

September 10, 2018

Harbor Bay Hospitality LLC
191 N Tully Road,
Turlock, California 98530
Attention: Mr. James Woo

**RE: Preconstruction Surveys for Nesting Birds, including Western Snowy Plover,
California Least Tern, Western Burrowing Owl, and other Raptors
Marriott Residence Inn Project
2900 Harbor Bay Parkway, Alameda, California**

Dear Mr. Woo:

1. INTRODUCTION

This letter-report has been prepared to present the results of Monk & Associates' (M&A) nesting bird survey. The survey was completed for all nesting birds including passerines (small perching birds), western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sterna antillarum brownii*), western burrowing owl (*Athene cunicularia hypugaea*), and other raptors (birds of prey) on the proposed Marriott Residence Inn project site (herein referred to as the project site) in Alameda, California (Figures 1, 2, and 3). California Natural Diversity Database (CNDDDB) records for the western snowy plover and the California least tern occur within a two-mile radius of the project site. Surveys for these federally-listed species were therefore necessary to confirm their presence or absence on the project site. In this report we discuss the legal status of nesting birds/raptors, our field survey methods, the results of our nesting bird surveys, and our recommendations.

2. PROJECT SITE DESCRIPTION

The 5.4-acre project site is located at 2900 Harbor Bay Parkway in Alameda, California (Figures 1 and 2). The project site is a vacant, ruderal (weedy) field that parallels the Bay Farm Islands Shoreline Trail and the Alameda Harbor.

Immediately to the north of the project site is the Alameda Ferry Terminal with an associated paved parking lot. To the east of the project site are high-density, single-family homes and multi-family apartments which are separated from the project site by Harbor Bay Parkway and a man-made lagoon. To the west of the project site is the Bay Farm Shoreline trail that parallels Alameda Harbor. To the south of the project site is a commercial business park with an associated paved parking lot. Figure 3 shows this property as a ruderal field, similar to the project site; however, since the time that aerial photograph was taken, construction of a second building in the commercial business park was underway.

Ruderal vegetation is present throughout the project site, and includes perennial pepperweed (*Lepidium latifolium*), black mustard (*Brassica nigra*), slender wild oat (*Avena barbata*), scarlet pimpernel (*Lysimachia arvensis*), and winter vetch (*Vicia villosa*).

3. LEGAL PROTECTION FOR NESTING BIRDS

3.1 Federal Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

3.2 California Fish and Game Code § 3503, 3503.5, 3511, and 3513

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the “take, possession, or destruction of birds, their nests or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered “take.” Such a take would also violate federal law protecting migratory birds (Migratory Bird Treaty Act).

3.3 Legal Protection for Western Burrowing Owl

Western burrowing owls are classified in the State of California as a “species of special concern.” This designation provides protection for these species pursuant to the California Environmental Quality Act (CEQA). Burrowing owls are also protected under the federal Migratory Bird Treaty Act (16 U.S.C. 703-711 and 50 CFR 10.13), and their nests, eggs, and/or young are protected by California Fish and Game Code §3505, §3503.5, and §3800. The Migratory Bird Treaty Act as amended makes it unlawful to kill, harm, or harass any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young.

3.4 Legal Protection for Western Snowy Plover

The western snowy plover is a federally-listed threatened species (March 5, 1993) and a California species of special concern (1978). The Pacific coast populations of the western snowy plover breed primarily on coastal beaches from southern Washington to southern Baja California, Mexico. Sand spits, dune-backed beaches, unvegetated strands, open area around estuaries and beaches at river mouths are the preferred coastal habitats for nesting (USFWS 1993)¹. Snowy plovers breed in loose colonies with the number of adults at coastal breeding sites ranging from 2 to 318. On the Pacific coast, larger concentrations of breeding birds occur in the south than in the north, suggesting that the center of the plovers’ coastal distribution lies closer to the southern boundary of California (USFWS 1993)¹. The breeding season extends from early March to late-September. In winter, snowy plovers are found on many of the beaches used for nesting but also on beaches not used for nesting. They also visit manmade salt ponds and estuarine sand and mud flats (USFWS 1999)². The wintering season generally extends roughly from October to February but often overlaps the nesting season with birds arriving on wintering

¹ USFWS (U.S. Fish & Wildlife Service). 1993. Endangered and threatened wildlife and plants; determination of threatened status for the Pacific Coast population of the western snowy plover. Federal register, Vol. 58, No. 42. pps. 12864-12874.

² USFWS (U.S. Fish & Wildlife Service). 1999. Endangered and threatened wildlife and plants; designation of critical habitat for the Pacific Coast population of the western snowy plover; final rule. Federal register, Vol. 64, No. 234. pps. 68507-68544.

areas as early as midsummer. The closest known CNDDDB record for the western snowy plover was recorded in 1974 when one adult and one chick were observed approximately 0.2-mile north of the project site (CNDDDB Occurrence No. 90). There are no records for western snowy plover on the project site.

3.5 Legal Protection for California Least Tern

The California least tern was federally-listed as endangered in its entire range on June 2, 1970 (Federal Register 35: 16047). Critical habitat has not been designated for this species. It is also a state-listed endangered species. The California least tern is a small gray and white seabird with long, narrow, black-tipped wings and a black cap. It is the smallest of the North American terns. Typically, these terns forage in shallow estuaries and lagoons, diving head first into the water after a wide variety of small fish. Today, the breeding range of these terns is limited to San Francisco Bay and a few areas along the coast from San Luis Obispo County to San Diego County. It nests on coastal, sandy, open areas usually around bays, estuaries, and creek and river mouths. Nests are scrapes or depressions in the sand that the birds often adorn with small fragments of shell or pebbles; a typical clutch size is two eggs. The California least tern nests in colonies of approximately 25 pairs. The California least tern is a migratory species, it arrives in California by late April and departs by August. During the winter months, they head south to the Pacific coast of Central America (Zeiner et al. 1990³, Shuford 1993⁴). The closest known CNDDDB record for the California least tern was recorded in 1969, when a large colony of individuals was observed nesting on large, sandy flats approximately 0.5-mile northeast of the project site (CNDDDB Occurrence No. 2). There are no records for California least tern on the project site.

4. SURVEY METHODS

On September 10, 2018, M&A biologist Mr. Jesse Reeb conducted a western burrowing owl and other raptor, snowy plover, California least tern, and passerine (perching bird) nesting bird survey on the project site and within a zone of influence. Survey methods for nesting passerine birds included examining all trees and bushes on and adjacent to the project site for active nests. Survey methods for western snowy plovers and California least terns included scanning the project site with a high-powered scope for nesting individuals on the ground before walking meandering transects throughout the site to look for direct and indirect evidence of plover and tern presence. Survey methods for western burrowing owls included scanning the project site with binoculars ahead of walking meandering transects throughout the site to look for direct and indirect evidence of burrowing owl presence. Any California ground squirrel (*Otospermophilus beecheyi*) burrow encountered on these transects was inspected for evidence of use by a western burrowing owl. Evidence of occupation includes a visual sighting of this owl species or the presence of its molt feathers, white wash, pellets, or prey remains. High-powered binoculars and the spotting scope were also used to scan ahead and look for burrowing owls that may be perched near a burrow or on top of a fence or earthen mound.

³ Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White. 1990a. California's wildlife, volume II, birds. State of California, the Resources Agency, Department of Fish and Game, Sacramento, California.

⁴ Shuford, W.D. 1993. The Marin County breeding bird atlas: A distributional and natural history of coastal California birds. California Avifauna Series 1. Bushtit Books, Bolinas, California.

The survey also included examinations for direct and indirect evidence of raptor nesting. Indirect evidence includes the presence of fresh white-wash (i.e., excrement) in a tree or on the ground below a nest, adult molt feathers, down or feathers from young and/or adults located in relatively high concentrations in the vicinity of a nest, and evidence of kills (i.e., plucking posts and solitary kills) or pellet piles may indicate use of a tree or locality by nesting raptors.

Finally, when raptors or passerine birds were observed, their behavior was interpreted to determine if they might be nesting in the vicinity of the project site. Behaviors that would indicate nesting in the vicinity would include any exhibit of defensive behavior, territorial behavior, or other behavior indicating that a nesting bird was unusually interested in our presence in the area. Other observations that would likely indicate nesting would include observation of adult birds carrying food to the nest, adults exchanging food, or adults feeding young that had recently fledged from the nest.

5. SURVEY RESULTS

No western burrowing owls, snowy plovers, California least terns, or any other active bird nests were observed on or within a zone of influence of the project site during the September 10, 2018 survey. Bird species observed during surveys included black phoebe (*Sayornis nigricans*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), American crow (*Corvus brachyrhynchos*), California towhee (*Pipilo crissalis*), chestnut-backed chickadee (*Poecile rufescens*), Anna's hummingbird (*Calypte anna*), and snowy egret (*Egretta thula*). No defensive behavior was exhibited by any bird observed that would indicate it was being protective over a nesting attempt or young.

6. CONCLUSIONS AND RECOMMENDATIONS

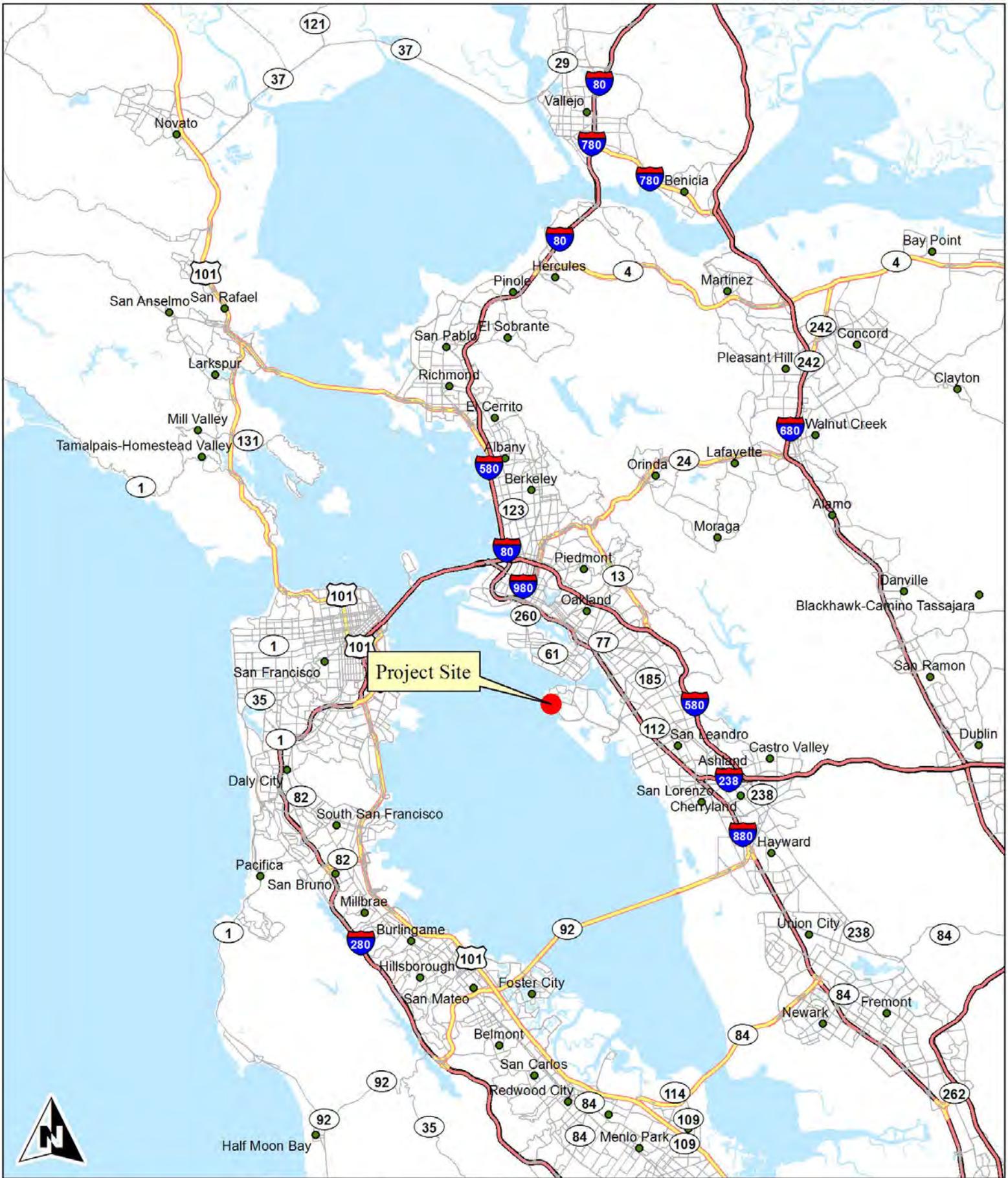
No nesting birds were found on the project site or within a zone of influence during M&A's nesting bird survey conducted on September 10, 2018. M&A believes that no considerations for nesting birds/raptors, western burrowing owls, western snowy plovers, or California least terns are warranted prior to commencement of construction. It should be noted that an additional preconstruction survey should be conducted for the project site if work activities do not commence within 14 days of this survey.

Should you have any questions or wish to discuss any other aspect of these inspections, please do not hesitate to call me at (925) 947-4867 extension 217.

Sincerely,



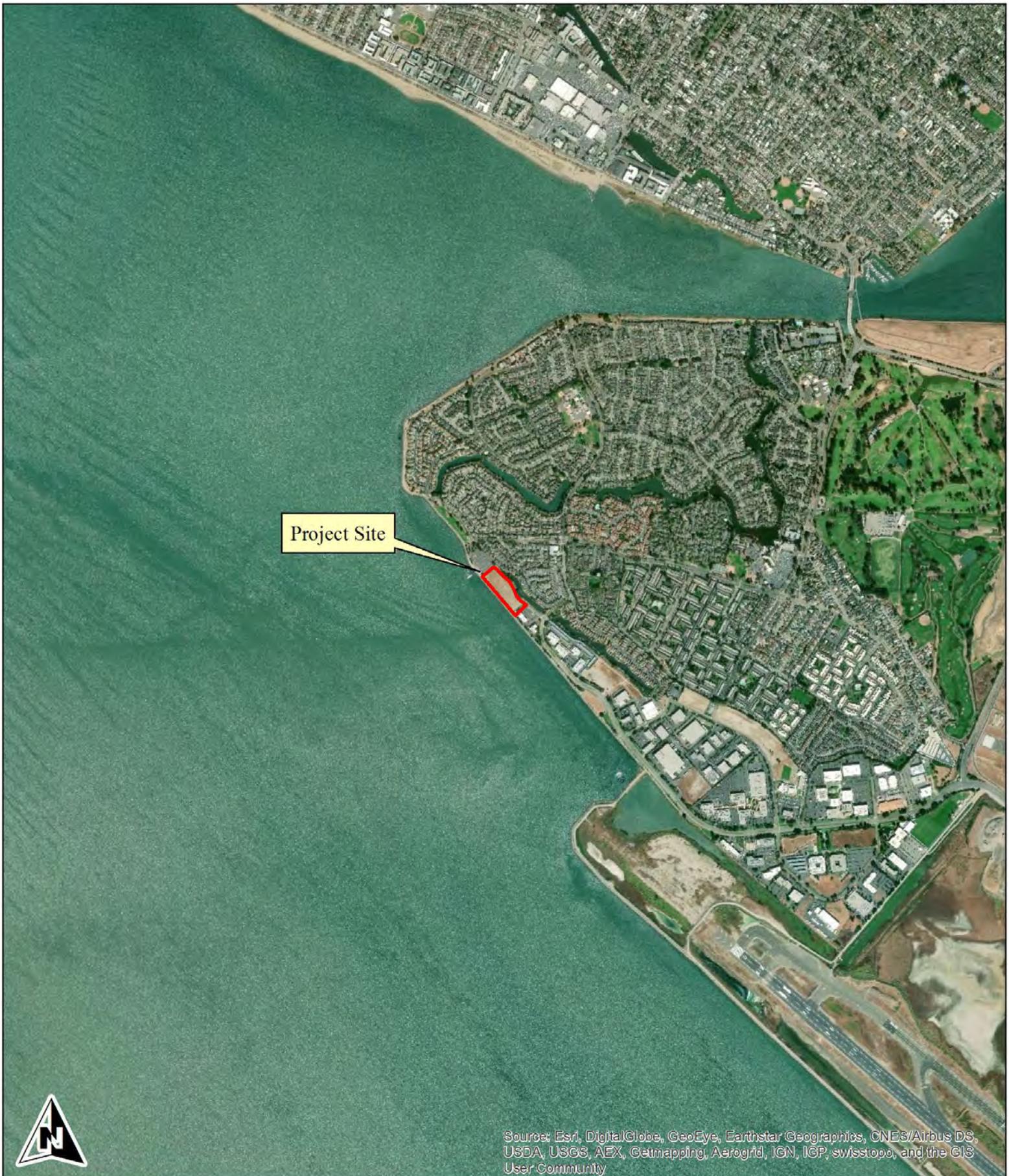
Jesse Reeb
Project Biologist II
Attachments: Figures 1-3



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1136 Saranap Avenue, Suite Q
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Figure 1. Marriott Residence Inn Project Site
Regional Map
Alameda, California

County: Alameda
Map Preparation Date: September 10, 2018



Project Site

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



Figure 2. Marriott Residence Inn Project Site
Location Map
Alameda, California



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Section: 25;T2S R3W
37°44'9.13"N 122°15'9.48"W
7.5-Minute Hunters Point quadrangle
Aerial Photograph Source: ESRI
Map Preparation Date: September 10, 2018



Project Site

Harbor Bay Parkway



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(925) 947-4867

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

0 25 50 100 150 200 250 Feet

Figure 3. Aerial Photograph of the
Marriott Residence Inn Project Site
Alameda, California

Section: 25;T2S R3W
37°44'9.13"N 122°15'9.48"W
7.5-Minute Hunters Point quadrangle
Aerial Photograph Source: ESRI
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