Overview of Key Terms for a Water Purchase Agreement with Poseidon Resources
Today's Agenda

1. Project Overview
2. Overview of key WPA terms
   - Parties to the WPA
   - Risk Assignment
   - Pricing
   - Design, Construction, Operations
   - Penalties for non-performance
   - Termination and events of default
3. Upcoming Board and Other Public Meetings
Carlsbad Desalination Project

- 50 mgd desalination project being developed by Poseidon
  - Located at the Encina Power Station using existing intake and discharge structures
  - Up to 56,000 acre-feet annually of new, highly reliable water supply

- Evaluated and Certified in 2003 Water Facilities Master Plan Program EIR

- Included in 2005 and 2010 Urban Water Management Plans
  - Part of the Region’s verifiable local water supply

- Project is fully permitted
  - The first large-scale project to be permitted in CA

- Initial operations will utilize power plant cooling water as source

- Post power plant stand-alone operation
  - Contemplates upgrade of existing ocean intake to Best Available Technology
Major Permit Conditions & Environmental Mitigation

- **Permitting Agencies**
  - City of Carlsbad, Regional Water Quality Control Board, State Lands Commission, and Coastal Commission

- **Primary Impacts**
  - Impingement and entrainment associated with ocean water intake when Power Plant no longer operating
  - Greenhouse gas emissions associated with electricity consumption

- **Greenhouse Gas Mitigation**
  - Net greenhouse gas impacts from the Project will be offset through implementation of an Energy Minimization and Greenhouse Gas Reduction Plan by Poseidon
  - Purchase of carbon offsets, reforestation
  - Use of state-of-the-art energy recovery and other technology
Major Permit Conditions & Environmental Mitigation

Marine Life Mitigation

- Based on stand-alone operation absent the Power Plant using ocean water for cooling
- Coastal Commission required 66 acres of wetlands restoration as part of compliance with the Commission approved Marine Life Mitigation Plan
- Regional Board requires modifications to intake when Power Plant discharges of seawater are less than Poseidon's intake needs or Power Plant ceases operations
- WPA pricing includes $20 million (indexed) for capital cost of intake upgrade and $2.5 million (indexed) for annual operating expenses
- Any modification to intake requires compliance with CEQA, other state law, new Coastal Development Permit
Project Components

- 50 MGD desalination plant located on the site of the Encina Power Station (Poseidon)
- 10 mile 54-inch diameter conveyance pipeline (Poseidon)
- Connection to Water Authority aqueduct Pipeline 3 (Poseidon)
- Relining of 5.5 mile reach of Pipeline 3 (Water Authority)
- Improvements at the TOVWTP to accommodate desalinated water flows (Water Authority)
Desal Conveyance Pipeline
10-miles of new 54-inch pipe

TOVWTP Improvements

Pipeline 3 Relining
(27,100 feet)

Desalination Plant

Aqueduct Connection Facilities

Desal Conveyance Pipeline
10-miles of new 54-inch pipe

Agua Hedionda

Lake San Marcos
Draft Agreement Overview
Status of WPA Negotiations

• Final Draft Agreement undergoing final reviews
  • All major deal points and key provisions previously reviewed by Board Advisory Group
    • Commercial terms
    • Economic terms
  • Completing outstanding items that will allow finalization of water unit price

• Due Diligence status
  • Finalizing financial pro-forma assumptions to reflect negotiated terms and conditions
  • Water Authority reviewing finalized price for construction and operations
    • Reviewing Contractor pricing and costs
    • Identifying changes made at request of Water Authority
CONTRACT TERM

- 30 years from the date of commercial operation
- Subject to early buy-out provisions
- Can be extended for up to 3 years due to force majeure events
PARTIES

- Water Authority
- Project Company: Poseidon
- EPC Contractor: Kiewit-Shea Joint Venture
- Process Engineering and Equipment: IDE
- Operating Services Provider: IDE
Project Structure

- **Developer/Owner of the Plant**
  - Poseidon Resources (Channelside)
  - Poseidon to finance through a combination of debt (85%) and equity (15%)
    - Debt to be provided through tax-exempt Private Activity Bonds (PAB’s)
    - Equity to be provided by Stonepeak

- **Construction/Operation of the Plant**
  - Contractor – Joint venture of Kiewit Infrastructure West and J.F. Shea Construction
  - IDE Technologies is process technology provider
  - Plant Operations and Maintenance also to be provided by IDE
Project Structure (continued)

- **Owner of the Conveyance Pipeline**
  - Water Authority will own and maintain the Conveyance Pipeline
    - Not subject to franchise fees or possessory interest taxes
  - Finance using municipal purpose bonds issued by California Pollution Control Financing Authority (CPCFA)
    - Bonds maintain risk transfer to Poseidon by insulating the Water Authority from financial responsibility in the event Poseidon is unable to perform
    - Exempt from AMT – Lower interest rate

- **Construction of the Conveyance Pipeline**
  - DB agreement between the Water Authority and Poseidon
  - Contractor – Kiewit/Shea Joint Venture

- **Construction of the P3 Relining and TOVWTP Improvements**
  - Water Authority will be responsible to finance and complete these improvements
Who Is Poseidon Channelside LP?

**Poseidon Resources LLC**

- Poseidon is the developer and manager of the Project
- Founded in 1995 with a sole focus on development, management and investing in water infrastructure
- Portfolio and pipeline include domestic and international projects, with specific focus on seawater desalination
  - Currently developing other desalination projects in California and Florida using similar development, construction, operation and ownership approach
- Senior management team has developed, financed, and constructed over $10 billion in infrastructure projects

**Stonepeak Infrastructure Partners LLC**

- Stonepeak will be principal new equity investor in the project
- Invests in traditional infrastructure assets with a focus on North America
- TIAA-CREF is a founding investor in the fund
- The firm was previously the infrastructure division of Blackstone
- The Firm’s founding partners have invested over $2 billion of equity into North American infrastructure.
Project Organization Chart

Mandeville Desalination Ventures Group >50%

Sustainable Development Investments Partnership >10%

Current & Past Employees <20%

Other Third-Party Investors (>5 investors) ~15.0%

Poseidon Water LLC 100.0%

Poseidon Carlsbad LLC 100%

Poseidon Resources Channelside GP, Inc 99.9%

Poseidon Resources (Channelside) LP 0.1%
Post-Closing Ownership Structure

Poseidon Water LLC

Poseidon Carlsbad LLC
- Class B Shares

Orion Water Partners LLC
- Class A Shares

Stonepeak Capital Partners LP

Poseidon Resources (Channelside) LP
- Limited Partner 99.9%
- General Partner 0.1%

Poseidon Resources
- Channelside GP, Inc.

Orion Water Partners LLC

Poseidon Carlsbad LLC

Poseidon Resources (Channelside) LP

Stonepeak Capital Partners LP
Kiewit-Shea Joint Venture

**Kiewit** is one of the largest EPC companies in the U.S. with over 125 years of experience

- Top US contractor in the delivery of water supply projects, according to Engineering News-Record
- Over the last ten years, provided procurement, construction and start-up services for more than 280 public and private water supply projects totaling more than $6.3 billion in contract revenue
  - Includes over $240 million of construction work for the SDCWA in the past decade

**J.F. Shea** is a California-based construction company with over 100 years of experience constructing water and wastewater projects

- J.F. Shea has completed in excess of 441,000 linear feet of pipeline construction for water system throughout the southern California area
  - Includes over 70,000 linear feet in various projects for the SDCWA
- J.F. Shea completed the world’s largest reverse osmosis wastewater (75 MGD) to drinking water treatment plant

Select Kiewit Experience

- Bakersfield Wastewater Treatment Plant, California
- South Bay Water Reclamation Plant, California

Select J.F. Shea Experience

- Advanced Water Treatment Plant, Fountain Valley, California
- San Diego Pipeline No. 6, Winchester, California
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Who is IDE Technologies, Ltd?

- Founded in 1965, the company specializes in the development, engineering, production and operation of advanced desalination solutions
- Constructed over 400 plants in 40 countries worldwide
- Recently constructed two of the largest SWRO plants in the world
- Currently constructing Sorek (108 mgd) to be completed in 2013

Ashkelon (88 mgd)  
Hadera (97 mgd) – largest in the world
Water Purchase Agreement - Development Timeline

- **July 2010** – Term Sheet approved
  - Required that certain conditions be satisfied before face-to-face negotiations could commence

- **July 2011** – Equity commitment from Stonepeak Capital for up to $150 million

- **September 2011** – Acknowledgement and waiver of claims by all Desal Partner agencies achieved with Board approval of Framework Agreement for Cooperation with City of Carlsbad

- **October 2011** – Face-to-face negotiations with Poseidon commence
  - Under the direction of the Board’s Carlsbad Desalination Project Advisory Group
Water Authority Negotiating Team - Outside Consultants & Special Counsel

**Financial Advisor:** David Moore, Clean Energy Capital
- Investment banking
- Project and municipal finance; equity private placement
- Specialized expertise with energy projects

**Business and Technical Advisor:** Neil Callahan, SAIC
- Seawater desalination and water and wastewater infrastructure
- Project finance
- Previously assisted Water Authority in negotiations with Poseidon

**Special Counsel:** Eric Petersen, Hawkins Delafield & Wood
- Water, wastewater and energy DBO contracting experience
- Project Financing
- Special Counsel on Twin Oaks WTP DBO and Lake Hodges Tunnel DB contract
- Previously assisted Water Authority in negotiations with Poseidon
Balancing Price and Risk

- Proposed changes to the Carlsbad “Base Price” structure will improve the balance between project risk and financeability.
Key WPA Objectives

- Consistency with the July 2010 Term Sheet

- Transfer of risk to the private sector for the design and construction of the Plant and the Conveyance Pipeline

- Assignment of appropriate risk to the private developer at the minimum cost to the Water Authority
Assignment of Project Risk
PROJECT COMPANY RESPONSIBILITIES

- Permit, Design and Build the Desal Plant (WPA)
- Permit, Design and Build the Product Water Pipeline (Design-Build Agreement)
- Operate and Maintain the Desal Plant
- Supply Product Water
WATER AUTHORITY RESPONSIBILITIES

- “Take or Pay” for Product Water
- Timely Construction of TOVWTP Improvements and Pipeline 3 Rehabilitation
- Receive Product Water
- Operate and Maintain the Product Water Pipeline, the TOVWTP Improvements and Pipeline 3
RISKS TRANSFERRED

- Construction, and Operating Cost Overruns
- Timely Project Completion
- Regulatory and Law Compliance
- Regulated or Differing Site Conditions
- Capital Maintenance, Repair and Replacement
- Labor Supply and Relations
- Electricity Consumption
RISKS RETAINED

- Unusual Raw Seawater Water Parameters
- Changes in Law that affect all water treatment plant operators or wastewater dischargers
- Cost of Encina Improvements Due to Expected Power Station Closure, Up to $20 Million Capital and $2.5 Million Annual Operating Costs
- Force Majeure
- Bond Financing Interest Rates
- General Price Inflation
- General Electricity Rates
- Operating the TOVWTP Improvements
WATER AUTHORITY RETAINED RIGHTS

- Ownership of Existing Rights of Way
- Pipelines and TOVWTP
- Setting User Rates
- Ownership of System Revenues
- Grants and Subsidies
How does the Water Authority manage risk?

Key Provisions of the WPA
- 30 year term
- Purchase options beginning in year 10
- End-of-term purchase for $1
- No payments made unless water is produced
- Water Unit Price reflects underlying costs of the project
How does the Water Authority manage risk?

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Managing The “Pipeline To Nowhere” Risk

Before Commercial Operation:

- Water Authority will enter into a separate Design-Build Pipeline Contract with Poseidon for the construction of the Pipeline between the Plant and the Second Aqueduct
  - If the Pipeline completion is delayed Poseidon will pay *Contracted Shortfall Payments* equal to the pipeline debt service
  - If Poseidon fails to complete either the Pipeline or the Plant by certain specified dates, Poseidon will be obligated for the outstanding amount of the Pipeline Bonds
  - Water Authority will not be obligated to make any debt service payments on the Pipeline Bonds if Poseidon does not complete the project or pass acceptance testing
Managing The “Pipeline To Nowhere” Risk

After Commercial Operation:

- Poseidon will pay *Contracted Shortfall Payments* equal to a share of the debt service if fails to meet the minimum product water delivery requirement
  - Water Authority only pays debt service if water is delivered
  - No recourse to the Water Authority from Bond Holders
- Poseidon will be obligated for the outstanding principal amount of the Pipeline Bonds if the WPA is terminated for a Poseidon default
- Estimated $27 Million Present Value Savings from Poseidon ownership
  - Lower interest rate for municipal purpose bonds (AMT exempt)
  - Water Authority is not subject to franchise fees or possessory interest taxes
- Potential to refund municipal purpose bonds and realize additional rate payer savings by refinancing with Water Authority recourse financing
SECURITY FOR CONTRACT PERFORMANCE

- Equity Investment: Approx $150 M
- Project Financing: Non-Performance Risk Incentivizes Bondholders to Cure Breaches
- Letter of Credit to Secure Performance
- Letter of Credit to Assure Financing
Water Purchase Price
PRODUCT WATER PURCHASE PRICE

- Monthly Water Deliveries Times Unit Price
- Unit Price is the Sum of:
  a) Debt Service Charge
  b) Equity Return Charge
  c) Operating Charge
  d) Electricity Charge
  e) Adjustments to Unit Price for Uncontrollable Circumstances

- Monthly and Annual True-Up Payments
  - Product Water the Water Authority Fails to Take
  - Surplus Water Over Monthly Minimums
Cost Drivers

1. The **Capital Charge** is driven by:
   - Poseidon’s Capital Budget
   - Bond Issuance
   - Negotiated Equity Return/Developer Fee
   - Development period costs
   *The Capital Charge is fixed at a pre-established escalation rate*

2. The **Operating Charge** is driven by:
   - Terms of Poseidon’s O&M Agreement with IDE
   - Other operating expenses
   *The Operating Charge is indexed to CPI*

3. The **Electricity Charge** is driven by:
   - Terms of Poseidon’s O&M Agreement with IDE
   - SDG&E Rates
   - Water Authority’s option to select supplier
   *The Electricity Charge will vary with electricity prices*
WPA Water Unit Price with Conveyance

- **Fixed Costs**
  - Debt Service Charge
  - Equity Charge
  - Fixed O&M
  - Total: $1,172 - $1,327

- **Variable Costs**
  - Variable O&M
  - Variable Electricity
  - Total: $515 - $530

- **Conveyance**
  - Pipeline
  - Total: $268 - $302

- **Total**
  - Total: $1,955 - $2,159
Water Purchase Payments

- Monthly, based on actual deliveries in acre-feet
- In each year, the first 48,000 acre-feet will be purchased at a price that fully amortizes the fixed project costs plus the variable costs of production
- Water in excess of 48,000 acre-feet will be purchased at a unit price reflecting the variable costs of water production
- Payments of fixed charges to Poseidon will be adjusted to reflect Poseidon underperformance
  - Poseidon is obligated to produce 56,000 AFY
  - Water Authority is only obligated to take 48,000 AFY
# Unit Price Matrix

<table>
<thead>
<tr>
<th></th>
<th>Debt Service Charge</th>
<th>Equity Return Charge</th>
<th>Fixed O&amp;M Charge</th>
<th>Variable O&amp;M Charge</th>
<th>Fixed Electricity Charge</th>
<th>Variable Electricity Charge</th>
<th>Mgmt Fee/Operator Incentive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Annual Commitment (48 TAF/Yr)</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>Additional Water between 48 TAF-56 TAF</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
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<tr>
<td>Excess Water Beyond 56,000</td>
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<td></td>
<td>X</td>
<td>X</td>
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<td>X</td>
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<tr>
<td>Unexcused Demand Shortfall Units</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
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</tr>
<tr>
<td>Excused Supply or Demand Shortfall Units</td>
<td>No Payment. Right to make up in the future</td>
<td></td>
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</tr>
<tr>
<td>Unexcused Supply Shortfall Units</td>
<td>No Payment. Right to make up during Contract Year</td>
<td></td>
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Uncontrollable Circumstances

- Events that affect either the delivery of water by Poseidon or the acceptance of that water by the Water Authority and are not reasonably under the control of either party are subject to relief from obligations under the agreement.

- **Poseidon is relieved from its obligation to deliver water for the duration of the event**
  - Water Authority never pays for water not delivered due to Poseidon underperformance

- **Water Authority is relieved from requirement to pay for water if Board declares an emergency where aqueduct system is unable to operate**
Adjustments to The Price of Water

• Included Changes in Law
  - Changes in law or regulations that generally apply to all water treatment plants or wastewater dischargers would allow Poseidon to adjust price
  - The Water Authority’s financial obligation for intake improvements during standalone operation is capped at $20 million in capital costs in 2010 dollars index linked and $2.5 million index linked to CPI in annual operating expenses
    - Already included in the assumed 2.5% annual escalation rate

• Excluded Changes in Law do not allow for price adjustments
  - Requirements for the Encina Power Station to upgrade its intake
  - Additional requirements placed on Poseidon to operate on a standalone basis

• Uninsured Force Majeure Events
  - War, acts of terrorism, earthquake damage not covered by insurance proceeds

• Price Increase is capped at a cumulative specified percent
  - Staff is finalizing due diligence on this item and will inform the Board when complete and proposed percentage on cap
Cumulative Cap on Adjustment to the Price of Water

Cap on Uncontrollable Circumstances

Assumed 2.5% annual inflation

Water Unit Price without Uncontrollables
Cumulative Cap on Adjustment to the Price of Water

Cap on Uncontrollables

2.5% annual inflation

Water Unit Price without Uncontrollables
Capital Modifications

- **Poseidon can make capital modifications to the Plant of up to $10 million** after review and comment by the Water Authority.
  - **Capital modifications greater than $10 million that alter the original design require Water Authority approval.**
  - **These capital improvements do not affect the price of water and are typically done to replace or upgrade equipment.**
- **The Water Authority has the right to direct Poseidon to make a capital modification.**
  - **These modifications would be subject to a price adjustment.**
Consequences of Non-Performance
PERFORMANCE GUARANTEES

- Product Water Quality Guarantee
- Enhanced Standards, Beyond Applicable Law
- Minimum Product Water Delivery Guarantee
- Water Ordering Rights
Product Water Quality Guarantee

• Off-Spec water (minor variances of non-primary standards)
  • If accepted, deduct the equivalent of the melded treatment surcharge from payment to Poseidon
  • Reject water and not pay until back in compliance

• Unacceptable water (variance that requires rejection)
  • No payment for water
  • Right to seek damages from Poseidon
Supply Shortfall Consequences

- Operating Period Shortfalls in monthly deliveries
  - No payment to Poseidon for water
  - Poseidon required to pay pipeline debt service

- Shortfalls in monthly deliveries during drought
  - Board declared Stage 2 (Supply Enhancement)
  - Same as operating period shortfalls **Plus**
    - Poseidon pays Water Authority shortfall units times the current year equity return charge

\[
500\text{ AF drought shortfall } \times 160\text{ Equity Return Charge} = 80,000\text{ payment}
\]

- Amounts Less than 90% of monthly maximum
Buy-Out Provisions
TERMINATION AND PURCHASE OPTIONS

- Purchase options at Water Authority sole discretion
- Convenience Termination
  - Early buy-out provision
- End of Term
  - $1 end of 30 year term
- Event of Default
- Unavailability of Financing for Required Improvements
Timing of Acquisition

- Water Authority has option to purchase the desalination facility at any time following the tenth year of commercial operation.
- Purchase price is being negotiated with Poseidon.
- Water Authority has end-of-term purchase option for $1.

The Water Purchase Agreement has a 30-year term (with up to 3 years extension).
Basic WPA Terms

- **Early Buy Out methodology**
  - *Still being negotiated*
  - *Based on a Present Value of future capital distributions as anticipated today*
  - *Will fairly compensate private equity for its shorter investment period*
  - *Pays of bonds*

- **End of Term Buy Out**
  - *$1 in recognition that water purchases have paid off debt and equity*
  - *Avoids monopolistic pricing by private owner when terms is over*
  - *WPA requires that Plant be turned over in good operating condition*
    - *Specific maintenance requirements during operations to ensure end of term condition*

- **Option to purchase in event of default**
  - *At Water Authority discretion*
    - *Pay off outstanding bonds*
    - *Equity receives no compensation*
Rights During Construction
Rights During Construction (Plant)

- **Plant Design and Construction**
  - Water Authority design review and comment rights
  - Identified preferred vendors for key equipment procurement
    - RO membranes
    - Product water pumps
    - Product water flow meter
  - Water Authority attendance at construction progress meetings and review of progress reports
  - Access to plant site and contractors
  - Ensuring what is built is what we agreed to pay for in the price of water
Rights During Construction (Pipeline)

- Pipeline Design and Construction
  - Similar to Water Authority rights under standard Design-Build Agreement
    - Design review and Approval
      - Conformance to Design-Build agreement
      - Adhere to Water Authority standards
    - Construction observation, monitoring and inspection
    - Contractor payment approval role
Commissioning and Performance Testing

- **Mechanical Completion**
  - Part of commissioning
  - *Testing of individual key pieces of equipment*
  - *Pre-condition to moving on to acceptance testing*
  - *Water Authority right to observe, review report and provide comment and approval of mechanical completion*

- **Performance Testing**
  - *30 day test*
  - *50-54 mgd production for 30 consecutive*
  - *Must meet water quality guarantee to pass testing*
  - *Water Authority observation and approval*
Plant Operation, Management & Maintenance
Rights during Operation

- **Plant Operation and Maintenance**
  - Plant to be operated in accordance with industry standards
  - Employment standards for key operating personnel
  - Reporting and record keeping requirements
  - Water Authority rights to conduct inspections and arrange for tours
  - Administrative space at the plant site to be provided by Poseidon
  - In the extreme, a process for Water Authority to have Chief Operator replaced
  - Step-in rights if unable to remediate poor performance and non compliance with drinking water regs
Events of Default
Basic WPA Terms

• Poseidon Events of Default
  • *Events include:*
    • Failure to pass performance testing by the agreed upon Commercial Operations Date
    • Poseidon project company bankruptcy or abandonment of the project
    • Repeated violations of Primary Drinking Water Standards
    • Multiple notices of violation issued by a regulatory agency
    • Deliveries less than 75 percent of the annual amount
    • Failure to make Contracted Shortfall Payments
  • **Water Authority has the option to terminate the agreement**

• Water Authority Events of Default
  • Failure to pay undisputed bill amounts owed Poseidon within 45 days of the due date
Upcoming Meetings

- **August Regular Board Meeting**
  - Continue discussion on incorporation into rates and charges
  - Presentation on desalination and supply reliability
  - Update on member agency local supply planning

- **September Regular Board Meeting**
  - Continue discussion on key provisions of Draft WPA
  - Review actions related to Pipeline 3 rehabilitation, Twin Oaks and other distribution system activities
  - Consider action on incorporation into rates and charges

- **September Public Meetings (Two)**
  - Evening Water Planning Committee Meeting in Kearny Mesa (September 13th)
  - Evening Water Planning Committee meeting in Carlsbad (September 20th)

- **October 11th Special Meeting**
  - Follow-up discussions on WPA and any open items
Upcoming Meetings

- **October 25th Regular Board Meeting**
  - Consider approval of WPA
  - Authorize Design Build Agreement for Desal Pipeline
  - CEQA findings and actions

- **November 8th Special Meeting**
  - If no action in September

- **November 29th Regular Board Meeting**
  - If needed