 2. The Framework attached hereto and incorporated herein by reference as **Exhibit A** is hereby adopted.

Section 3. This resolution shall take effect 30 days from and after its adoption.

ADOPTED this 22<sup>nd</sup> day of May, 2018, by the following vote:

AYES: ARENAS, DAVIS, DIEP, JONES, JIMENEZ, KHAMIS,  
NGUYEN, PERALEZ; LICCARDO.

NOES: NONE.

ABSENT: ROCHA, CARRASCO.

DISQUALIFIED: NONE.



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SAM LICCARDO  
Mayor

ATTEST



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TONI J. TABER, CMC  
City Clerk

## Urban Village Implementation and Amenities Framework

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### A. Findings and Purpose

1. San José is the largest “bedroom community” in the United States, being the only City in the United States over 5 00,000 people that has more employed residents than jobs. San José has a population of over one million residents with a ratio of only 0.8 jobs per employed resident, which means that there are fewer people in San José during the day than at night.
2. The Envision 2040 San José General Plan (“General Plan”) identifies improvement of the City’s jobs-housing imbalance, or “Jobs/Employed Residents Ratio,” as a critical policy goal. The General Plan seeks to support the generation of 380,000 new jobs through 2040, focusing employment growth in the Downtown area and on existing employment lands citywide like North San Jose, Edenvale, the Monterey Corridor, Evergreen, North Coyote Valley, urban villages, neighborhood business districts, and major commercial corridors along existing and future transit corridors. The General Plan places a strong emphasis on protecting employment lands, and recognizes that further employment land conversions to residential uses would have significant negative environmental, fiscal and economic implications, contrary to the General Plan’s policies.
3. The current General Plan, including the Housing Element of the General Plan, also identifies available land that is designated and zoned for 120,000 new housing units consistent with state law, and the City’s Housing Element is certified as adequate by the California Department of Housing and Community Development.
4. The policies in the City’s current General Plan were adopted unanimously by the City Council in 2011 after significant review and input (which included 51 public meetings for a 37-member task force leading the drafting of the General Plan and participation by over 5,000 community members over a four-year period) in order to achieve a balance between the need for housing and the creation of jobs in San José for San José residents and to achieve fiscal sustainability. Efforts to alter that balance should be subject to extensive community outreach and environmental review.
5. Specifically with regard to urban villages, the General Plan includes “Major Strategy #5 – Urban Villages,” as one of its primary strategies to accommodate projected job and population growth. This Strategy includes a policy framework to transform many of San Jose’s auto-oriented commercial corridors and nodes into more urban, walkable and mixed-use communities, where many of one’s daily needs could be met by walking, biking, riding transit, or making a shorter drive. The purpose of this Framework is to further the implementation of the Urban Village Strategy and the individual Urban Village Plans by outlining a zoning framework that will provide a more streamlined entitlement process for development consistent with the applicable Urban Village Plan. This Framework does not identify the specific development regulations or allowed uses within new Urban Village zoning districts but provides general direction for the

development of these zoning districts as a next step. Development regulations and allowed uses are specified in each adopted Urban Village Plan and will be included in Urban Village Plan zoning districts.

6. The purpose of this Framework is to support existing City policies that attempt to balance housing growth with local job availability so that residents can work near their homes. This Framework also authorizes the City to allow the conversion of employment lands in urban villages to residential or mixed use residential uses under very limited circumstances and where the development will provide additional amenities and public improvements in the urban village where it is located meeting specified criteria. The criteria herein for the conversion of employment lands is designed to be transparent and predictable to the development community and the public, and to enhance the quality of life in the affected urban village by assuring that any such conversion provides a substantial public purpose and benefit. The City shall consider the requirements of this Framework when it evaluates applications from developers or other proposals to convert land that is currently zoned for employment purposes, such as commercial, to residential or mixed use residential purposes.
7. This Framework does not create a barrier, financial or otherwise, for new development in Urban Villages because commercial and office development may continue to be approved and developed under the General Plan, current zoning, the Urban Village Plans, and this Framework. However, this intent of this Framework is to ensure that applications for a zoning change from commercial to residential or residential mixed-use in urban villages will only be considered by the City for approval if the developers share the increase in value of their projects from such zoning changes to residential use by constructing, providing, or otherwise funding amenities and public improvements as identified in the applicable Urban Village Plan and in accordance with this Framework. When there are applications for conversion of commercial uses to residential or mixed use residential in any urban village, the City Council may facilitate such a change in development on the condition that the City also obtains the amenities identified within the Urban Village Plans and in the manner specified in this Framework. Staff and the developer of a project that has applied for rezoning from commercial to residential or mixed use residential shall work together to identify the amenities in the applicable Urban Village that will be provided by the developer and shall agree to include the identified amenities as conditions of approval in all related project approvals along with a timeline for completion.
8. Based upon the foregoing, the City of San Jose establishes the following through this Framework:
  - a) Direction to develop an Urban Village Commercial and Urban Village Mixed-Use zoning (residential and mixed-use residential) districts that further the implementation of the Urban Village Strategy and the individual Urban Village Plans, as well as requiring conformance with this Framework.

- b) The process for approval of Urban Village Amenities for projects requesting rezoning from commercial to residential or mixed use residential in Urban Villages with adopted Urban Village Plans.
- c) The amount and type of Urban Village Amenity contribution for projects requiring rezoning from commercial to residential or mixed use residential in Urban Villages.

## B. Definitions.

1. **“Average Project Value”** is the price per square foot valuation for residential development in the City of San Jose specified in this Framework adopted by City Council resolution. The Average Project Value may be updated by resolution of the City Council modifying this Framework from time to time.
2. **“Total Net Residential Square Feet”** is the average square footage of the market rate residential units in the project multiplied by the total number of market rate residential units in the project. “Total net residential square feet” does not include parking areas and common areas such as lobbies, hallways, stairwells, community rooms, and the like, which are accessible to all residents of the project. “Total net residential square feet” also does not include the square footage of any deed restricted affordable housing units in the project including those constructed pursuant to the City’s Inclusionary Housing Ordinance and State Density Bonus Law.
3. **“Urban Village Amenity(ies)”** or **“UVA”** means a project amenity or amenities that achieve specified community goals, such as providing neighborhood streetscape improvements, publicly accessible parks and open space, publicly viewable art, and other similar improvements, in addition to what may be required as part of a discretionary review and approval of a project and/or in addition to what may be required by the San Jose Municipal Code. The Urban Village amenity or amenities are specified in each adopted Urban Village Plan for development within the Plan area.
4. **“Urban Village Plan”** is a Plan adopted in accordance with the City of San Jose’s Envision 2040 General Plan which specifies the Plan boundaries, land use designations and uses, development standards, and desired amenities.

## C. Zoning

The zoning districts included in Title 20 of the Municipal Code were developed under the prior General Plan and often do not allow the denser urban type of development designated in the Envision San Jose 2040 General Plan. The development standards of many of the zoning districts within Urban Villages do not align with the urban design standards contained within the approved Urban Village Plans. To provide more clarity and a more simplified planning process, key urban design standards need to be incorporated within the Urban Village zoning framework, particularly as it relates to the relationship of

new development to street, and the public realm. This Framework provides direction to develop both Urban Village Commercial and Urban Village Mixed-Use zoning districts that further the implementation of the Urban Village Strategy and the individual Urban Village Plans, as well as requiring conformance with this Framework.

1. Urban Village Commercial

The Urban Village Commercial (UVC) Zoning District or Districts will be created to replace current commercial zoning districts and establish new development standards for commercial development that facilitates more urban and pedestrian oriented commercial development, precluding the need for Planned Development Zonings to implement the Urban Village Strategy and Plans. The District should also establish the non-residential uses that are appropriate and permitted within an Urban Village.

*Affordable Housing Exception:* This zoning district shall not allow residential uses, with the exception that 100% deed restricted affordable housing will be allowed in a mixed-use format.

As resources permit, the City should proactively and strategically rezone commercially zoned properties within Urban Villages to a UVC zoning district, focusing on those properties that present key development opportunities and have zoning districts that are significantly out of alignment with adopted Urban Village Plans. In locations where the City has not rezoned a property to UVC, a developer may need to initiate a rezoning to UVC as the first step in their entitlement process. This will bring a proposed commercial development in conformance with a given Urban Village Plan.

2. Urban Village Mixed-Use

The Urban Village Mixed-Use (UVMU) zoning district should have comparable development standards and allowable uses as the Urban Village Commercial zoning district; however, the UVMU would also allow mixed-use residential uses (including residential only in some Urban Villages). The UVMU zoning district would also include a requirement that residential or mixed-use residential projects must be consistent with this Framework, and provide Urban Village Amenities identified in the applicable Urban Village Plan as described in Section D below.

The City will not proactively rezone commercial properties within an Urban Village to a UVMU zoning district. As part of the entitlement process, applicants for residential and residential mixed-use development proposed on commercially zoned property will need to rezone to the UVMU zoning district consistent with the applicable Urban Village Plan. As part of this rezoning and development permit process, the Urban Village Amenities that would be provided shall be identified in the application process.

Residential or residential mixed-use development proposed prior to the establishment of a UVMU zoning district in the Zoning Ordinance would be considered and approved through a Planned Development Zoning and Planned Development Permit process.

Development under a Planned Development Zoning and Planned Development Permit process would also need to provide amenities consistent with this Framework.

All applications for a change in zoning from commercial to UVMU in Urban Villages shall include all applications for land use related permits for the project and shall be filed with the City concurrently so, for example, an application for rezoning from commercial to mixed-use residential shall also include all necessary project specific applications including but not limited to applications for tentative subdivision map, parcel map, zoning or rezoning, site development permit, conditional use permit, and special use permit (but excluding general plan amendments, annexation, specific plans, and areas development policies). The City shall not consider zoning-only applications for changes from commercial to UVMU.

#### **D. Urban Village Amenities**

While high quality private development will be instrumental in implementing the General Plan's Urban Village Strategy, integrating public improvements and Urban Village Amenities will also be critical in creating dynamic great places. This Framework establishes a mechanism to require UVAs and public improvements from residential and residential mixed-use development to support intensified residential development in Urban Villages, beyond what the City typically requires development to provide. The sections below specify the amount and method by which UVAs will be determined, what UVAs will be provided, and the process for selecting UVAs.

Exceptions: Because affordable housing has been identified as a primary need in the General Plan and in most Urban Village Plans, deed restricted affordable housing units are not subject to the required UVAs in this Framework (see definition of "Total Net Residential Square Footage" above). This Urban Village Amenity Framework is only applied to residential or residential mixed-use development in Villages with an approved Urban Village Plan, and therefore also does not apply to Signature Projects, as defined by the General Plan.

##### **1. Urban Village Amenity Amount Calculation**

Within Urban Villages that have an approved Urban Village Plan, residential or residential mixed-use projects shall include the provision of UVAs as a condition of approval of all land use entitlements for the project.

- a) Urban Village Amenity Contribution (VAC) Calculation: The required UVAs to be provided is equal to two percent (2%) of the total value of the residential units in the project and shall be calculated as follows:

$$\text{VAC} = \text{Average Project Value} \times \text{Total Net Residential Square Footage} \times 0.02$$

- b) Average Project Value Amount: As of the date of adoption of this Framework, the Average Project Value Amount is established at \$555 per square foot.



This Average Project Value is based on the April 17, 2018, "Conceptual Pro Forma Analysis" prepared by Keyser Marston Associates (available for public review in the offices of the Director of Planning, Building and Code Enforcement) which included a city-wide analysis of recent sales of high density residential and mixed-use projects in San José to calculate an average per square foot value of residential space. The Average Project Value reflects an average of these recent sales in various areas of the City. The Average Project Value may be updated by resolution of the City Council amending this Framework from time to time.

2. UVA Types: This Framework establishes the amenities below that can be provided and count towards a project's VAC. These UVAs are explained in more detail in Table 1 attached hereto and incorporated herein by reference.
  - a) On-Site Plazas/Privately Owned and Publicly Accessible Open Spaces (Popos)
  - b) Commercial Space in addition to that required by the applicable Urban Village Plan.
  - c) Deed restricted commercial space for "non-formula" employment uses (as defined in Table 1 attached hereto) and community facilities.
  - d) On-site or off-site place making art installations in locations viewable by the public.
  - e) Off-site streetscape amenities or multi-modal improvements beyond standard City requirements. Such improvements could include, but are not limited to, roadway/intersection improvements, connections to transit, enhanced sidewalks or streetscapes, enhanced lighting, landscaping, or street furniture. Improvements would be subject to review and approval of the Department of Transportation (DOT) and the Public Works Department (PW).
  - f) Contributions towards, or construction of, unfunded projects or improvements identified in an Urban Village Plan.
  - g) Construction of additional public open space amenities and park facilities above and beyond the City's Parkland Dedication Ordinance (PDO) and the Parks Impact Ordinance (PIO) fees, and dedication requirements specified in the San Jose Municipal Code. Amenities could include, but are not limited to, off-site trail connections, public open space or park amenities and improvements, or community center amenities and improvements.

To encourage developers to include or build the amenities as part of their project, this Framework provides more credit for construction of a given amenity than the actual cost to construct that amenity. A developer may, however, choose to pay the City VAC amount required instead of building the amenities.

Table 1 of this Framework, attached hereto, establishes the amount of credit towards the VAC that is given for constructing specific types of UVAs. Table 1 also establishes the minimum requirements for each type of UVA with the maximum amount of credit that can be given towards meeting a developer's total VAC requirement. If the credit for

UVAs provided by a development is less than the total required VAC, the developer shall pay the City the balance.

3. Process to Select Urban Village Amenities

Based on community input and staff's professional recommendation, the City Council approved Urban Village Plans identify the amenities that are priorities for each Urban Village and provide direction on which should be sought from new development. As part of the entitlement process, a developer may initially propose the amenities to be provided. Staff should then work with the developer to refine these amenities, referring to the adopted Urban Village Plan for guidance. In addition, a community meeting should be held by staff and the applicant, consistent with the City's Public Outreach Policy, to seek input from the affected Urban Village community. The amenities required of a development shall be consistent with the applicable Urban Village Plan, incorporate community input, and should be appropriate in relation to the given development.

**E. Procedures for Providing Urban Village Amenities**

1. Land Use Applications.

- a) To insure the timely completion of UVA improvements, all applications for land use related permits for the project shall be filed with the City concurrently so, for example, an application for rezoning from commercial to residential or mixed use residential shall also include all necessary project specific applications including but not limited to applications for tentative subdivision map, parcel map, zoning or rezoning, planned development permit, conditional use permit, and special use permit (but excluding general plan amendments, annexation, specific plans, and area development policies). The City shall not consider zoning-only applications for changes from commercial to residential or mixed use residential.
- b) The UVAs shall be incorporated into the project design, directly on-site and maintained for the life of a project unless it is part of a public improvement, whereupon it shall be constructed in accordance with design and specifications approved by the City or through an in lieu monetary contribution.
  - i) On-site amenities – The amenities shall be incorporated on development plans and as conditions of approval as part of the project discretionary review process.
  - ii) Off-site amenities – The amenities shall be included in project approvals and shall be subject to an approved Improvement Agreement with the Department of Public Works Development Services Division with appropriate security for completion, warranty, and labor and materials.
- c) Public Parks or Open Space – When the amenities required for the project are Public Open Space, the developer shall record a covenant that runs with the land in a form approved in advance by the City to:
  - i) Maintain in a clean, sanitary, and available condition the amenities for the life of the project.
  - ii) Ensure the Public Open Space is open and available to the public during normal operating hours of the retail/commercial facilities within the mixed-use

development project or as otherwise determined by the City in the conditions of approval for the project.

2. Amenities Identified in Project Approvals; Enforcement.

The developer shall sign an Affidavit for Acceptance of Conditions certifying agreement to provide the required amenities as part of the project development. All ordinances, resolutions, or other approval of a project shall not become operative if the developer fails to sign the affidavit, and the project permits granting the change in zoning to mixed use residential or residential and the related development project shall be null and void. If the developer or any successor in interest fails to maintain the required amenities identified in the project approvals, then any permit or other revocable permit granted by the City as part of the approval of the project shall be referred to the Planning Commission for revocation pursuant to Title 20 of the San Jose Municipal Code and the matter may be referred for enforcement utilizing any and all available remedies in equity and law to enforce the permit conditions.

**F. Accounting**

All VAC funds paid to the City shall be deposited into an Urban Village Amenity Fund and shall be accounted for in such a manner that the VACs paid for a specific Urban Village will only be used for UVAs in that Urban Village. ALL VAC funds shall accrue interest thereon which interest shall be used in the same manner as the VAC.

**G. Process to Update the Framework**

The Urban Village Implementation Framework is intended to evolve over time to reflect changes in the real estate market and the economy, community preferences and City needs, and changes in State and Federal Laws.

While this Framework does not establish a schedule for considering updates or conducting a comprehensive review, a real estate market analysis should be conducted periodically to update the residential and residential mixed-use project value that is used to calculate the Average Project Value.

The Average Project Value of \$555 per net residential square foot is initially established by this Framework as a City-wide value, reflecting the average value for new high density residential or residential mixed-use projects throughout the City as whole. This Average Project Value should be adjusted and refined periodically, using the most current apartment building and condominium sales data, to better reflect the current market conditions of different geographies and product types in San José.

#### **H. Application of Framework to Projects With Applications in Process**

Planned development zonings and discretionary development permits that have been submitted to the City, including full payment of initial application fees, prior to adoption of this Urban Village Implementation Framework, are not subject to this Framework.

# Table 1 - Urban Village Amenity Credit Methodology

Village Amenity Contribution (VAC) = Average Project Value x Total Net Residential Square Footage x 0.02

| Village Amenity  | Formula  | Minimum Requirement | Maximum Credit | Comments  |
|--|--|---------------------|----------------|---|
| On-site Plazas/Private<br>Owned and Publicly<br>Accessible Open Space<br>(POPO)                  | 2% – 3.5% of site developed<br>as a POPO = 25% of VAC<br><br>3.5% - 4.9% of site<br>developed as a POPO = 50%<br>of VAC<br><br>5% - 6.9% of site developed<br>as a POPO = 75% of VAC | 2,000 SF            | 75%            | Privately maintained<br><br>Will not be counted towards a project's<br>PDO/PIO obligation.<br><br>Required common open space areas,<br>landscape corridors, emergency vehicle<br>access easements, walkways, unsuitable<br>topography areas, riparian corridors,<br>and environmental mitigation areas<br>stormwater low impact development<br>areas, are not eligible for credit towards<br>this provision |
| Commercial Space, above<br>and beyond UV requirement   | % of commercial space<br>provide beyond<br>requirement = % of credit<br>towards VAC  | 5,000 SF            | 40%            | e.g. 20,000 SF required and 25,000 SF<br>provided<br>25% increase results in 25% reduction in<br>VAC<br><br>Commercial spaces must be used for<br>employment uses   |
| Deed Restricted commercial<br>space for "non-formula"<br>retail uses and community<br>facilities | % of total commercial<br>provided that is deed<br>restricted = % of credit<br>towards VAC  | 2,000 SF            | 20%            | e.g. 20,000 SF provided and 3,000 SF<br>deed restricted<br>15% deed restricted results in 15%<br>reduction in VAC<br><br>"Non- formula" retail uses are<br>establishments that do not share<br>common features, such as a<br>standardized array of merchandise,<br>trademark, architecture, and décor, with   |

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|  |                                     |   |            | 11 or more establishments worldwide. The term "retail use" includes both stores and restaurants, as well as some services.   |
| On or off-site place making art Installations in locations viewable by the public  | \$1.5 credit for each \$1 invested  | <ol style="list-style-type: none"> <li>1. Min. \$1,220.00 per dwelling unit if developer managed/City approved</li> <li>2. Min. \$1,600.00 per dwelling unit if City Public Art program managed/approved</li> </ol> | 20%        | e.g. 100 unit project would include public art installation valued at minimum of \$122,000 subject to City approval  |
| Off-site streetscape amenities or multi-modal improvements beyond standard requirements: includes, but not limited to, roadway/intersection improvements, connections to transit, enhanced sidewalk or streetscape, enhanced lighting, or landscaping. | \$1.50 credit for each \$1 invested | \$50,000 of cost (equal to \$75,000 of credit)  | Up to 100% | Cost to be provided by applicant and verified by City DPW. Cost = hard construction costs, and soft costs, not to exceed 10% of total project cost, subject to approval by DPW.  |
| Contributions towards, or construction of, unfunded projects or improvements identified in an Urban Village Plan.  | \$1.50 credit for each \$1 invested | \$50,000 of cost (equal to \$75,000 of credit)  | 50%        | Cost to be provided by applicant and verified by City DPW or other Department. Cost = hard construction costs, and soft costs, not to exceed 10% of total project cost, subject to approval by DPW or appropriate City Department. |

|   |  |   |            |   |
|---|--|---|------------|---|
| <p>Construction of additional public open space amenities and park facilities above and beyond the City's Parkland Dedication Ordinance (PDO) and the Parks Impact Ordinance (PIO) fees and dedication requirements specified in the San Jose Municipal Code.</p> | <p>\$1.50 credit for each \$1 invested</p> | <p>\$50,000 of cost (equal to \$75,000 of credit)</p> | <p>20%</p> | <p>Cost to be provided by applicant and verified by City PRNS.<br/> Cost = hard construction costs, and soft costs, not to exceed 10% of total project cost, subject to approval by PRNS.</p> <p>Amenities could include, but are not limited to, off-site trail connections, public open space or park amenities and improvements, or community center amenities and improvements.</p> |
|---|--|---|------------|---|