File No. 160719	Committee Item No
	ARD OF SUPERVISORS KET CONTENTS LIST
Committee: Budget & Finance Sub-	-Committee Date July 27, 2016
Board of Supervisors Meeting	Date
MOU Grant Information For Grant Budget Subcontract Budget Contract/Agreement Form 126 – Ethics Co Award Letter	eport Cover Letter and/or Report rm
Application Public Corresponden	ce
OTHER (Use back side if addi	itional space is needed)
Completed by: Linda Wong Completed by: Linda Wong	Date July 22, 2016 Date

Ordinance amending the Police Code to make technical amendments to the Paid

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[Police Code - Paid Parental Leave Ordinance]

Parental Leave Ordinance consistent with its original intent.

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NOTE:

Unchanged Code text and uncodified text are in plain Arial font.

Additions to Codes are in single-underline italics Times New Roman font.

Deletions to Codes are in strikethrough italics Times New Roman font.

Board amendment additions are in double-underlined Arial font.

Board amendment deletions are in strikethrough Arial font.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Police Code is hereby amended by revising Sections 3300H.2, 3300H.3, and 3300H.4 of Article 33H, to read as follows:

SEC. 3300H.2. FINDINGS.

* * * *

(b) As of January 2016, workers eligible for California Paid Family Leave can take up to six weeks of paid time off at 55% of their weekly wages up to a maximum weekly benefit amount to bond with a new child or care for a seriously ill family member. The weekly benefit amount is determined by using the employee's highest-earning calendar quarter during an approximately 12-month base period. As of January 2016, the maximum weekly benefit amount is \$1,129. To qualify for this maximum weekly benefit amount, an individual must earn at least \$26,070.92 in a calendar quarter during the base period. In April 2016, Tithe State Legislature is considering enacted legislation that will that would extend the number of weeks of paid time off and increase the weekly benefit amount wage replacement rate to 70% for lower-income workers and 60% for higher-income workers, for periods of leave commencing after January 1, 2018

but before January 1, 2022., but as of the enactment of this Article 33H, the state legislation had not been passed.

(i) This Article 33H is intended to supplement the California Paid Family Leave partial wage replacement by providing compensation that, in combination with the California Paid Family Leave payment, will total 100% of an employee's weekly salary, subject to a weekly maximum benefit amount, *during the six-week leave period*, to help ensure that concern over loss of income does not preclude parents in San Francisco from bonding with their new child.

SEC. 3300H.3. DEFINITIONS.

"Covered Employee" means any person, including but not limited to part-time and temporary employees, who is employed by a Covered Employer (1) who commenced employment with the Covered Employer at least 180 days prior to the start of the leave period, (2) who performs at least eight hours of work per week for the employer within the geographic boundaries of the City, (3) at least 40% of whose total weekly hours worked for the employer are within the geographic boundaries of the City, and (4) who is eligible to receive paid family leave compensation from the State of California under the California Paid Family Leave law for the purpose of bonding with a new child. Where a person's weekly work hours fluctuate from week to week, the Agency shall determine whether the person meets the eight-hour and/or 40% threshold requirements in the preceding sentence by using an average of the person's weekly hours worked for the Covered Employer during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately preceding the start of the person's California Paid Family Leave period. If the person was on **unpaid** leave during any of the aforementioned pay periods, such pay periods(s) shall not be

counted towards the average referenced in the preceding sentence; rather, the Agency shall consider additional earlier corresponding pay periods for that person in order to satisfy the above designated number of pay periods, but in no case shall the Agency, in calculating the average, consider pay periods earlier than 26 weeks prior to the California Paid Family Leave period.

SEC. 3300H.4. SUPPLEMENTAL PAID PARENTAL LEAVE.

- (a) Applicability. This Article 33H applies to Covered Employees who are receive ing California Paid Family Leave benefits for the purpose of New Child Bonding.
 - (b) Supplemental Compensation.
 - (1) General.
- (A) Except as stated in subsection (b)(2), when a Covered Employee receives California Paid Family Leave compensation for the purpose of New Child Bonding, a Covered Employer shall, during the leave period, supplement the California Paid Family Leave weekly benefit amount that the employee is-receivesing by paying the employee Supplemental Compensation in an amount such that the total of the California Paid Family Leave compensation the employee is-receivesing and the Supplemental Compensation provides, but does not exceed, 100% of the employee's current normal gross weekly wage.
- (B) If the Covered Employee's weekly wage fluctuates, the employee's normal gross weekly wage shall be calculated based on an average of the employee's weekly earnings from the Covered Employer during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately preceding the start of the employee's California Paid Family Leave period. If the employee was on unpaid <u>or partially</u> <u>paid</u> leave during any of the aforementioned pay periods, such pay period(s) shall not be counted towards the average referenced in the preceding sentence; rather, the average shall

be calculated using additional earlier corresponding pay periods in order to satisfy the above designated number of pay periods, but in no case shall pay periods earlier than 26 weeks prior to the California Paid Family Leave period be considered. *Notwithstanding the preceding sentence, if the Covered Employee's weekly wage fluctuates and the employee has worked for the Covered Employer for less than 26 weeks, the weekly wage shall be calculated based on an average of the employee's weekly earnings for the entire period of employment to date.*

(C) If the California Paid Family Leave weekly benefit amount that the Covered Employee is receiving from the State is based on earnings from a calendar quarter during which the employee did not work for the Covered Employer, or during which the employee earned a higher weekly wage from the Covered Employer than the employee is receiving at the time of his or her leave, the Supplemental Compensation amount shall be calculated to provide 100% of the employee's normal gross weekly wage in his or her current position; provided, however, that reducing a Covered Employee's wages during the leave period or within 90 days of the employee's having notified the Covered Employer of his or her intent to apply for and/or use made a request or application for California Paid Family Leave shall raise a rebuttable presumption that such wage reduction was made to reduce the Covered Employer's Supplemental Compensation obligations under this Section 3300H.4. Unless the Covered Employer rebuts the presumption with clear and convincing evidence that the reduction was solely for a reason other than reducing its obligation to pay Supplemental Compensation, the employer shall be obligated to pay Supplemental Compensation during the leave period based on the employee's prior wage rate.

(D) Multiple Employers.

(i) Where the Covered Employee works for more than one employer, the Supplemental Compensation amount shall be apportioned between or among the Covered Employers based on the percentage of the Employee's total gross weekly wages

 received from each employer. For example, if the Employee earns \$800 per week from Covered Employer A, and \$200 per week from Covered Employer B for a combined total of \$1,000, Employer A shall pay 80% of the Supplemental Compensation amount and Employer B shall pay 20% of the Supplemental Compensation amount. If the Employee's weekly wage for a given Employer fluctuates, the percentage referenced in this subsection shall be calculated by averaging the employee's weekly wages earned from the Employer during the three monthly pay periods, six bi-weekly or semi-monthly pay periods, or 12 weekly pay periods immediately preceding the leave period. If the employee was on unpaid *or partially paid* leave during any of the aforementioned pay periods, such pay period(s) shall not be counted towards the average referenced in the preceding sentence; rather, the average shall be calculated using additional earlier corresponding pay periods in order to satisfy the above designated number of pay periods, but in no case shall pay periods earlier than 26 weeks prior to the California Paid Family Leave period be considered.

* * * *

(iii) In cases of multiple employers, the Covered Employee shall, as a precondition of receiving Supplemental Compensation, provide the Covered Employer(s) with both (1) a copy of the employee's Notice of Computation of California Paid Family Leave Benefits from the State or other legally authorized statement, and (2) information pertaining to wages received from all employers during the 90 days prior to the leave period on a form prepared by the Agency and signed by the employee under penalty of perjury. A Covered Employee's failure to comply with this requirement shall relieve the Covered Employer(s) of their obligation to provide the employee with Supplemental Compensation.

(3) **Termination During Leave Period**. A Covered Employer's obligation to provide Supplemental Compensation under this Section 3300H.4 applies only *during the period* when the Covered Employee *is eligible for and* is receiving California Paid Family Leave

benefits for New Child Bonding; provided, however, that if a Covered Employer terminates a Covered Employee during the leave period, the employer's obligation to pay Supplemental Compensation shall continue for the remainder of the California Paid Family Leave period the Covered Employee is receiving California Paid Family Leave benefits.

(4) **Termination Prior to Leave Period**. Terminating a Covered Employee prior to the employee's leave period but within 90 days of the employee's having notified the Covered Employer of his or her intent to apply for and/or use made a request or application for California Paid Family Leave shall raise a rebuttable presumption that such termination was taken to avoid the Covered Employer's Supplemental Compensation obligations under this Section 3300H.4. Unless the Covered Employer rebuts the presumption with clear and convincing evidence that the termination was solely for a reason other than avoidance of its obligation to pay Supplemental Compensation, the employer shall be obligated to pay the terminated employee Supplemental Compensation during the leave period.

(c) Integration/Coordination of Benefits. In accordance with California

Unemployment_Insurance Code Section 2656, a Covered Employee who is receiving

California Paid Family Leave benefits may not receive Supplemental Compensation under this

Article 33H which would result in the employee's receiving total compensation while on paid

parental leave that is greater than the employee's normal gross weekly wages. As a

precondition of receiving Supplemental Compensation, a Covered Employee must either (1)

provide the Covered Employer with a copy of the employee's Notice of Computation of

California Paid Family Leave Benefits from the State or other legally authorized statement, or

(2) at the time of applying for California Paid Family Leave, provide the State with written

authorization to disclose the weekly benefit amount to the employer so that the Covered

Employer may request and obtain that information from the State. A Covered Employee's failure to

comply with this requirement shall relieve the Covered Employer of its obligation to provide the employee with Supplemental Compensation.

Section 2. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Police Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

APPROVED AS TO FORM: DENNIS J. HERRERA, City Attorney

By:

Deputy City Attorney

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Supervisor Wiener **BOARD OF SUPERVISORS**

REVISED LEGISLATIVE DIGEST

(Substituted, 7/19/2016)

[Police Code - Paid Parental Leave Ordinance]

Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave Ordinance consistent with its original intent.

Existing Law

The Paid Parental Leave Ordinance (Police Code Article 33H) requires, as of January 1, 2017, San Francisco employers with 50 or more employees to provide partial (45%) wage replacement ("Supplemental Compensation") to employees taking leave to bond with a new child under the California Paid Family Leave program. On July 1, 2017, the ordinance's Supplemental Compensation requirement will expand to San Francisco employers with 35 or more employees, and on January 1, 2018, to employers with 20 or more employees.

Amendments to Current Law

The ordinance would make the following technical amendments to the Paid Parental Leave Ordinance consistent with its original intent:

- Update the legislative findings to reflect a recently enacted change in the State's Paid Family Leave law which will increase the wage replacement rate under the State law starting January 1, 2018 from 55% to 60% for higher income workers, and to 70% for lower income workers. This change in State law will have the effect of reducing Covered Employers' Supplemental Compensation obligation to 40% and 30% of weekly wages respectively.
- Clarify that a Covered Employer's obligation to pay Supplemental Compensation coincides with the period during which the employee actually receives Paid Family Leave wage benefits from the State, which may not necessarily coincide with the employee's six-week leave period because employees may apply for such benefits after their leave has already commenced, and/or the State may delay in issuing payments.
- Clarify that periods of unpaid leave in addition to paid shall not be counted when calculating an employee's average weekly hours for purposes of determining the employee's eligibility as a "Covered Employee."
- Clarify that periods of partially paid leave in addition to unpaid leave shall not be counted when calculating an employee's average weekly earnings.
- Remove provision about employees who have been working for less than 26 weeks because an employee must work for at least 180 days in order to qualify as a Covered Employee.

 Clarify that the time when Covered Employees should give the State permission to share their Paid Family Leave weekly benefit information with their employer is when they file their application with the State, and that Employers must in turn affirmatively request such weekly benefit information from the State.

Background Information

The Board of Supervisors approved the Paid Parental Leave Ordinance on April 12, 2016 (Ordinance No. 54-16). That ordinance becomes operative on January 1, 2017. The proposed ordinance contains non-substantive amendments designed to more accurately reflect how the State administers California Paid Family Leave benefits.

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BOARD OF SUPERVISORS

1516-RBM-29

(415) 554-6446 (415) 554-6140 FAX www.sfgov.org/youth_commission

Youth Commission City Hall ~ Room 345 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4532



YOUTH COMMISSION MEMORANDUM

TO:

Erica Major, Assistant Clerk, Public Safety and Neighborhood Services

Committee

FROM:

Youth Commission

DATE:

Thursday, July 7, 2016

RE:

Referral response to BOS Files No. 160719

At our **Tuesday**, **July 5**, **2016 meeting**, the Youth Commission voted to unanimously support the following motion:

To support BOS File No. 160719—[Police Code - Paid Parental Leave Ordinance] Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave Ordinance consistent with its original intent.

Youth Commissioners thank the Board of Supervisors for their attention to issue. If you have any questions, please contact our office at (415) 554-6446, or your Youth Commissioner.

Chair, Luis Avalos-Nunez Adopted on July 5, 2016

2015-2016 San Francisco Youth Commission

BOARD of SUPERVISORS



City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-5184 Fax No. 554-5163 TDD/FTY No. 554-5227

MEMORANDUM

TO:

Youth Commission

FROM:

Erica Major, Assistant Clerk, Public Safety and Neighborhood Services

Committee

DATE:

June 27, 2016

SUBJECT:

REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following, which at the request of the Youth Commission is being referred as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File No. 160719

Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave Ordinance consistent with its original intent.

Please return this cover sheet with the Commission's response to Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services.

******************	******************
RESPONSE FROM YOUTH COMMISSION	Date:
No Comment	
Recommendation Attached	
	Chairnerson Youth Commission

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO:

Micki Callahan, Director, Department of Human Resources

Laurel Kloomok, Executive Director, Children and Families Commission Maria Su, Director, Department of Children, Youth and Their Families

Catherine Dodd, Director, Health Service System

Trent Rhorer, Executive Director, Human Services Agency

Patrick Mulligan, Director, Office of Labor Standards Enforcement

FROM:

Erica Major, Assistant Clerk, Public Safety and Neighborhood Services

Committee, Board of Supervisors

DATE:

June 27, 2016

SUBJECT:

LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Wiener on June 21, 2016:

File No. 160719

Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave Ordinance consistent with its original intent.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

C

Susan Gard, Department of Human Resources Krista Ballard, Human Services Agency Donna Levitt, Office of Labor Standards Enforcement

BOS-11, COB, Leg Dep City atty Dep. Mayors, PSNS B+F

President, District 5 **BOARD of SUPERVISORS**



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. 554-7630 Fax No. 554-7634 TDD/TTY No. 544-5227

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Date:		07/19/201	16				7
To:	-	Angela Cal	lvillo, Clerk of t	he Boar	rd of Supervisors		AM IO:
Madam Pursuar		•	es, I am hereby	•			ω
□ Wa	iving	30-Day R	ule (Board Rule No	. 3.23)			
H	File N	No.					
T	litle.				(Primary Sponsor)		
⊠ Tra	nsfer	ring (Board F	Rule No 3.3)				
I	File N	Vo.	160719		Wiener	_	
· 1	Γitle.	Police C	ode - Paid Pare	ntal Lea	(Primary Sponsor) ave Ordinance		
	Fron	n: Public Sa	afety & Neighb	orhood	Services	_Commi	ttee
,	To:	Budget &	& Finance			_ Commi	
□ Ass	ignin	ng Tempor	ary Committee	Appoin	tment (Board Rule No. 3.1)		
;	Supe	rvisor					
]	Repla	acing Supe	rvisor				
	For:		(Date)		(Committee)		Meeting
			(Latt)		(COLUMNICOC)		

London Breed, President Board of Supervisors



Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):	or meeting date
☐ 1. For reference to Committee.	
An ordinance, resolution, motion, or charter amendment.	
2. Request for next printed agenda without reference to Committee.	
☐ 3. Request for hearing on a subject matter at Committee.	
4. Request for letter beginning "Supervisor	inquires"
5. City Attorney request.	
6. Call File No. from Committee.	
7. Budget Analyst request (attach written motion).	
8. Substitute Legislation File No. 160719	
9. Request for Closed Session (attach written motion).	
☐ 10. Board to Sit as A Committee of the Whole.	
☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on	
Please check the appropriate boxes. The proposed legislation should be forwarded to the following Small Business Commission	
☐ Planning Commission ☐ Building Inspection Commiss	ion
Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperativ	re
Sponsor(s):	
Supervisor Wiener	
Subject:	
Police Code - Paid Parental Leave Ordinance	
The text is listed below or attached:	
Ordinance amending the Police Code to make technical amendments to the Paid Parental Leave with its original intent.	Ordinance consistent
Signature of Sponsoring Supervisor: Scott Wiene	1
For Clerk's Use Only:	W. Hall Brown and C. Constanting of the Constanting



Introduction Form

By a Member of the Board of Supervisors or the Mayor

I her	reby submit the following item for introduction (select only one):	or meeting date
\boxtimes	1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendme	ent)
	2. Request for next printed agenda Without Reference to Committee.	
	3. Request for hearing on a subject matter at Committee.	
	4. Request for letter beginning "Supervisor	inquires"
	5. City Attorney request.	unand
	6. Call File No. from Committee.	
	7. Budget Analyst request (attach written motion).	
	8. Substitute Legislation File No.	
	9. Reactivate File No.	
	10. Question(s) submitted for Mayoral Appearance before the BOS on	
	se check the appropriate boxes. The proposed legislation should be forwarded to the follow Small Business Commission	nission
Spons	sor(s):	
Wien	ner	
Subje	ect:	
Polic	ee Code - Paid Parental Leave Ordinance	
The t	text is listed below or attached:	
	nance amending the Police Code to make technical amendments to the Paid Parental Leave (its original intent.	Ordinance consistent
	Signature of Sponsoring Supervisor:	Acre
For (Clerk's Use Only:	

Time stamp

Major, Erica (BOS)

From:

Hosmon, Kiely (BOS)

Sent:

Thursday, July 07, 2016 12:37 PM

To:

Major, Erica (BOS); Calvillo, Angela (BOS)

Cc:

Carpenter, Adele; Lacroix, Leah (BOS); Cris Plunkett; Somera, Alisa (BOS)

Subject:

Referral responses to BOS File No. 160719

Attachments:

1516-RBM-29.pdf

Hello Erica,

I hope this finds you well. I am writing to share the Youth Commission's Referral response to BOS File No. 160719 which is attached.

Thank you very much for bringing this to youth commissioners' attention.

Cheers,

Kiely

Kiely Hosmon, M.A.

Coordinator of Youth Development and Administration San Francisco Youth Commission Office: 415.554.6464 | Fax: 415.554.6140

Pronouns Used: she & her

Visit the official <u>Youth Commission site</u> and <u>YC facebook</u> page.

Sign up for our newsletter.

Complete a Board of Supervisors <u>Customer Satisfaction form</u>.

Major, Erica (BOS)

From:

Major, Erica (BOS)

Sent:

Monday, June 27, 2016 10:59 AM

To:

Carpenter, Adele

Cc:

Lacroix, Leah (BOS); Hosmon, Kiely (BOS)

Subject:

REFERRAL YC (160719) Police Code - Paid Parental Leave Ordinance

Attachments:

160719 YC.pdf

Greetings,

Attached is a referral for the Youth Commission for comment and recommendation. Please forward your response to me as soon as it is available.

Best,

Erica Major Assistant Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163 Erica.Major@sfgov.org | www.sfbos.org



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The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

Major, Erica (BOS)

From:

Major, Erica (BOS)

Sent:

Monday, June 27, 2016 10:51 AM

To:

Cc:

Callahan, Micki (HRD); Kloomok, Laurel (CFC) (CHF) (CFC); 'maria@dcyf.org'; Dodd,

Catherine (HSS); Rhorer, Trent (HSA) (DSS); Mulligan, Kathy (UCSF); Mulligan, Pat (ADM)

Gard, Susan (HRD); Ballard, Krista [HSA]; Levitt, Donna (ADM)

Subject:

REFERRAL FYI (160719) Police Code - Paid Parental Leave Ordinance

Attachments:

160719 FYI.pdf

Greetings:

This matter is being forwarded to your department for informational purposes. If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Thank you for your attention.

Best,

Erica Major Assistant Clerk

Board of Supervisors

1 Dr. Carlton B. Goodlett Place, City Hall, Room 244 San Francisco, CA 94102

Phone: (415) 554-4441 | Fax: (415) 554-5163 <u>Erica.Major@sfgov.org</u> | <u>www.sfbos.org</u>



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