

**LICENSE AGREEMENT BETWEEN  
CONTRA COSTA COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
AND  
ALAMO SQUARE USA INVESTMENTS, LLC**

This License Agreement ("Agreement") is effective June 1, 2021, ("Effective Date") by and between CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, a flood control district organized under the laws of the State of California (the "DISTRICT"), and ALAMO SQUARE USA INVESTMENTS, LLC, a California limited liability company (the "LICENSEE"). DISTRICT and LICENSEE are sometimes collectively referred to herein as the "Parties," and each as a "Party."

**RECITALS**

- A. DISTRICT is the owner of certain real property highlighted in blue as shown in Exhibit A attached hereto (the "Property"). The Property is commonly identified as Assessor's Parcel No. 192-082-004.
- B. LICENSEE desires to obtain DISTRICT'S permission to use the portion of the Property highlighted in orange in Exhibit A (the "Licensed Premises") for temporary parking, outdoor dining, landscaping purposes, and ingress and egress. DISTRICT is willing to grant a license to LICENSEE to use the Licensed Premises for those purposes under the terms and conditions set forth in this Agreement.

Now, therefore, the Parties agree as follows:

**AGREEMENT**

1. **Grant of License.** Subject to the terms and conditions of this Agreement, DISTRICT hereby grants to LICENSEE, a nonexclusive license to use the Licensed Premises for the uses described in Paragraph 4 of this Agreement.
2. **Term.** The term of this Agreement shall be for the period commencing June 1, 2021, and ending, May 31, 2031.
3. **Rent.** Upon the execution of this Agreement, LICENSEE shall pay the DISTRICT a one-time processing fee of Two Thousand and No/100 Dollar (\$2,000), and rent of Two Thousand Dollars (\$2,000) for the period between the Effective Date and May 31, 2022. Beginning June 1, 2022, and on each June 1 thereafter through and including June 1, 2025, LICENSEE shall pay DISTRICT Two Thousand and No/100 dollars (\$2,000) for rent for each period that begins on that June 1, and that ends on May 31 of the next calendar year.

Beginning June 1, 2026, and on each June 1 thereafter through and including June 1, 2030, LICENSEE shall pay DISTRICT Two Thousand Five Hundred and No/100 Dollars (\$2,500) for rent for each period that begins on

that June 1, and that ends on May 31 of the next calendar year. The schedule of yearly rent payments is included in Exhibit B, attached hereto.

If the LICENSEE's use of the Licensed Premises is suspended, limited, or terminated during any June 1 through May 31 period, LICENSEE shall not be entitled to a refund of any rents paid under this Agreement.

**4. Use of Premises.**

(a) LICENSEE may use the Licensed Premises for temporary parking, outdoor dining, and landscaping purposes, and ingress and egress in accordance with the terms of this Agreement.

(b) LICENSEE's use of the Licensed Premises under this Agreement constitutes a secondary use of the Property. The DISTRICT's current and future uses of the Property for flood control and drainage purposes, and for other DISTRICT purposes, constitute the primary uses of the property (the "Primary Uses"). LICENSEE shall not, at any time, use or permit the public to use the Licensed Premises in any manner that will materially interfere with or impair said Primary Uses of the Property, as determined by the DISTRICT. All rights granted to LICENSEE under this Agreement are further subject to all existing and future rights, rights of way, reservations, franchises, easements, and licenses in the Property held by third parties, regardless of who holds the same.

(c) Under no circumstances shall DISTRICT have any liability to LICENSEE, or to any other person or entity, for claims, demands, costs, expenses, liabilities, or damages, including but not limited to consequential damages, special damages, and damages based on loss of use, revenue, profits, or business opportunities, (collectively, "Liabilities") that arise from or are connected to any of the following: the LICENSEE's occupancy and use of the Licensed Premises under this Agreement; damage to, loss of, or destruction of, any portion of the LICENSEE'S property, improvements, or facilities; the use of the Licensed Premises or other portions of the Property by the DISTRICT for the Primary Uses or otherwise; the suspension or limitation of the LICENSEE's use under Paragraph 9; damages described in Paragraph 12; or the termination of this Agreement and the LICENSEE's loss of the right to continue occupying and using the Licensed Premises. LICENSEE hereby releases DISTRICT from all Liabilities discussed in this Paragraph 4(c), and LICENSEE knowingly waives LICENSEE's right to make any claim against the DISTRICT for any Liabilities discussed in this Paragraph 4(c). As to the Liabilities discussed in this Paragraph 4(c), LICENSEE expressly waives all rights provided by section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."



LICENSEE's obligations under this Paragraph 4(c) shall survive the expiration or termination of this Agreement.

5. **Permits and Approvals.** LICENSEE shall be responsible for obtaining any permits or approvals from any agency having jurisdiction of LICENSEE's activities within the Licensed Premises. This Agreement does not constitute governmental approval by the DISTRICT of said activities.
6. **Nonexclusive Right of Use.** LICENSEE's right to occupy and use the Licensed Premises under this Agreement is nonexclusive. DISTRICT reserves the right to grant third parties rights, rights of way, reservations, franchises, easements, and licenses that allow those third parties to use the Licensed Premises for other purposes.
7. **Entry and Inspection.** LICENSEE understands that DISTRICT, its agents, and employees, may enter and conduct activities on the Licensed Premises at any time with or without prior notice to LICENSEE.
8. **Access to the Property and Premises.** LICENSEE shall deliver to DISTRICT all keys required to provide access to the Licensed Premises at all times.
9. **Suspension or Limitation of Use.** DISTRICT and its permittees shall have the right to suspend or to limit the use of the Licensed Premises by LICENSEE and the general public for a reasonable amount of time for protection of public safety, or for the construction, installation, operation, maintenance, or repair of drainage or flood control facilities on the Property. Should such suspension or limitation be necessary, DISTRICT shall endeavor to provide LICENSEE thirty (30) days prior notice in writing, except in cases of emergency or repairs, in which case DISTRICT will endeavor to provide LICENSEE notice as soon as practicable under the circumstances, as determined by DISTRICT. Upon completion of any work by DISTRICT or its permittees within the Licensed Premises, DISTRICT shall restore the ground surface as nearly as possible to its pre-existing grade, excluding repairing or replacing fencing, paving, dining, landscaping or drainage structures, or other improvements, which shall be LICENSEE's sole responsibility.
10. **Improvements to the Licensed Premises.**
  - (a) LICENSEE may repair and maintain (a) existing paving, fencing, access gates, a patio deck, and an awning structure within the Licensed Premises, and (b) all other real property improvements now existing or later constructed or installed within the Licensed Premises under this Paragraph 10 (collectively the "Improvements"). LICENSEE shall not construct or install any new Improvements within the Licensed Premises without first obtaining the prior written consent from DISTRICT and permits, which shall be within the DISTRICT's sole discretion to provide. All Improvements, whether constructed with or without prior consent from DISTRICT, shall be and shall

remain the property of DISTRICT, except as further set forth in this Paragraph 10. DISTRICT reserves the right to remove any Improvements LICENSEE constructs or installs within the Licensed Premises without first obtaining the DISTRICT's written consent.

(b) With respect to any Improvements made to the Licensed Premises by LICENSEE, LICENSEE shall be responsible for: (i) removing, at its sole cost and at the request of the DISTRICT, all Improvements constructed or installed by LICENSEE (with or without the prior written consent of DISTRICT), except those Improvements that, at the time of termination of this Agreement, the DISTRICT directs LICENSEE to not remove from the Licensed Premises; and (ii) repairing, at its sole cost, all damage to the Licensed Premises caused by such removal of the Improvements.

(c) LICENSEE shall remove the following existing and any new improvements from the Licensed Premises within thirty (30) days of request of the DISTRICT. Improvements include, but are not limited to: access gate, fences, roof and awning structures, decks, and other improvements as deemed necessary for removal by District.

11. **Maintenance.** During the term of this Agreement, LICENSEE, at its sole cost and expense, shall maintain the Improvements and the Licensed Premises in a safe and attractive condition, as determined by the DISTRICT in its sole discretion. LICENSEE's maintenance shall include initial and ongoing pruning of vegetation extending west over the fence along the top of the western bank of San Ramon Creek.

12. **Damage.** The rights granted herein are surface rights only and no excavation shall be allowed within the Licensed Premises. It is the responsibility of LICENSEE to contact easement, lease, and license holders to determine that the Licensed Premises are able to support any vehicle brought onto it by LICENSEE without damage to subsurface or surface facilities. It is understood and agreed by and between the Parties hereto that the Property is subject to sliding, erosion, subsidence, and flooding, and that LICENSEE shall be solely responsible for damages to its Improvements which result from sliding, erosion, subsidence, or flooding, and shall repair all damage and return the Licensed Premises to a neat and safe condition satisfactory to DISTRICT and such other users.

13. **Pollution.**

(a) LICENSEE, at its expense, shall comply with all applicable laws, regulations, rules, and others, with respect to the use of the Licensed Premises, regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality, and furnish satisfactory evidence of such compliance upon request of DISTRICT.

(b) No hazardous materials shall be handled at any time upon the Licensed Premises. Should any discharge, leakage, spillage, emission or pollution of any type occur upon or from the Licensed Premises, or upon or



from adjacent property occupied by the LICENSEE, due to LICENSEE's use and occupancy thereof, LICENSEE, at its expense, shall be obligated to clean all the property affected thereby, whether owned or controlled by DISTRICT or any third person, to the satisfaction of DISTRICT (insofar as the property owned or controlled by DISTRICT is concerned) and any governmental body having jurisdiction thereover.

(c) To the extent permitted by law, LICENSEE shall indemnify, hold harmless, and defend DISTRICT, its officers, employees, agents, representatives, licensees, and permittees ("Indemnitees") from and against all liability, cost, and expense (including, without limitation, any fines, penalties, judgments, litigation costs, and attorneys' fees) incurred by Indemnitees as a result of LICENSEE's breach of its obligations under this Paragraph 13, or as a result of any such discharge, leakage, spillage, emission or pollution, regardless of whether such liability, cost or expense arises during or after the term of this Agreement, unless such liability, cost or expense is proximately caused solely by the active negligence of any Indemnitees.

(d) LICENSEE shall pay all amounts due DISTRICT under this paragraph within ten (10) days after any such amounts become due. LICENSEE's obligations under this Paragraph 13 shall survive the expiration or termination of this Agreement.

14. **Hold Harmless.** LICENSEE shall defend, indemnify, save, and keep harmless the DISTRICT, its officers, employees, and agents against all Liabilities that arise from or are related to (a) the Licensee's occupancy and use of the Licensed Premises, or (b) the granting of the license under this Agreement, or (c) the occupancy or use of the Licensed Premises by third parties, save and except Liabilities arising from the sole negligence or sole willful misconduct of DISTRICT. LICENSEE's obligations under this Paragraph 14 shall survive the expiration or termination of this Agreement.

15. **Insurance.**

(a) LICENSEE agrees, at no cost to the DISTRICT, to obtain and maintain during term of this Agreement, comprehensive liability insurance with a minimum combined single-limit coverage of \$2,000,000 for all claims or losses due to bodily injury, sickness or disease or death to any person, or damage to property, including loss of use thereof arising out of each accident or occurrence, and to name **Contra Costa County Flood Control and Water Conservation District, its officers, agents, and employees as additional insured** thereunder. Said coverage shall provide for a **thirty (30) day** written notice to DISTRICT of cancellation or lapse. Evidence of such coverage shall be furnished to DISTRICT prior to execution of this Agreement.

(b) LICENSEE agrees, at no cost to the DISTRICT to obtain and maintain during the term of this Agreement, Worker's Compensation and Employer's Liability Insurance for all of its employees. LICENSEE shall require any subcontractor to provide it with evidence of Worker's Compensation and

Employer's Liability Insurance, all in strict compliance with California State Law.

16. **Assignment - Subletting.** LICENSEE shall not assign or sublet LICENSEE'S rights under this Agreement.
17. **Termination.** DISTRICT and LICENSEE each have the right to terminate this Agreement at any time, for any reason, or for no reason, with ninety (90) days advance written notice to the other Party.
18. **No Waste.** LICENSEE, its agents, contractors, employees, guests and invitees shall not cause any waste, damage, or destruction to the Licensed Premises. Upon termination or expiration of this Agreement, LICENSEE at its sole cost and expense, shall repair any such waste, damage or destruction and restore the Licensed Premises to its original condition, unless DISTRICT agrees otherwise in writing. LICENSEE's obligations under this Paragraph 18 shall survive the expiration or termination of this Agreement.
19. **Entire Agreement.** This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. No alteration or variation of this Agreement shall be valid or binding unless made in writing and signed by the parties hereto.
20. **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties, any rights or remedies by reason of this Agreement.
21. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this Agreement is, for the sole convenience of the Parties. The section headings, captions, and arrangement of this Agreement do not in any way affect, limit, amplify, or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties have prepared it.
22. **Waiver.** A waiver of breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving Party.
23. **Governing Law.** This Agreement shall be governed and construed in accordance with California law.
24. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

[Remainder of page intentionally left blank. Signatures on next page.]

**DISTRICT:**

**CONTRA COSTA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT**

By \_\_\_\_\_  
Brian M. Balbas  
Chief Engineer

Date: \_\_\_\_\_  
Date of Board Approval

**LICENSEE:**

**ALAMO SQUARE USA  
INVESTMENTS, LLC**

By Mario Mapoy  
Mario Mapoy  
Managing Member

Date 03/19/2021  
Date signed by Licensee

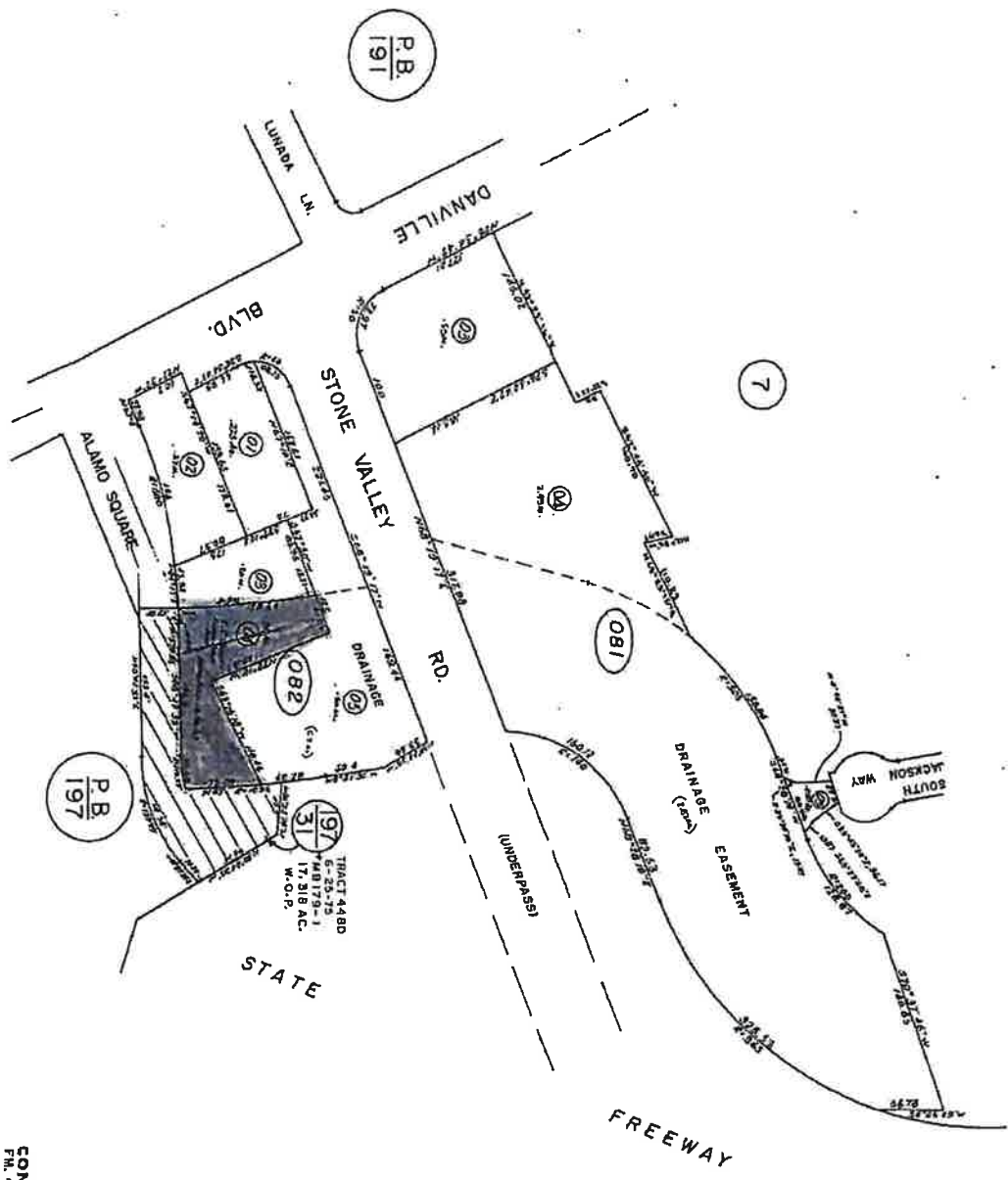
**RECOMMENDED TO THE BOARD OF  
SUPERVISORS FOR APPROVAL:**

By Jessica L. Dillingham  
Jessica L. Dillingham  
Principal Real Property Agent

By N. Thrower  
Naila Thrower  
Senior Real Property Technical Assistant

MS:CPD:nt  
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Mapoy Alamo Square USA Investments LLC sms and cpd 6-1-2021.doc  
Attachments: Exhibits A and B

RANCHO SAN RAMON



(7-74) 5-1-87  
 ASSESSOR'S MAP  
 BOOK 192 PAGE 08  
 CONTRA COSTA COUNTY, CALIF.  
 FN. 4-27

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- 082
- 091



## EXHIBIT "B"

### YEARLY RENT PAYMENT SCHEDULE

PAYMENT DATE	PAYMENT AMOUNT
6/1/2021	\$2,000.00
6/1/2022	\$2,000.00
6/1/2023	\$2,000.00
6/1/2024	\$2,000.00
6/1/2025	\$2,000.00
6/1/2026	\$2,500.00
6/1/2027	\$2,500.00
6/1/2028	\$2,500.00
6/1/2029	\$2,500.00
6/1/2030	\$2,500.00