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Clerk of the Superior Court
By M. Schwenke ,Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL DIVISION

17 YASMIN CORTEZ, an Individual;)
18 A.D.C. CO. LLC, a California Limited Liability)
19 Company d/b/a ALCARAZ APPLIANCES;)
20 TOMAS DEL TORO, an Individual;)
21 MARIA DOMINGUEZ, an Individual;)
22 JESUS RICARDO GARCIA, an Individual;)
23 STAR AUTO GROUP, INC., a California)
24 Corporation;)
25 ROSITA EUSEBIA LABRADOR, an)
26 Individual;)
27 NC GALLERIA, LLC, a California Limited)
28 Liability Company;)
LEVI ORTIZ, an Individual;)
YVONNE ORTIZ, an Individual;)
ALICIA VAN NICE, an Individual;)
NIDIA VAN NICE MORENO, an Individual;)
RAO YALAMANCHILI, an Individual, and)

CASE NO.: 24CU026011C
COMPLAINT FOR DAMAGES:
1. INVERSE CONDEMNATION;
2. NEGLIGENCE;
3. DANGEROUS CONDITION OF PUBLIC PROPERTY;
4. TRESPASS, and
5. PRIVATE NUISANCE.
UNLIMITED CIVIL CASE
JURY TRIAL DEMANDED

1 GRAND AVENUE EL MONTE L.P., a)
 2 California Limited Partnership,)
 3)
 4 Plaintiffs,)
 5 vs.)
 6)
 7 CITY OF NATIONAL CITY, a Governmental)
 8 Entity;)
 9 CITY OF SAN DIEGO, a Governmental)
 10 Entity;)
 11 COUNTY OF SAN DIEGO, a Governmental)
 12 Entity;)
 13 SAN DIEGO UNIFIED PORT DISTRICT, a)
 14 Governmental Entity;)
 15 SAN DIEGO ASSOCIATION OF)
 16 GOVERNMENTS, a Governmental Entity;)
 17 STATE OF CALIFORNIA DEPARTMENT)
 18 OF TRANSPORTATION, a Governmental)
 19 Entity, and DOES 1 through 100, inclusive,)
 20)
 21)
 22)
 23)
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 27)
 28)
 Defendants.)

COME NOW Plaintiffs who complain of Defendants, and each of them, as follows:

I. INTRODUCTION

1. Plaintiffs bring this action for damages against the Defendants the CITY OF NATIONAL CITY, CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, SAN DIEGO ASSOCIATION OF GOVERNMENTS, SAN DIEGO UNIFIED PORT DISTRICT, and STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION and DOES 1 through 100 as a result of injuries and damages suffered by Plaintiffs in the flooding that occurred on or about January 22, 2024 and allege as follows:

2. The City of National City failed its residents on January 22, 2024 when it allowed millions of gallons of stormwater to infiltrate homes and businesses. The City of National City is part of the San Diego Bay Watershed Management Area which includes the other defendants, CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, SAN DIEGO ASSOCIATION OF GOVERNMENTS, SAN DIEGO UNIFIED PORT DISTRICT, and STATE OF CALIFORNIA

1 DEPARTMENT OF TRANSPORTATION and DOES 1 through 100 who owe a responsibility to
2 Plaintiffs. The City of National City and the other defendants failed in their duties to protect
3 communities from flooding.

4 3. Plaintiffs live in neighborhoods throughout the City of National City for which the
5 City of National City is responsible for/or has affected the stormwater infrastructure.

6 **THE PARTIES**

7 4. At all times relevant to this lawsuit, Plaintiff YASMIN CORTEZ owned and/or
8 resided at 1717 National City Boulevard, National City, CA 91950. The flooding on January 22,
9 2024 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury to
10 the Plaintiff.

11 5. At all times relevant to this lawsuit, Plaintiff A.D.C. CO. LLC d/b/a ALCARAZ
12 APPLIANCES owned and/or resided at 1717 National City Boulevard, National City, CA 91950.
13 The flooding on January 22, 2024 destroyed and/or severely damaged Plaintiff's real and personal
14 property and caused injury to the Plaintiff.

15 6. At all times relevant to this lawsuit, Plaintiff TOMAS DEL TORO owned and/or
16 resided at 1030 Delta Street, National City, CA 91950. The flooding on January 22, 2024 destroyed
17 and/or severely damaged Plaintiff's real and personal property and caused injury to the Plaintiff.

18 7. At all times relevant to this lawsuit, Plaintiff MARIA DOMINGUEZ owned and/or
19 resided at 2615 E. Plaza Boulevard, National City, CA 91950. The flooding on January 22, 2024
20 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury to the
21 Plaintiff.

22 8. At all times relevant to this lawsuit, Plaintiff JESUS RICARDO GARCIA owned
23 and/or resided at 1741 National City Boulevard, National City, CA 91950. The flooding on January
24 22, 2024 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury
25 to the Plaintiff.

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1 9. At all times relevant to this lawsuit, Plaintiff STAR AUTO GROUP, INC. owned
2 and/or resided at 1741 National City Boulevard, National City, CA 91950. The flooding on January
3 22, 2024 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury
4 to the Plaintiff.

5 10. At all times relevant to this lawsuit, Plaintiff ROSITA EUSEBIA LABRADOR
6 owned and/or resided at 2715 E. Plaza Boulevard, Unit 101, National City, CA 91950. The flooding
7 on January 22, 2024 destroyed and/or severely damaged Plaintiff's real and personal property and
8 caused injury to the Plaintiff.

9 11. At all times relevant to this lawsuit, Plaintiff NC GALLERIA, LLC owned and/or
10 resided at 2720 E. Plaza Boulevard, National City, CA 91950. The flooding on January 22, 2024
11 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury to the
12 Plaintiff.

13 12. At all times relevant to this lawsuit, Plaintiff LEVI ORTIZ owned and/or resided at
14 1310 E. 8th Street, National City, CA 91950. The flooding on January 22, 2024 destroyed and/or
15 severely damaged Plaintiff's real and personal property and caused injury to the Plaintiff.

16 13. At all times relevant to this lawsuit, Plaintiff YVONNE ORTIZ owned and/or resided
17 at 1310 E. 8th Street, National City, CA 91950. The flooding on January 22, 2024 destroyed and/or
18 severely damaged Plaintiff's real and personal property and caused injury to the Plaintiff.

19 14. At all times relevant to this lawsuit, Plaintiff ALICIA VAN NICE owned and/or
20 resided at 128 Mesa Avenue, National City, CA 91950. The flooding on January 22, 2024 destroyed
21 and/or severely damaged Plaintiff's real and personal property and caused injury to the Plaintiff.

22 15. At all times relevant to this lawsuit, Plaintiff NIDIA VAN NICE MORENO owned
23 and/or resided at 128 Mesa Avenue, National City, CA 91950. The flooding on January 22, 2024
24 destroyed and/or severely damaged Plaintiff's real and personal property and caused injury to the
25 Plaintiff.

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1 16. At all times relevant to this lawsuit, Plaintiffs RAO YALAMANCHILI, and GRAND
2 AVENUE EL MONTE L.P. owned and/or resided at 31-131 N. Highland Avenue, National City,
3 CA 91950. The flooding on January 22, 2024 destroyed and/or severely damaged Plaintiff’s real and
4 personal property and caused injury to the Plaintiffs.

5 17. Defendant City of National City is a governmental entity.

6 18. Defendant City of San Diego is a governmental entity.

7 19. Defendant County of San Diego is a governmental entity.

8 20. Defendant State of California Department of Transportation is a governmental entity.

9 21. Defendant San Diego Association of Governments is a governmental entity.

10 22. Defendant San Diego Unified Port District is a governmental entity.

11 23. The true names of defendants sued as DOES 1 to 100 are unknown to Plaintiffs and
12 are sued under *C.C.P.* § 474.

13 24. DOES 1 to 100 are liable to Plaintiffs.

14 25. DOES 1 to 50 were agents or employees of other named defendants and acted within
15 the scope of that agency or employment.

16 26. DOES 51 to 100 are persons whose capacities are unknown to Plaintiffs.

17 27. Plaintiffs will seek leave of Court to amend this Complaint to allege such names and
18 capacities when the information is ascertained.

19 28. Every reference to Plaintiffs, unless otherwise specified, refers to all Plaintiffs.

20 29. Every reference to Defendants, unless otherwise specified, refers to NATIONAL
21 CITY, CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, SAN DIEGO ASSOCIATION OF
22 GOVERNMENTS, SAN DIEGO UNIFIED PORT DISTRICT, AND STATE OF CALIFORNIA
23 DEPARTMENT OF TRANSPORTATION and DOES 1 to 100.

24 30. Venue in this Court is proper under *C.C.P.* § 385 because the property is in San Diego
25 County.

26 31. The amount in controversy exceeds the jurisdictional minimum of this Court.

27 32. Plaintiffs have complied with the *Government Code* § 910 et seq, and Plaintiffs’
28 claims have been denied as a matter of law.

1 **II. GENERAL ALLEGATIONS**

2 33. Justice will not be served until those who are unaffected are as outraged as those who
3 are.

4 34. Defendants are responsible for stormwater maintenance including, but not limited to,
5 the maintenance of its stormwater conveyance system/flood control project and the adjacent
6 infrastructure surrounding the drainage channels and storm drain system/flood control project.
7 Maintenance includes, but is not limited to, the removal of sediment, vegetation, debris, and trash to
8 maximize stormwater conveyance capacity.

9 35. Polluted urban runoff, injurious to health and property, flows untreated into the
10 stormwater conveyance system. Water flowing through the system fails to meet water quality
11 standards.

12 36. Rain began to fall on January 22, 2024. National City neighborhoods experience
13 heavy rainfall and flood.

14 37. Plaintiffs' real and personal property was deluged with floodwater, containing
15 polluted urban runoff, on January 22, 2024.

16 38. The damage to Plaintiffs' property was unbelievable.

17 39. Defendants' stormwater conveyance system was clogged and unmaintained.

18 40. Defendants' stormwater conveyance system was clogged full of vegetation, sediment
19 and debris. Defendants were aware of the condition for years. Defendants created a destructive
20 state of affairs and absolutely failed their residents.

21 **FIRST CAUSE OF ACTION: INVERSE CONDEMNATION**

22 41. Plaintiffs incorporate all prior paragraphs.

23 42. Article 1, § 19, of the California Constitution provides the basis for recovery against
24 public entities when private property is taken or damaged for public use without just compensation.

25 43. Upon information and belief, at all relevant times, Defendants owned, planned,
26 constructed, controlled, maintained, operated, or otherwise substantially participated in the
27 stormwater conveyance system. The stormwater conveyance system served a public purpose and
28 was a public project or improvement.

1 44. Defendants physically invaded and damaged Plaintiffs' property when Defendants
2 failed to do periodic or reasonable preventative maintenance of the stormwater conveyance system,
3 causing water to back up and overflow into Plaintiffs' property. That was a taking, and Defendants
4 substantially participated in that taking. Plaintiffs have not been compensated for that taking.

5 45. Plaintiffs' damage was substantially caused by inherent risk associated with
6 Defendants ownership, plan, construction, control, maintenance, operation, or otherwise substantial
7 participation in the stormwater conveyance system, causing water to back up and overflow into
8 Plaintiffs' property. Defendants were aware of that risk, namely, the clogging of the stormwater
9 conveyance system with vegetation, trash, and sediment restricting the water flow and causing water
10 to back up and overflow into Plaintiffs' property, and deliberately chose to take inadequate action in
11 the face of that risk. Defendants' action was a proximate and substantial cause of damage to
12 Plaintiffs' properties.

13 46. Defendants physically invaded and damaged Plaintiffs' property when Defendants
14 failed to mitigate a known danger, namely, the clogging of the stormwater conveyance system with
15 vegetation, trash, and sediment restricting the water flow and causing water to back up and overflow
16 into Plaintiffs' property. That was a taking, and Defendants substantially participated in that taking.
17 Plaintiffs have not been compensated for that taking.

18 47. Defendants physically invaded and damaged Plaintiffs' property when Defendants
19 deliberately adopted a lower cost plan of maintenance of the stormwater conveyance system
20 allowing vegetation, trash, and sediment to build up restricting the water flow and causing water to
21 back up and overflow. That was a taking, and Defendants substantially participated in that taking.
22 Plaintiffs have not been compensated for that taking.

23 48. Defendants physically invaded and damaged Plaintiffs' property when Defendants
24 deliberately chose a plan of inaction when it comes to maintenance of the stormwater conveyance
25 system allowing vegetation, trash, and sediment to build up restricting the water flow and causing
26 water to back up and overflow. That was a taking, and Defendants substantially participated in that
27 taking. Plaintiffs have not been compensated for that taking.

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1 49. Defendants' actions and inactions as it relates to the stormwater conveyance system
2 were unreasonable and posed an unreasonable risk of harm to Plaintiffs' properties and persons, and
3 Defendants' unreasonable actions or inactions were a substantial cause of Plaintiffs' damage.

4 50. Plaintiffs' damage was substantially caused by inherent risks associated with
5 Defendants' ownership, plan, construction, control, maintenance, operation or otherwise substantial
6 participation in the stormwater conveyance system including, but not limited to, Defendants' failure
7 to mitigate a known danger, Defendants' deliberate adoption of a lower cost plan of maintenance of
8 the stormwater conveyance system, and Defendants' deliberate choice of a plan of inaction when it
9 comes to maintenance of the stormwater conveyance system. Defendants' failure, adoption, and
10 choice allowed the stormwater conveyance system to be clogged with vegetation, trash, and
11 sediment restricting the water flow and causing water to back up and overflow. This was a proximate
12 and substantial cause of damage to Plaintiffs' properties.

13 51. Alternatively, Defendants channeled storm flows into Plaintiffs' real and personal
14 property via the public roadways which were being used as storm channels.

15 52. Defendants' utilization of public roadways to function as storm channels was a public
16 improvement. Construction or maintenance of a water conveyance or flood protection system which
17 included the public roadways led to water escaping and entering private land. Defendants' failure,
18 adoption, and choice allowed the stormwater to be channeled on to Plaintiffs property by utilizing
19 the streets. This was a proximate and substantial cause of damage to Plaintiffs' properties.

20 **SECOND CAUSE OF ACTION: NEGLIGENCE**

21 53. Plaintiffs incorporate all prior paragraphs.

22 54. Defendants, including but not limited to their agents and employees, have a duty to
23 apply a level of care consumate with and proportionate to the danger of controlling and maintaining
24 the stormwater conveyance system.

25 55. Plaintiffs timely filed government tort claims and/or submitted late claim applications
26 and substainally complied with California *Government Code* sections 910 through 915.

27 56. Plaintiffs bring this cause of action under California *Government Code* section 815.2.

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1 57. Defendants, including but not limited to their agents and employees, have special
2 knowledge and expertise far above that of a layperson that they were required to apply to the
3 construction, use, operation, inspection, repair and maintenance of the stormwater conveyance
4 system within the course and scope of their employment.

5 58. Defendants, including but not limited to their agents and employees, breached that
6 duty by, within the course and scope of their employment, *inter alia*:

- 7 a. Failing to conduct reasonably prompt, proper, and frequent inspections of the
8 stormwater conveyance system;
- 9 b. Failing to monitor, inspect, and maintain the stormwater conveyance system in a
10 manner that avoids flooding private property by failing to clear vegetation and
11 maintaining the infrastructure and drainage channels, in a manner that flooding
12 could foreseeably occur;
- 13 c. Failing to construct, monitor and maintain the stormwater conveyance system in
14 flood-prone areas to avoid inundation;
- 15 d. Failing to keep the stormwater conveyance system in a well-maintained condition
16 at all times to prevent flooding of private property, and
- 17 e. Failing to regularly clean, dredge, and monitor the stormwater conveyance
18 system to prevent blockage.

19 59. Defendants, including their agents and employees, are responsible for maintaining
20 the stormwater conveyance system. The clogging of the stormwater conveyance system is a direct
21 result of neglect. Debris and sediment accumulation are due to improper waste disposal and lack of
22 regular maintenance.

23 60. Defendants' negligence was a substantial factor causing damage to Plaintiffs' real and
24 personal property, and personal injury and emotional distress to Plaintiffs.

25 61. Defendants' failure to comply with their duty of care proximately caused damage to
26 Plaintiffs.

27 62. Defendants are vicariously liable for these actions under California *Government*
28 *Code* section 815.2.

1 **THIRD CAUSE OF ACTION: DANGEROUS CONDITION OF PUBLIC PROPERTY**

2 63. Plaintiffs incorporate all prior paragraphs.

3 64. Plaintiffs bring this cause of action under California *Government Code* section 835.

4 65. Defendants controlled the stormwater conveyance system at all relevant times.

5 66. The stormwater conveyance system was in a dangerous condition on or around
6 January 22, 2024, because of Defendants’ failure to install adequate drainage and failure to remove
7 accumulated material that had constricted hydraulic capacity of the stormwater conveyance system
8 causing water to back up and overflow, or the negligent or wrongful conduct of Defendants’
9 employee(s) acting within the scope of employment created the dangerous condition, or Defendants
10 had notice of the dangerous condition for a long enough time to have protected against it because
11 Defendants had either actual or constructive notice of the condition, or the condition existed for long
12 enough time before January 22, 2024 and was so obvious that Defendants reasonably should have
13 discovered the condition and known that it was dangerous.

14 67. That condition presented a substantial risk of injury to members of the public even
15 when the stormwater conveyance system was used with reasonable care and in a reasonably
16 foreseeable manner.

17 68. That condition caused Plaintiffs’ property to flood on January 22, 2024.

18 69. Defendants had the power to prevent, fix, and guard against that dangerous condition.

19 70. That dangerous condition created a reasonably foreseeable risk of damaging property,
20 which is what happened to Plaintiffs.

21 71. Defendants knew of the dangerous condition for a sufficient time before January 22,
22 2004, yet failed to take protective measures against it.

23 72. Defendant knew of the conditions through both their own reconnaissance as evidenced
24 by numerous reports and through previous litigation brought against them.

25 73. Defendants’ action and inactions were unreasonable.

26 74. Defendants’ negligence was a substantial factor causing damage to Plaintiffs’ real and
27 personal property, and personal injury and emotional distress to Plaintiffs.

28 75. Plaintiffs were harmed, and the dangerous condition substantially caused that harm.

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FOURTH CAUSE OF ACTION: TRESPASS

76. Plaintiffs incorporate all prior paragraphs.

77. At all relevant times, Plaintiffs owned their property.

78. Defendants, including their agents or employees acting within the scope of their employment, intentionally, negligently, or recklessly caused water to enter into and flow over Plaintiffs' property because it was substantially certain by Defendants' failure to install adequate drainage, to remove accumulated material that had constricted hydraulic capacity of the stormwater conveyance system causing water to back up and overflow, to do periodic or reasonable preventative maintenance of the stormwater conveyance system, to mitigate a known danger, namely, the clogging of the stormwater conveyance system with vegetation, trash, and sediment restricting the water flow and causing water to back up and overflow, and Defendants' deliberate adoption of a lower cost plan of maintenance of the stormwater conveyance system, and deliberate choice of a plan of inaction when it comes to maintenance of the stormwater conveyance system, and improper diversion of water, would cause water to enter into and flow over Plaintiffs' property violating, *inter alia*, CIV. § 3334.

79. Defendants are vicariously liable for these actions under California *Government Code* section 815.2

80. Plaintiffs did not give permission for the entry.

81. Plaintiffs were harmed, and the entry of the water was a substantial factor in causing that harm.

FIFTH CAUSE OF ACTION: PRIVATE NUISANCE

82. Plaintiffs incorporate all prior paragraphs.

83. At all relevant times, Defendants owned or controlled the stormwater conveyance system.

84. Defendants' failure to install adequate drainage, to remove accumulated material that had constricted hydraulic capacity of the stormwater conveyance system causing water to back up and overflow, to do periodic or reasonable preventative maintenance of the stormwater conveyance system, to mitigate a known danger, namely, the clogging of the stormwater conveyance system with

1 vegetation, trash, and sediment restricting the water flow and causing water to back up and overflow,
2 and Defendants' deliberate adoption of a lower cost plan of maintenance of the stormwater
3 conveyance system, and deliberate choice of a plan of inaction when it comes to maintenance of the
4 stormwater conveyance system and improper diversion of water, created a condition or permitted a
5 condition to exist that was an obstruction to the free use of property, so as to interfere with the
6 comfortable enjoyment of life or property.

7 85. Defendants' conduct was intentional and unreasonable or unintentional but negligent.

8 86. This condition substantially interfered with Plaintiffs' use or enjoyment of their real
9 and personal property.

10 87. An ordinary person would reasonably be annoyed or disturbed by Defendants'
11 conduct.

12 88. Plaintiffs were harmed, and Defendants conduct was a substantial factor in causing
13 that harm, and the seriousness of the harm outweighs the public benefit of Defendants' conduct.

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PRAYER FOR RELIEF

16

WHEREFORE, Plaintiff demands judgment from Defendants as follows:

17

(1) As to the Inverse Condemnation Cause of Action,

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Legal interest from January 22, 2024

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Attorneys' fees and costs under *C.C.P.* § 1036;

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(2) As to the Negligence Cause of Action,

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Compensatory damages

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(3) As to the Dangerous Condition of Public Property Cause of Action,

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Compensatory damages

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(4) As to the Trespass and Private Nuisance Causes of Action,

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Damages for annoyance and discomfort

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(5) As to the Trespass Cause of Action,

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Attorneys' fees and costs under *C.C.P.* § 1021.9

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(6) As to all Causes of Action,
\$40,000,000.00
To enter judgment for Plaintiffs on these Counts;
For judicial interest;
For costs of suit; and
For such other and further relief as this Court may deem proper.

Dated: December 3, 2024

ENGSTROM, LIPSCOMB & LACK
THE LAW OFFICE OF EVAN W. WALKER

By 

WALTER J. LACK
DANIEL G. WHALEN
EVAN W. WALKER
ASHLEY L. ARNETT
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JURY TRIAL DEMAND

Plaintiffs hereby demand a jury trial on all causes of action for which a jury is available under the law.

Dated: December 3, 2024

ENGSTROM, LIPSCOMB & LACK
THE LAW OFFICE OF EVAN W. WALKER

By 

WALTER J. LACK
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