



## **BOARD OF SUPERVISORS AGENDA ITEM REPORT**

Requested Board Meeting Date: August 2, 2016

**Title:** Recreation/Drainage Easement

### **Introduction/Background:**

Fenster School of Southern Arizona, an Arizona non-profit corporation who acquired title as The Fenster Ranch School, an Arizona non-profit corporation ("Grantor") grants to the Regional Flood Control District ("Grantee") a Recreation/Drainage Easement

### **Discussion:**

The Easement Area represents a Special Flood Hazard Area of Sabino Creek. The Easement is needed in accordance with Title 16.36.090 (Subdivisions & Development) of Pima County Floodplain Ordinance, and due to the magnitude of its 100 year flow volume, the Sabino Creek regulatory floodplain and floodway.

### **Conclusion:**

The Easement has been reviewed and approved by appropriate County and Flood Control District staff, and determined that the easement is needed in accordance with Title 16.36.090 (Subdivisions & Development) of Pima County Floodplain Ordinance.

### **Recommendation:**

Staff recommends that the Pima County Board of Supervisors and Board of Directors execute the Recreation/Drainage Easement. The Board of Supervisors Signature is required because the Easement Area will be included in calculations for density, setbacks, etc. for neighboring or surrounding property owned by Grantor.

### **Fiscal Impact:**

The Regional Flood Control district will have the use of the Easement Area for construction and maintenance of recreational/drainage improvements and all maintenance activities necessary to protect the natural ecosystem and all natural and cultural resources.

### **Board of Supervisor District:**

☒ 1      ☐ 2      ☐ 3      ☐ 4      ☐ 5      ☐ All

Department: Real Property Services

Telephone: 724-6462

Department Director Signature/Date: \_\_\_\_\_

*[Signature]* 7/20/16

Deputy County Administrator Signature/Date: \_\_\_\_\_

*[Signature]* 7/25/16

County Administrator Signature/Date: \_\_\_\_\_

*[Signature]* 7/25/16

WHEN RECORDED RETURN TO:  
PIMA COUNTY REAL PROPERTY SERVICES  
201 N. STONE, 6<sup>TH</sup> FLOOR  
TUCSON, AZ 85701

**DOCUMENT TITLE: Recreation/Drainage Easement**

## **RECREATION/ DRAINAGE EASEMENT**

For valuable consideration, **Fenster School of Southern Arizona, an Arizona non-profit corporation, who acquired title as The Fenster Ranch School, an Arizona non-profit corporation, ("Grantor")**, does hereby convey to the **Pima County Flood Control District, a political taxing subdivision of the State of Arizona**, (the "District") a perpetual non-exclusive easement for the construction and maintenance of recreational/drainage improvements over, under and across the property described on the attached **Exhibit A** and depicted on the attached **Exhibit B** (the "Easement Area"). The Easement Area represents a Special Flood Hazard Area of Sabino Creek as defined in Flood Rate Insurance Map Panel No.04019C-1720M, effective date September 28, 2012.

**Recreational Easement:** District shall have the right to construct and maintain a recreational trail for pedestrians, equestrians, and bicycles and shall have the right to make such topographical changes as are consistent with and reasonably necessary to promote the trail purposes of this easement. District is solely responsible for the maintenance of this easement. District may erect signs as are compatible with conservation and trail purposes. Minor improvements consistent with federal floodway use restrictions such as small crossings over existing natural drainages and to the structures or features deemed necessary or desirable may be undertaken by District at its discretion to ensure functionality of the trail.

**Drainage Easement:** District shall have the right to construct, maintain, repair and replace improvements within the Easement Area and to enter upon the Easement Area for the purpose of maintaining the natural conservation and riparian values within the easement and any of its improvements located thereon in perpetuity. This may include the alteration of the grade and gradient of Grantor's property, including debris removal, erosion control, and sediment removal that may result from natural flows including flood events. These maintenance activities may include the dislocation and removal of soil and other materials, or the addition of fill materials; the installation, maintenance and replacement of any improvements or stabilizing systems related thereto, or other maintenance activities necessary to protect the natural ecosystem and all natural and cultural resources.

**Responsibilities:** Grantor agrees that any structures that are proposed upon, over or under the Easement Area, or if the natural contours of the Easement Area should be excavated, filled or altered by Grantor, such proposed improvements shall comply with all applicable federal and local regulations and shall not block or interfere with the recreational facilities to be installed by Grantee, and such plans for any future structures affecting the easement area shall be reviewed by the District Director who shall either approve or recommend modifications for the proposed future structures of Grantor if in conflict with current or proposed recreational facilities. If the District Director recommends modifications for the placement of new structures, Grantor shall make every reasonable effort to comply with the recommendations, and shall comply with all applicable federal regulations.

**Use or Conveyance:** Grantor shall have the right to use and convey the Easement Area provided such use or conveyance will be subject to this easement and shall not interfere with the use of the

**Calculations:** The land area and square feet encompassed by the Easement Area owned by Grantor will be included in all density calculations, setbacks, floor area ratios, minimum lot areas and developmental requirements or considerations applicable to neighboring or surrounding property owned by Grantor. Square footage and land area within the Easement Area may only be applied to property that is owned by the Grantor which contains and is contiguous with the Easement Area.

All grants, covenants and conditions of this easement shall inure to the benefit of and be binding upon the successors in interest to the District and Grantor.

GRANTOR: Fenster School of Southern Arizona, an Arizona non-profit corporation

Title: President

This instrument was acknowledged before me, the undersigned authority, on this 24 day of August, 2015, by Anthony Tsang as President of Fenster School of Southern Arizona, an Arizona non-profit corporation.



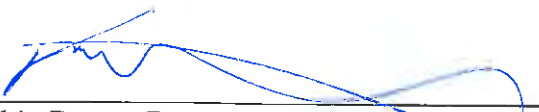
Recommended to the Board of  
Supervisors and the Board of Directors for Approval:

By   
Suzanne Shields, Director  
Pima County Regional Flood Control District

By   
Neil Konigsberg, Manager  
Real Property Services

Approved as to form:

By \_\_\_\_\_  
John Bernal,  
Deputy County Administrator-Public Works

  
Tobin Rosen, Deputy County Attorney

Approved and accepted by Pima County:

\_\_\_\_\_  
Chair, Pima County Board of Supervisors

Attest:

\_\_\_\_\_  
Robin Brigode, Clerk of the Board of Supervisors

STATE OF ARIZONA       )  
                                      ) ss  
COUNTY OF PIMA       )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by  
the Chair of the Pima County Board of Supervisors, a political subdivision of the State of  
Arizona.

Approved and accepted by:

Pima County Regional Flood Control District,  
a political taxing subdivision of the State of Arizona

By: \_\_\_\_\_  
Chair, Board of Directors

ATTEST:

\_\_\_\_\_  
Robin Brigode, Clerk of the Board

STATE OF ARIZONA       )  
                                      ) ss  
COUNTY OF PIMA       )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by  
the Chair of the Board of Directors of the Pima County Flood Control District, a political taxing  
subdivision of the State of Arizona.

(Seal)

\_\_\_\_\_  
Notary Public



3528 N. FLOWING WELLS RD.  
TUCSON, ARIZONA 85705  
TEL: 520-322-6400  
FAX: 520-322-6401

## **LEGAL DESCRIPTION – PROJECT NO. 15092**

June 9, 2015

### **ACQUISITION AGREEMENT – EXHIBIT A:**

An Area of Acquisition over a portion of the Northeast quarter of Section 16, Township 13 South, Range 15 East, Gila and Salt River Meridian, being more particularly described as follows:

Commencing at the Center one-quarter corner of said Section 16, said corner being a Railroad Spike in pavement on the centerline of Ocotillo Drive, from which the East one-quarter corner bears North 89°43'44" East 2670.03 feet distant, said corner being a 3" diameter lead capped pipe;

Thence North 00°06'41" West 30.00 feet upon the West line of said Northwest quarter to the North right-of-way of said Ocotillo Drive;

Thence North 89°43'44" East 1075.05 feet upon said North right-of-way to the **Point of Beginning**;

Thence North 35°12'02" West 69.85 feet;

Thence North 15°39'01" West 26.43 feet;

Thence North 12°05'05" East 52.85 feet;

Thence North 23°18'05" East 150.01 feet;

Thence North 28°15'41" East 51.22 feet;

Thence North 22°03'27" East 148.69 feet;

Thence North 12°35'28" East 51.25 feet;

Thence North 04°29'12" West 78.21 feet;

Thence North 00°20'43" West 127.20 feet;

Thence North 00°38'08" East 89.44 feet;

Thence North 07°53'26" East 185.55 feet;

Thence North 11°25'10" East 119.71 feet;

Thence North 23°57'01" East 149.85 feet;

Thence North 35°37'04" East 56.46 feet;

Thence North 49°00'28" East 123.68 feet;

Thence North 59°30'03" East 75.31 feet;

Thence North 43°41'10" East 60.81 feet to the South line of parcel recorded in Docket 10657 at Page 317, Pima County Records;

Thence North 89°40'41" East 421.42 feet upon the South line of said parcel;

Thence South 14°15'06" East 82.81 feet;

Thence South 23°25'09" East 117.20 feet;

Thence South 17°16'46" East 68.78 feet;

Thence South 12°52'27" East 32.83 feet;

Thence South 10°18'35" East 103.45 feet;

Thence South 03°39'30" East 147.99 feet;

Thence South 05°06'52" West 86.49 feet;

Thence South 11°30'24" West 149.07 feet;

Thence South 21°10'45" West 123.12 feet;

Thence South 27°31'41" West 76.76 feet;

Thence South 35°09'49" West 165.50 feet;

Thence South 18°04'28" West 100.08 feet;

Thence South 21°27'10" West 61.68 feet;

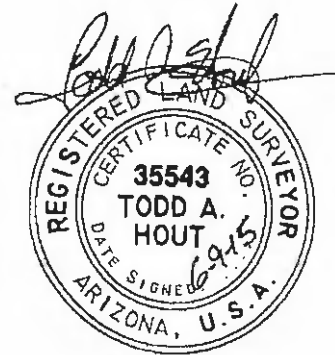
Thence South 09°06'35" West 39.06 feet;

Thence South 03°06'45" West 95.31 feet;

Thence South 02°44'30" East 74.21 feet to a point 30.00 feet North of the South line of the Northeast quarter of said Section 16, to the North right-of-way of Ocotillo Drive;

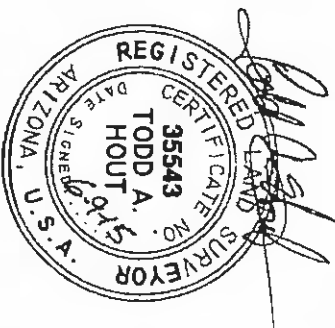
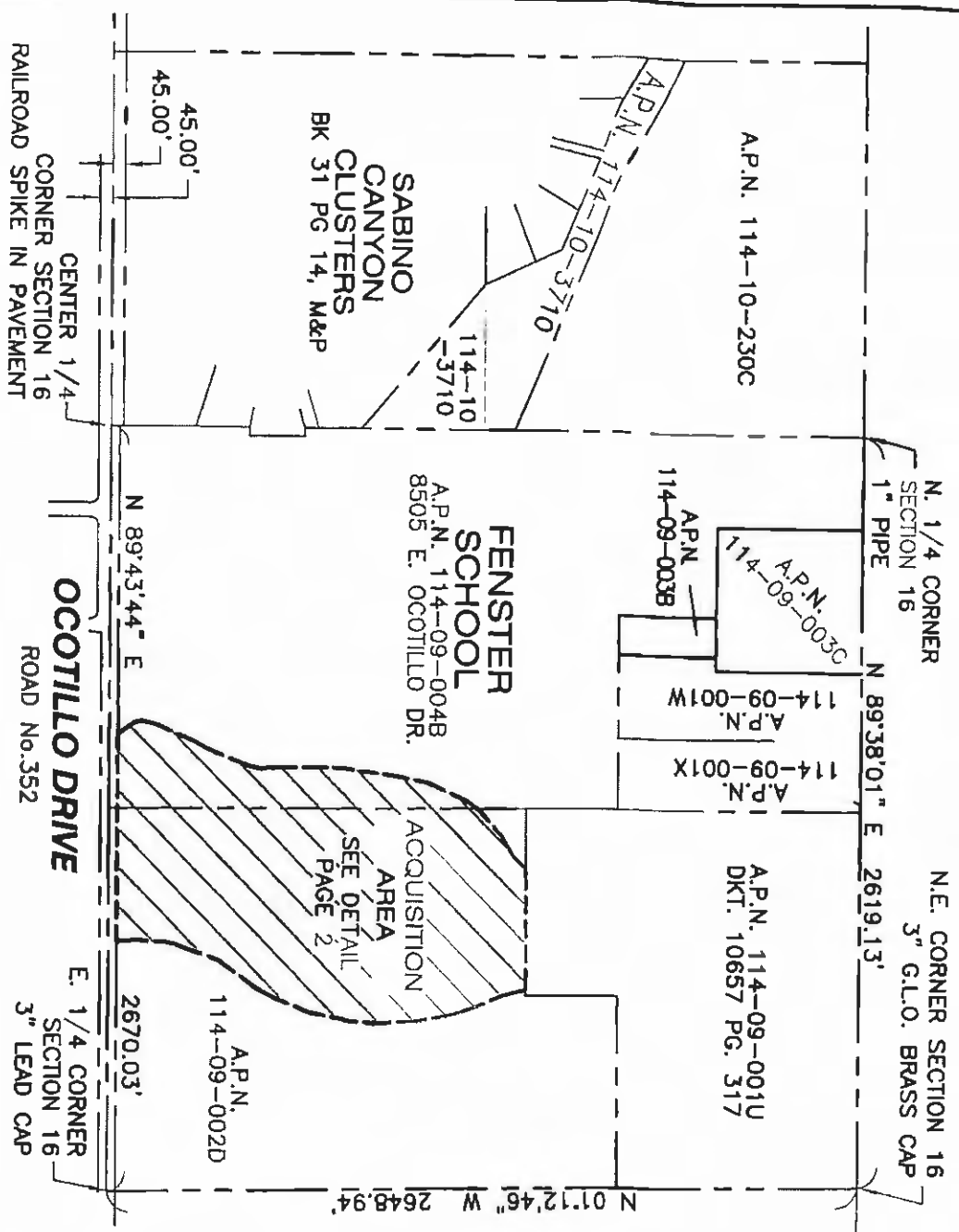
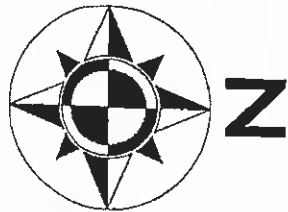
Thence South 89°43'44" West 721.47 feet upon said North right-of-way to the **Point of Beginning**.

Said Acquisition Area contains 1,104,506.6 square feet or 25.36 acres, more or less.



EXPIRES 12-31-15

GRAPHIC SCALE: 1 inch = 600 Feet  
 150 0 300 600 1200



EXPIRES 12-31-15



3528 N. FLOWING WELLS RD.  
 TUCSON, ARIZONA 85705  
 TEL.: (520) 322-6400 FAX: (520) 322-6401

NOTE: THIS MAP IS  
 INTENDED TO  
 PORTRAY AN  
 ACQUISITION AREA  
 AND DOES NOT  
 REPRESENT A  
 BOUNDARY SURVEY.

DATE: JUNE 9, 2015 POLARIS JOB NO. 15092  
**ACQUISITION AGREEMENT - EXHIBIT B**  
**OVER A PORTION OF THE N.E. 1/4 OF**  
**SECTION 16, T. 13 S., R. 15 E., G. & S. R. M.,**  
**PIMA COUNTY, ARIZONA**

GRAPHIC SCALE: 1 inch = 300 Feet  
75 0 150 300 600

N.E. CORNER SECTION 16  
3" G.L.O. BRASS CAP



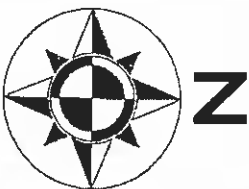
**POLARIS**  
LAND  
SURVEYING, LLC

3528 N. FLOWING WELLS RD.  
TUCSON, ARIZONA 85705  
TEL.: (520) 322-6400  
FAX: (520) 322-6401

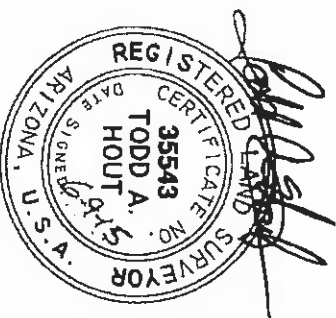
**FENSTER  
SCHOOL**  
A.P.N. 114-09-004B  
8505 E. Ocotillo Dr.

A.P.N. 114-09-001U  
DKT. 10657 PG. 317

NOTE: THIS MAP  
IS INTENDED TO  
PORTRAY AN  
ACQUISITION  
AREA AND DOES  
NOT REPRESENT  
A BOUNDARY  
SURVEY.



N 01°12'46" W 2648.94'



EXPIRES 12-31-15

DATE: JUNE 9, 2015  
POLARIS JOB NO. 15092

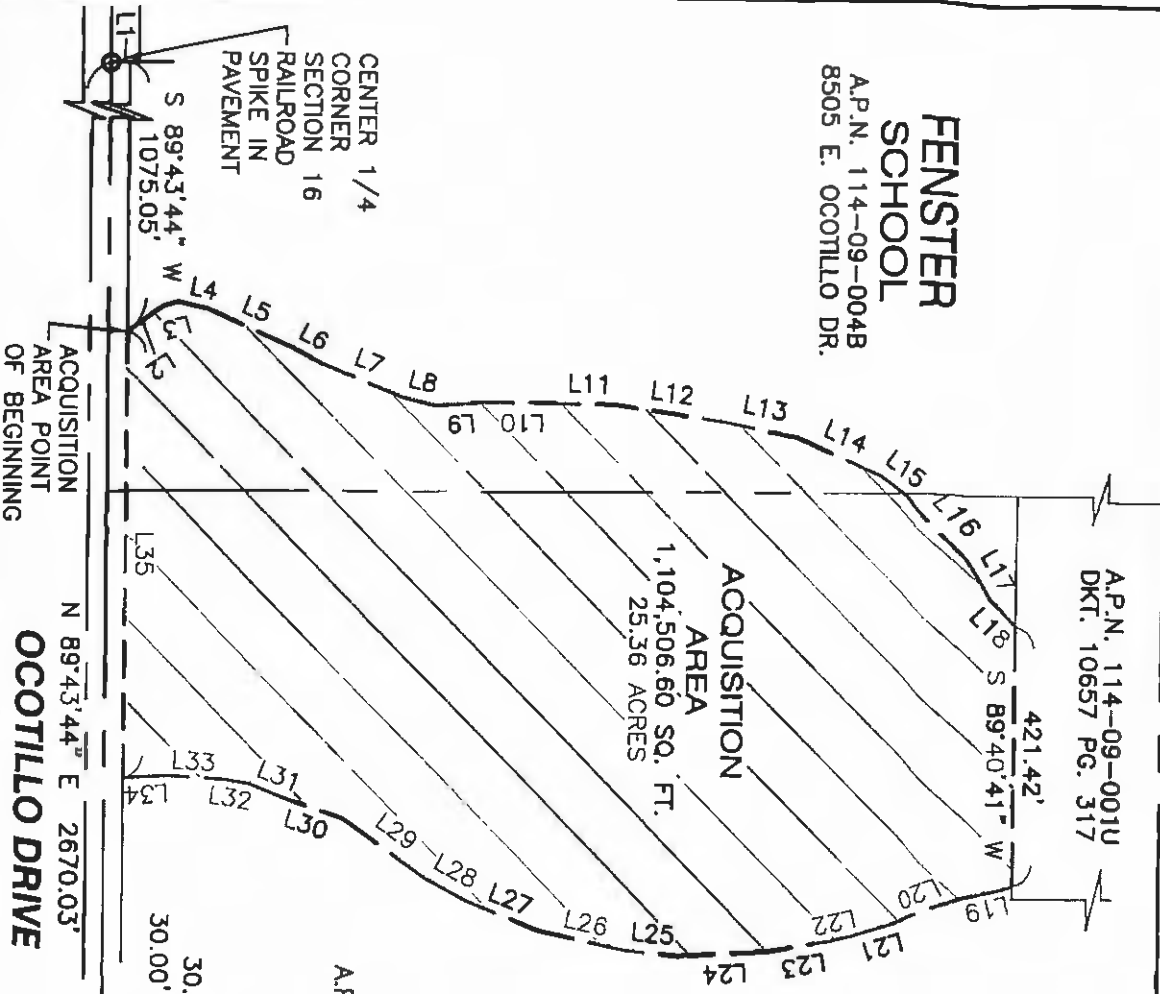
**ACQUISITION**

**AGREEMENT - EXHIBIT B  
OVER A PORTION OF THE  
N.E. 1/4 OF SECTION 16,  
T. 13 S., R. 15 E., G. & S.  
R. M., PIMA COUNTY,  
ARIZONA**

CENTER 1/4  
CORNER  
SECTION 16  
RAILROAD  
SPIKE IN  
PAVEMENT  
S 89°43'44" W  
1075.05'

ACQUISITION  
AREA POINT  
OF BEGINNING  
N 89°43'44" E 2670.03'  
**OCOTILLO DRIVE**  
ROAD No. 352

A.P.N. 114-09-002D  
30.00'  
E. 1/4 CORNER  
SECTION 16  
3" LEAD CAP



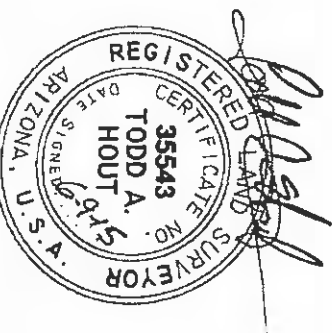
LINE	BEARING	DISTANCE
L1	N 00°06'41" W	30.00'
L2	N 35°12'02" W	69.85'
L3	N 15°39'01" W	26.43'
L4	N 12°05'05" E	52.85'
L5	N 23°18'05" E	150.01'
L6	N 28°15'41" E	51.22'
L7	N 22°03'27" E	148.69'
L8	N 12°35'28" E	51.25'
L9	N 04°29'12" W	78.21'
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L11	N 00°38'08" E	89.44'
L12	N 07°53'26" E	185.55'
L13	N 11°25'10" E	119.71'
L14	N 23°57'01" E	149.85'
L15	N 35°37'04" E	56.46'
L16	N 49°00'28" E	123.68'
L17	N 59°30'03" E	75.31'
L18	N 43°41'10" E	60.81'

LINE	BEARING	DISTANCE
L19	S 14°15'06" E	82.81'
L20	S 23°25'09" E	117.20'
L21	S 17°16'46" E	68.78'
L22	S 12°52'27" E	32.83'
L23	S 10°18'35" E	103.45'
L24	S 03°39'30" E	147.99'
L25	S 05°06'52" W	86.49'
L26	S 11°30'24" W	149.07'
L27	S 21°10'45" W	123.12'
L28	S 27°31'41" W	76.76'
L29	S 35°09'49" W	165.50'
L30	S 18°04'28" W	100.08'
L31	S 21°27'10" W	61.68'
L32	S 09°06'35" W	39.06'
L33	S 03°06'45" W	95.31'
L34	S 02°44'30" E	74.21'
L35	S 89°43'44" W	721.47'



**POLARIS**  
**AND**  
**SURVEYING, LLC**

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DATE: JUNE 9, 2015 POLARIS JOB NO. 15092

### ACQUISITION

### AGREEMENT - EXHIBIT B

OVER A PORTION OF THE N.E. 1/4  
OF SECTION 16, T. 13 S., R. 15 E.,

G. & S. R. M., PIMA  
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EXPIRES 12-31-15