Exhibit D

OFFICE of the ZONING ADMINISTRATOR
CITY OF HUNTINGTON BEACH • CALIFORNIA

P.O. BOX 190 CALIFORNIA 92648

(714) 536-5271

NOTICE OF ACTION

September 4, 2008

Natalie Chan
Tetra Tech, Inc.
401 E. Ocean Blvd., Suite 420
Long Beach,CA 90814

SUBJECT: **MITIGATED NEGATIVE DECLARATION NO. 08-010 (HUNTINGTON HARBOUR BULKHEAD REPAIR PROJECT):**

APPLICANT: Natalie Chan, Tetra Tech, Inc.

REQUEST: To analyze the potential environmental impacts associated with repair of the bulkhead at 30 existing single-family residential properties within Huntington Harbour. The purpose of the project is to restore the foundation of the bulkhead and provide toe protection to inhibit any future scoring or erosion, which may jeopardize the bulkhead's structural integrity. The repair project would consist of three phases: pile repair, placement of sheet piles and installation of slope protection, although not all phases would apply to all properties. The proposed project is subject to approval of a coastal development permit from the California Coastal Commission.

PROPERTY OWNER: Various

LOCATION: 30 properties in Huntington Harbour, City of Huntington Beach (includes properties on Davenport Island, Trinidad Island, Gilbert Island, Humboldt Island, Edgewater Lane and Morning Star Drive.)

PROJECT PLANNER: Jennifer Villasenor

DATE OF ACTION: September 3, 2008

On Wednesday, September 3, 2008 the Huntington Beach Zoning Administrator took action on your application, and your application was **approved**. Attached to this letter are the findings and mitigation measures.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements

prior to commencement of the project. It is recommended that you immediately pursue completion of the mitigation measures and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. Said appeal must be accompanied by a filing fee of One Thousand Two Hundred Eighty-Seven Dollars ($1287.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and One Thousand Five Hundred Sixty-Nine Dollars ($1569.00) if the appeal is filed by any other party. In your case, the last day for filing an appeal and paying the filing fee is September 15, 2008, at 5:00 PM.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has begun.

Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Jennifer Villasenor, the project planner, at (714) 374-1661/ JVillasenor@surfcity-hb.org or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

R. Ramos

Ricky Ramos
Zoning Administrator

RR:JV:kdc
Attachment

c: Honorable Mayor and City Council
Chair and Planning Commission
Paul Emery, Interim City Administrator
Scott Hess, Director of Planning
William H. Reardon, Division Chief/Fire Marshal
Terri Elliott, Principal Civil Engineer

ATTACHMENT NO. 1

FINDINGS AND MITIGATION MEASURES

MITIGATED NEGATIVE DECLARATION NO. 2008-010

FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 2008-010

1. Mitigated Negative Declaration 2008-010 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of 30 days. Comments received during the comment period were considered by the Zoning Administrator prior to action on Mitigated Negative Declaration No. 08-010.

2. Mitigation measures avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Mitigation measures address water quality, potential impacts to eelgrass and the loss of soft bottom habitat. Mitigation measures were generally designed to minimize impacts to the flora and fauna of Huntington Harbour.

3. There is no substantial evidence in light of the whole record before the Zoning Administrator that the project, as mitigated through the attached mitigation measures, will have a significant effect on the environment. The structural integrity of the bulkheads in Huntington Harbour has been threatened due to erosion over the years. The purpose of the project is to restore the foundation of the bulkhead and provide slope protection, which will inhibit any future scouring or erosion. The project does not propose any new development or uses, and potential impacts resulting from construction of the project are temporary and intermittent or can be adequately mitigated.

MITIGATION MEASURES FOR ENVIRONMENTAL CONCERNS:

1. During all phases of the project, Best Management Practices (BMPs) will be implemented to prevent and control turbidity. BMPs may include installation of a silt curtain.

2. If turbidity is observed at a distance of 100 feet or greater from the actual work site, either the work will be stopped until the water returns to normal or, if deemed necessary, a silt curtain will be installed until turbidity returns to normal.

3. An anchor management plan shall be prepared and implemented to avoid damage to eelgrass.

4. A pre-construction eelgrass survey shall be conducted to confirm that no impacts to eelgrass will occur within the area of construction as a result of the project.

5. Any reduction in acreage of eelgrass habitat shall be mitigated according to State and Federal environmental policies, which include the in-kind replacement of habitat.

6. The 11 properties requiring sheet pile installation, and impacting 401.5 square feet of soft bottom habitat, shall participate in the Soft Bottom Mitigation Plan, as approved by the California Coastal Commission under Coastal Development Permit 5-01-020. Confirmation from the California Department of Fish and Game (CDFG) shall be provided to ensure the

availability of credits in the "mitigation bank" for the required square footage to be mitigated for the project. In the event that sufficient credit is unavailable, the applicant must mitigate the impacted area of soft bottom habitat at a 2:1 ratio. Any new mitigation plan shall be approved by the CDFG and the California Coastal Commission.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.