



THE CITY OF SAN DIEGO

**AGREEMENT FOR AN EMERGENCY COASTAL DEVELOPMENT PERMIT AND SITE DEVELOPMENT  
PERMIT**

**August 19, 2019**

***(Revised from August 9, 2019)***

**Coast Blvd. Sea Cave Emergency - Project No. 644723**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation, and City of San Diego, Public Works Department - Engineering, Owner/Permittee, to allow construction and temporary roadway closure of portions of Coast Blvd. for the cementation of subterranean terrace deposits with grout, structural or cementitious material fill, and seal an existing sea cave void (Cook's Crack Sea Cave) that is undermining portions of Coast Blvd. roadway, approximately 150 feet long and 50 feet wide at the widest point, on Owner's hereinafter described real property located within Coast Boulevard public right-of-way and north to coastal bluff at Pacific Ocean, northwest of Cave Street and Coast Walk Trail and east of La Jolla Cove.

WHEREAS, a coastal emergency is a sudden, unexpected occurrence within the Coastal Overlay Zone and impacting environmentally sensitive lands that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services;

WHEREAS, a coastal emergency is subject to the regulations in the City of San Diego Municipal Code [SDMC] section 126.0718 and 143.0126;

WHEREAS, the SDMC permits approval for a coastal emergency by authorizing the minimum necessary to stabilize the emergency;

WHEREAS, the SDMC requires the subsequent processing of a standard Coastal Development Permit (CDP) and Site Development Permit (SDP) applications for any work authorized as a coastal emergency;

WHEREAS, the Owner/Permittee requests approval to obtain an emergency CDP and SDP and agrees that any emergency development allowed is temporary therefore must be removed if a follow-up CDP and SDP applications are not deemed complete within 180 days of approval, or if the follow-up CDP and SDP are denied, then all development approved by this agreement shall be removed from the property.

BE IT RESOLVED, by the City of San Diego, that it adopts the following Findings with respect to this coastal and SDP emergency:

**A. Coastal Development Permit Emergency [SDMC Sec. 126.0718(f)]**

- 1. A coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a CDP and the development can and will be completed within 30 days unless otherwise specified in the permit.**

An existing sea cave void (Cook's Crack Sea Cave) located within Coast Boulevard public right-of-way and north to coastal bluff at Pacific Ocean, northwest of Cave Street and Coast Walk Trail and east of La Jolla Cove, continues to undermine portions of Coast Blvd. roadway, approximately 150 feet long and 50 feet wide at the widest point. The project site is located within the La Jolla Community Plan and Local Coastal Program Land Use Plan and recent underlying soil and geologic formation failures have created imminent public health, safety, and welfare to the existing public right-of-way street's base structure formation that would create a complete roadway failure at the location. The proposed immediate repair work is necessary to retain the City's ability to safely provide public access to existing residential and commercial business, in addition to local coastal access. Therefore, a coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring an CDP and the development can and will be completed within 30 days unless otherwise specified in the permit.

- 2. Public comment on the proposed coastal emergency action has been solicited and reviewed to the extent feasible.**

The City of San Diego contacted the California Coastal Commission, San Diego Office, and on August 9, 2019, the City of San Diego conducted a press conference on the project site with City officials and local news media to provide roadway closure information, anticipated construction activity, and respond to any community questions related to the repair work. On August 19, 2019, the City of San Diego determined the emergency work to be statutorily exempt from CEQA pursuant to CEQA State Statute and Guidelines Sections 21080(b)(4) and 15269(b)(c), Emergency Project; and the City publicly posted the Notice of Right to Appeal Environmental Determination on the same date. Therefore, public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.

**3. The proposed emergency work is consistent with the Local Coastal Program.**

The project site is located within the La Jolla Community Plan and Local Coastal Program Land Use Plan and recent underlying soil and geologic formation failures have created imminent public health, safety, and welfare to the existing public right-of-way street's base structure formation that would create a complete roadway failure at the location. The proposed immediate repair work is necessary to retain the City's ability to safely provide public access to existing residential and commercial business, in addition to local coastal access. Therefore, the proposed emergency work is consistent with the Local Coastal Program.

**B. Site Development Permit Emergency [SDMC Sec. 143.0126(e)]**

**1. An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a SDP and the development can and will be completed within 30 days unless otherwise specified in the permit.**

In addition to finding A.1. above, the proposed immediate repair work is necessary to retain the City's ability to safely provide public access to existing residential and commercial business, in addition to local coastal access. Therefore, an emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring an SDP and the development can and will be completed within 30 days unless otherwise specified in the permit.

**2. Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.**

The City of San Diego contacted the California Coastal Commission, San Diego Office, and on August 9, 2019, the City of San Diego conducted a press conference on the project site with City officials and local news media to provide roadway closure information, anticipated construction activity, and respond to any community questions related to the repair work. On August 19, 2019, the City of San Diego determined the emergency work to be statutorily exempt from CEQA pursuant to CEQA State Statute and Guidelines Sections 21080(b)(4) and 15269(b)(c), Emergency Project; and the City publicly posted the Notice of Right to Appeal Environmental Determination on the same date. Therefore, public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference to the application.

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and in consideration thereof, the Parties agree as follows:

The above-listed recitals are true and correct and incorporated by reference.

1. Owner's real property is commonly referred to as portions of Coast Boulevard public right-of-way and north to coastal bluff at Pacific Ocean, northwest of Cave Street and Coast Walk Trail and east of La Jolla Cove.

2. Owner's Property is located in the RS-1-7 Base, Coastal (Appealable) Overlay, and La Jolla Planned District Zones.

3. Owner may provide temporary roadway closure of portions of Coast Blvd. and the construction activities for the grouting of terrace deposit soils between the top of the existing sea cave (Cook's Crack Sea Cave) and the roadway and filling the cave with an erodible concrete. The drilling of small-diameter holes in the roadway shall occur to inject the chemical grouting and to pump concrete mixture into the cave. A temporary barrier would be installed at the entrance to the sea cave in order to stabilize the mouth of the cave (e.g. rip rap, K-rails, sand-filled geo bags). Sand and other debris would be removed from the cave prior to filling the cave cavity with erodible concrete designed to erode as the face of the bluff erodes over time. The temporary barrier materials will be removed after construction is complete. Construction staging will occur within the public right-of-way. Access to the cave from Coast Blvd. will occur via a temporary staircase and from the ocean side by boat. The construction will implement storm water best management practices to prevent illicit construction-related storm water discharges from entering the ocean. Any damages occurring as a result of emergency construction activities will be replaced/repared, including, but not limited to the roadway, sidewalk, and public utilities.

4. This Agreement shall run with the land for the protection and benefit of all Parties concerned. If fee title to the property or any partial interest therein is conveyed to any other person, firm, or corporation, the conveying instrument shall contain a restriction referencing this Agreement or restrictive language consistent with this Agreement.

5. If Owner or their successor or assign violates any term of this Agreement at any time, the City may terminate this Agreement consistent with the revocation procedures in the SDMC.

#### **CONDITIONS**

1. This Agreement must be signed by the Owner/Permittee and returned to the Development Project Manager within 5 days.
2. Only that work specifically described in this Agreement and for the specific property listed above is authorized. No other work is approved by this emergency action.
3. This Agreement does not obviate the need to obtain necessary authorization and/or permits from other agencies (e.g. California Coastal Commission, Department of Fish & Game, U.S. Fish & Wildlife, U.S. Army Corps of Engineers, State Lands Commission).
4. Any Construction Permits that are required to build the emergency repair as described in this Agreement shall be approved within 90 days.
5. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work and/or work on the approved restoration plan shall be initiated within

90 days of project completion prior to the beginning of the next rainy season, whichever is greater.

6. All work authorized by this Agreement must be completed within 180 days or the permit is null and void. If during construction, site conditions warrant changes to the approved design, DSD shall be contacted immediately prior to any changes in the field.
7. Within 180 days of issuance of the emergency permit, a follow-up, regular CDP and SDP application shall be submitted and deemed complete by the Development Services Department.
8. Any development or structures constructed pursuant to this emergency permit shall be considered temporary until authorized by a follow-up CDP, and that the issuance of an emergency CDP shall not constitute an entitlement to the erection of permanent structures. Any development authorized by this emergency permit must be removed unless a complete application for a regular CDP for the development is filed and deemed complete within 180 days of issuance of the emergency permit. If a regular CDP authorizing permanent retention of the development, or a portion of the development, is denied, then the development that was authorized in the emergency permit, or the denied portion of the development, must be removed.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Development Services Department Director, pursuant to the City Manager's delegation of authority in SDMC section 22.0226 authorizing such execution, and by the Owner.

Dated this 19th day of August 2019.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

By \_\_\_\_\_

  
Tim Daly

Development Project Manager -Authorized Representative

August 19, 2019

I HEREBY CERTIFY I am the record Owner/Permittee of the Property and that I have read all of this Agreement, this 19th day of August 2019. By execution hereof, I agree to each and every condition of this Agreement and promise to perform each and every obligation of Owner/Permittee hereunder.

By 

Name: Carrie Purcell

Title: Assistant Deputy Director, Public Works Dept.

**Owner/Permittee**