

## 4.9 HAZARDS AND HAZARDOUS MATERIALS

This section addresses potential hazards and hazardous material impacts at the project site and in the surrounding area that may result from implementation of the proposed project. The information contained in this section is based on a Phase I Environmental Site Assessment report (Phase I ESA) prepared by AMEC Geomatrix, Inc. (AMEC Geomatrix) in July 2009 for Assessor's Parcel Numbers (APNs) 442-014-24, 442-014-25, 442-014-26, and 442-014-27, Newport Beach, California (Appendix G), the City of Newport Beach (City) General Plan Update Environmental Impact Report (EIR), and the City General Plan Safety Element.

### Scoping Process

During the scoping process, it was determined that the proposed project would have potential impacts for six of the eight hazards and hazardous materials criteria for determining significance that are set out in the Guidelines for the California Environmental Quality Act (State CEQA Guidelines) include as criteria for determining significance. It was determined that no safety hazard associated private airstrips would occur upon implementation of the proposed project because there are no existing private airstrips within the City. In addition, it was determined that the proposed project would not expose people or structures to a significant risk of loss, injury, or death involving wildfires because the project site is located in an area of low-to-no fire hazard. Therefore, issues related to private airstrips and wildfires are not included in the detailed analysis presented in this EIR. Refer to Appendix A, Initial Study/Notice of Preparation (IS/NOP), for additional discussion.

Four comment letters on the subject of hazards and hazardous materials were received in response to the IS/NOP circulated for the proposed project. The Airport Land Use Commission (ALUC) submitted a letter stating that a small part of the northern parcel of the proposed project site is located within the Federal Aviation Regulation (FAR) Part 77 Notification Area for John Wayne Airport (JWA). The letter also stated that Form 7460-1, Notice of Proposed Construction or Alteration, must be filed with the Federal Aviation Administration (FAA) and requested that the ALUC receive a copy of the aeronautical study from the FAA for review and comment. The Department of Toxic Substances Control (DTSC) requested that the DEIR identify and determine methods for adhering to all applicable federal and state regulations governing hazards and hazardous materials. The California Regional Water Quality Control Board (RWQCB), Santa Ana Region, requested that the DEIR address potential water quality impacts associated with the release of selenium from on-site soils to the wetlands area. A Newport Beach resident stated that the DEIR should also address impacts of hazardous materials used at the site and suggested that the DEIR should consider potential impacts associated with emergency response at and adjacent to the site resulting from increased traffic in the vicinity of the proposed project site. For copies of the IS/NOP comments, refer to Appendix A of this EIR. The recommendations and concerns raised during the scoping process related to hazards and hazardous substances are addressed in this EIR section. Potential impacts related to water quality are discussed in Section 4.10, Hydrology and Water Quality, and potential impacts to emergency vehicle response time and site access problems resulting from increased traffic congestion is addressed in Sections 4.2, Traffic and 4.13, Public Services and Utilities.

#### 4.9.1 Methodology

As described above, the information contained in this section is primarily based on a Phase I ESA report. The purpose of the Phase I ESA was to evaluate whether Recognized Environmental Conditions, as defined in the American Society for Testing and Materials (ASTM) Standard E 1527-00, are present due to past or present land use of the site and/or properties in the immediate vicinity of the site. The term Recognized Environmental Conditions means the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. A site vicinity reconnaissance was conducted on March 30, 2009, as part of the Phase I ESA. The reconnaissance involved a walking tour of the site and visual observation of the site and adjoining properties. As part of the analysis, a computerized search of State and federal standard environmental databases and a review of local regulatory agency files regarding the site and nearby facilities were completed.

A review of the City's General Plan was also conducted to obtain information regarding the Airport Environs Land Use Plan (AELUP) and adopted emergency response plans.

#### 4.9.2 Existing Environmental Setting

**Definitions.** The United States Environmental Protection Agency (EPA) defines a hazardous waste as a substance that (1) may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible illness; and (2) poses a substantial present or potential future hazard to human health or the environment when it is improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste is also defined as ignitable, corrosive, explosive, or reactive (Code of Federal Regulations—CFR-Title 40: Protection of the Environment, Part 261).

A material may also be classified as a hazardous material if it contains defined amounts of toxic chemicals. The EPA has developed a list of specific hazardous wastes that are in the forms of solids, semi-solids, liquids, and gases. Producers of such wastes include private businesses and federal, state, and local government agencies. The EPA regulates the production and distribution of commercial and industrial chemicals to protect human health and the environment. The EPA also prepares and distributes information to further the public's knowledge about these chemicals and their effects, and provides guidance to manufacturers in pollution prevention measures, such as more efficient manufacturing processes and recycling used materials.

The State of California defines hazardous materials as substances that are toxic, ignitable or flammable, reactive, and/or corrosive. The State also defines an extremely hazardous material as a substance that shows high acute or chronic toxicity, is carcinogenic (causes cancer), has bioaccumulative properties (accumulates in the body's tissues), is persistent in the environment, or is water reactive (California Code of Regulations, Title 22; California Health and Safety Code, Division 20, Chapter 6.5).

**Proposed Project Site.** The project site currently consists of four legal parcels. APNs 442-014-25 and 26 (the Library Parcels) are approximately 4 acres and consist of the Newport Beach Public Library (Library) and associated parking areas. APN 442-014-24 (the Northern Parcel) is approximately 3 acres. APN 442-014-27 (the Central Parcel) is approximately 13 acres. Both of the latter parcels are vacant and undeveloped, consisting of grassland and bushes. During the site reconnaissance on March 30, 2009, construction debris (comprised of concrete and brick), and trash (comprised of bottles, paper, and plastic) were observed within the northwestern portion of the Central Parcel.

According to aerial photographs reviewed for the Phase I ESA, the North Parcel and Central Parcel have never been developed. The Library Parcels were vacant until the Library was constructed in 1994.

A preliminary title report for the Central Parcel, dated May 7, 2008, was reviewed by AMEC Geomatrix as part of the Phase I ESA. According to the preliminary title report, there are no environmental liens or other activity and use limitations (AULs) for the Central Parcel. Title information for the Library Parcels and the Northern Parcel was not available at the time the Phase I ESA was completed. However, according to the City, there are no liens or AULs for these parcels.

**Existing City Hall Site.** The existing City Hall site is located at 3300 Newport Boulevard, on the corner of Newport Boulevard and 32nd Street. The existing City Hall site is occupied by over 47,809 gross square feet (sf) of floor area in five buildings and five temporary buildings (trailers); approximately 3,417 sf are occupied by Fire Station No. 2, which would remain after project implementation. The on-site buildings were constructed at various times between 1945 (City Hall Building B) and 2008 (Human Resources recruitment trailer).

The proposed project includes reuse of the existing buildings on the City Hall site with other public facilities uses. No architectural or physical improvements to the property are proposed as part of this project.

**Storm Drains, Wastewater, and Groundwater Wells.** During the site reconnaissance, various drainage features consisting of concrete-lined channels, a v-ditch, culverts, and previously identified wetlands were observed on the Central Parcel. Two groundwater monitoring wells, installed during the geotechnical investigation by Leighton Consulting (July 2009), were also observed on the Central Parcel during the site reconnaissance.

A sump pump was observed in the basement of the library building during the site reconnaissance. The Phase I ESA indicates that discharge volumes from this pump were relatively low, and discharge is directed to a storm drain located on Avocado Avenue. According to the Phase I ESA, the sump pump was installed during construction of the library building. Plans for the sump pump were approved through the building permit process prior to the adoption of a National Pollution Discharge Elimination System (NPDES) program by Orange County (County) or the City.

**Pipeline and Oil and Gas Wells.** The State Fire Marshal's office was contacted to assess whether underground oil, gas, natural gas, or refined petroleum hydrocarbon pipelines are present beneath the project site. The State Fire Marshal indicated that no pipelines under its jurisdiction are present in the project site vicinity.

Based on the Regional Wildcat Map W 1-6 dated August 16, 2005, produced by the State of California, Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) and on information listed in the Environmental Data Resources (EDR) report, no wells were located within 1/8 mile of the project site.

**Cortese List (Pursuant to Government Code Section 65962.5).** The Hazardous Waste and Substances Sites (Cortese) List is a planning document used by the State, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. Government Code Section 65962.5 requires the California Environmental Protection Agency (Cal EPA) to develop (at least annually) an updated Cortese List. The DTSC is responsible for a portion of the information contained in the Cortese List. Other State and local government agencies are required to provide additional hazardous material release information for the Cortese List. The proposed project site is not included on any hazardous materials site pursuant to Government Code Section 65962.5.

**Use, Storage, and Disposal of Hazardous Materials.** Janitorial supplies, including cleaners, detergents, and soaps contained in aerosol cans and spray guns were observed in the Library's maintenance room. Two 5-gallon buckets containing paint and paint thinner were observed in a metal storage cabinet located outside of the Library building. A 3-gallon container of diesel was observed beside the metal storage cabinet. No evidence of misuse or spillage of these substances was observed during the site reconnaissance.

**Polychlorinated Biphenyls.** Standard equipment suspected of potentially containing Polychlorinated biphenyls (PCBs) includes industrial-capacity transformers, fluorescent light ballasts, and oil-cooled machinery. All PCB-designated transformers were required to be replaced with non-PCB-designated transformers after PCBs were designated as a carcinogen by the EPA in 1977. Transformers are currently classified as PCB-containing if their cooling oils contain greater than 50 milligrams per liter total PCBs. The management of PCB-containing transformers is the responsibility of the local utility or the transformer owner. Samples must be taken from the transformer in order to determine the presence or absence of PCBs.

A pad-mounted transformer was observed to the north of the library building. Note that prior to 1976, PCBs were commonly used in dielectric fluids in transformers, capacitors, and light ballasts. No spills, staining, or leaks were observed around the transformer. Based on the apparent good condition and age of the transformer, AMEC Geomatrix determined that the transformer is not expected to contain PCBs or represent a significant environmental concern to the project site.

**Asbestos-Containing Materials.** The use of asbestos in many building products was banned by the EPA by the late 1970s. In 1989, the EPA issued a ruling prohibiting the manufacturing, importation, processing, and distribution of most asbestos-containing products. This rule, known as the Ban and Phase-Out Rule, would have effectively banned the use of nearly 95 percent of all asbestos products used in the United States. However, the U.S. 5th Circuit Court of Appeals vacated and remanded most of the Ban and Phase-Out Rule in October 1991. Due to this court decision, many asbestos-containing product categories not previously banned (prior to 1989) may still be in use today. Among these common material types found in buildings are floor tile and roofing materials. Asbestos Containing Materials (ACMs) represents a concern when it is subject to damage that results in the release of fibers. Friable ACMs, which can be crumbled by hand pressure and are therefore susceptible to damage, are of particular concern. Non-friable ACM is a potential concern if it is damaged by maintenance work, demolition, or other activities.

Due to the age of the Library structure (constructed in 1994), it is unlikely that there are ACMs contained within the existing building material. No friable suspect ACM was identified; however, some building materials (e.g., ceramic floor tiles, vinyl floor tiles, acoustic ceiling tiles) may contain asbestos.

**Lead.** Lead has been used in commercial, residential, road, and ceramic paint; in electric batteries and other devices; as a gasoline additive; for weighting; in gunshot; and for other purposes. It is recognized as being toxic to human health and the environment and is widely regulated in the United States. Buildings constructed prior to 1978 are presumed to contain lead-based paint (LBP) unless proven otherwise, although buildings constructed after 1978 may also contain LBP. Lead is regulated as a “criteria” pollutant under the federal Clean Air Act, which has led to its elimination from automotive fuels. Lead is also regulated as a toxic pollutant under the federal Clean Water Act and the State Porter-Cologne Water Quality Control Act as well as under the federal and California safe drinking water acts.

Due to the age of the Library structure (constructed in 1994), it is unlikely that there are LBPs present within the interior or exterior paint. LBPs are not considered to pose a potential environmental concern during construction of the proposed project; however, a screening for LBP was not conducted as part of the Phase I ESA.

**Selenium.** Selenium is a photosensitive element that occurs in both crystalline and amorphous forms and is obtained chiefly from selenium-rich soils or as a byproduct in copper refining. Selenium is used especially in glass, semiconductor devices, and alloys. Although selenium is an essential micronutrient for animals and humans, it is toxic if consumed in excess. In soils, selenium most often occurs in soluble forms such as selenate (analogous to sulfate), which are leached into surface waters very easily by runoff. As it relates to the proposed project, selenium is primarily a water quality concern, and for this reason it is addressed in Section 4.10, Hydrology and Water Quality.

**Hazardous Materials Releases.** As part of the Phase I ESA, AMEC Geomatrix conducted a database search of the project site and the vicinity. Table 4.9.A lists notable sites that have had a release of hazardous materials as reported within the database report.

**Table 4.9.A: Hazardous Waste Releases within and Adjacent to the Project Limits**

Figure 4.9.1 ID No.	Address, Distance from Subject Site	Database	Status
1	1000 Avocado Avenue Newport Beach, CA (within project limits)	HAZNET	The Newport Beach Public Library reportedly generated 0.2 ton of paint sludge on an unspecified date. According to Melissa Kelly, the Support Services Coordinator representative for the Library, the Library structure underwent exterior and interior repainting in 2006, during which paint sludge might have been generated. She also stated that paint wastes or sludge were disposed off site by a painting contractor. Based on this information, this site is not expected to represent an environmental concern to the project site.
2	Former Shell Station/Mobil No. 18 PLR 2500 San Joaquin Hills Road Newport Beach, CA (approximately 0.34 miles east-northeast of the project limits)	LUST FINDS HAZNET	A release of gasoline, which reportedly impacted groundwater, was discovered on September 30, 1991. This site remains an open case and is currently undergoing groundwater monitoring and remedial activities.  Based on the Site Status and Groundwater Monitoring Report, Fourth Quarter 2008, completed by ETIC Engineering on January 19, 2009, this facility is an active gasoline station with four 10,000-gallon underground storage tanks (USTs) with associated dispenser islands. The groundwater beneath the facility reportedly flows to the north-northeast. Groundwater impacts have been generally limited within site boundaries. Because the site does not appear to be hydraulically upgradient to the project site, this site is not expected to represent an environmental concern to the project site.

Source: Phase I Environmental Site Assessment (July 2009).

In addition, based on regulatory status information, the relative distances from the project site, and the locations of sites listed within database report in relation to the direction of groundwater flow and/or other information listed in the database report, no additional sites listed in the database report are expected to represent an environmental concern to the project site.



- ① 1000 Avocado Ave, Newport Beach, CA  
(within project limits)
- ② Former Shell Station/ Mobil #18 PLR  
Newport Beach, CA  
(0.34 miles east-northeast of the project site)

LSA

FIGURE 4.9.1



SOURCE: TBM (2009)

I:\CNB0901\G\Haz Releases.ai (7/20/09)

**This page intentionally left blank**



**Aviation.** JWA is located approximately 3.5 miles north-northwest of the project site. On an average business day, approximately 150 commercial and 20 regional flights arrive at and depart from JWA. The proposed project site is within 20,000 feet (ft) of JWA and is within the notification area of the Orange County ALUC. The ALUC, which is governed by Public Utilities Code Section 21670, has a basic responsibility to assist local agencies in ensuring compatible land uses in the vicinity of all airports in the County. The ALUC reviews land use proposals near civilian and military airports and other land use issues that have a potential impact on airport operations in accordance with the AELUP.

In 1975, the ALUC adopted an AELUP that included JWA. The AELUP is the authoritative planning document for the ALUC. The ALUC is an agency authorized under State law to assist local agencies in ensuring compatible land uses in the vicinity of airports. Primary areas of concern for ALUCs are noise, safety hazards, and airport operational integrity. ALUCs are not implementing agencies in the manner of local governments, nor do they issue permits for a project such as those required by local governments.

Accidents resulting in one or more fatalities involving commercial aircraft are rare events. In the event of an aviation hazard, pilots are instructed to follow Newport Bay away from residential or developed areas. The airport is protected by on-site airport fire services as required by the FAA regulations. This service is provided by Orange County Fire Station No. 33. In addition, the Orange County Fire Services Area Plan Annex contains a Marine (Air/Sea) Disaster Response Plan that establishes protocols for marine disasters in the harbor or ocean from either aircraft or boating accidents. This plan includes a countywide mutual aid response to a disaster.

**Emergency Plans.** The City of Newport Beach is currently using the Standardized Emergency Management System for emergency response in the City where, depending on the type of incident, several different agencies and disciplines may be called upon to assist with emergency response. Agencies and disciplines that can be expected to be part of the emergency response team include medical, health, fire and rescue, police, public works, and coroner. Additionally, policies and plans from the Orange County Operational Area Mutual Aid Plan, the state's Mutual Aid Plan, and the state's Fire and Rescue Mutual Aid System would be implemented.

Per the City's Municipal Code Chapter 2.20, the Fire Department Emergency Service Office coordinates the functions of the Emergency Management Program. Within the City's Fire Department, the Disaster Preparedness Coordinator has the responsibility of updating the City's Emergency Management Plan, including the development and implementation of disaster training for employees. The Emergency Management Plan describes the different levels of emergencies, the local emergency management organization, and the specific responsibilities of each participating agency, government office, and City staff members responding to emergencies. Roads that are used as response corridors/evacuation routes usually follow the most direct path to or from various parts of a community.

### 4.9.3 Regulatory Setting

A number of federal, state, and local laws have been enacted to regulate the management of hazardous materials. Implementation of these laws and the management of hazardous materials are

regulated independently of the CEQA process through programs administered by various agencies at the federal, state, and local levels. An overview of the key hazardous materials laws and regulations that apply to the proposed project is provided below.

### **Federal Policies and Regulations.**

**Hazardous Materials Regulations.** Several federal agencies regulate hazardous materials. These include the EPA, the Occupational Safety and Health Administration (OSHA), and the United States Department of Transportation (DOT). Applicable federal regulations are contained primarily in CFR Titles 10, 29, 40, and 49. In particular, CFR Title 49 governs the manufacture of packaging and transport containers, packing and repacking, labeling, and the marking of hazardous material transport. Some of the major federal laws and issue areas include the following statutes (and regulations promulgated thereunder):

- Resources Conservation and Recovery Act (RCRA)—hazardous waste management
- Hazardous and Solid Waste Amendments Act (HSWA)—hazardous waste management
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)—cleanup of contamination
- Superfund Amendments and Reauthorization Act (SARA)—cleanup of contamination
- Emergency Planning and Community Right-to-Know (SARA Title III)—business inventories and emergency response planning

The EPA is the primary Federal agency responsible for the implementation and enforcement of hazardous materials regulations. In most cases, enforcement of environmental laws and regulations established at the federal level is delegated to state and local environmental regulatory agencies.

In addition, with respect to emergency planning, the Federal Emergency Management Agency (FEMA) is responsible for ensuring the establishment and development of policies and programs for emergency management at the federal, state, and local levels. This includes the development of a national capability to mitigate against, prepare for, respond to and recover from a full range of emergencies.

**Federal Air Regulations, Part 77.** The FAA is charged with the review of construction activities that occur in the vicinity of airports. Its role in reviewing these activities is to ensure that new structures do not result in a hazard to navigation. The regulations in the FAR Part 77 are designed to ensure that no hazards are allowed to exist that would endanger the public. Proposed structures are also evaluated against Terminal En Route Procedures which ensure that a structure does not adversely impact flight procedures. Tall structures, including buildings, construction cranes, and cell towers in the vicinity of an airport can be hazardous to the navigation of airplanes. FAR Part 77 identifies the maximum height at which a structure would be considered an obstacle at any given point around an airport. The extent of the off-airport coverage needing to be evaluated for tall structure impacts can extend miles from an airport facility. In addition, FAR Part 77

establishes standards for determining whether objects constructed near airports will be considered obstructions in navigable airspace, sets forth notice requirements of certain types of proposed construction or alterations, and provides for aeronautical studies to determine the potential impacts of a structure on the flight of aircraft through navigable airspace.

**State Policies and Regulations.** Primary state agencies with jurisdiction over hazardous chemical materials management are the DTSC and the RWQCB. Other State agencies involved in hazardous materials management are the Department of Industrial Relations (State OSHA implementation), Office of Emergency Services (OES—California Accidental Release Prevention implementation), California Department of Fish and Game (CDFG), California Air Resources Board (ARB), Caltrans, State Office of Environmental Health Hazard Assessment (OEHHA—Proposition 65 implementation), and the California Integrated Waste Management Board (CIWMB). The enforcement agencies for hazardous materials transportation regulations are the California Highway Patrol (CHP) and Caltrans. Hazardous materials and waste transporters are responsible for complying with all applicable packaging, labeling, and shipping regulations.

In addition, Title 8 of the California Code of Regulations, Sections 1532.1 and 1529, provides for exposure limits, exposure monitoring, respiratory protection, and good working practices by workers exposed to lead and asbestos. Lead- and asbestos-contaminated debris must be managed and disposed of in accordance with the applicable provision of the California Health and Safety Code.

### **Local Policies and Regulations.**

**Airport Environs Land Use Plan for John Wayne Airport.** Land use within the planning area boundaries of the AELUP must conform to noise, safety, and height restriction standards. The City's General Plan was found to be consistent with the AELUP in 2007. Although the City is considered to be a consistent agency, there are three types of projects that require submittal to the ALUC for consistency review. These projects are: (1) projects that require a General Plan Amendment (GPA) or Specific Plan Amendment or adoption or approval of a zoning ordinance; (2) projects that exceed 200 ft above ground level; and (3) any heliport/helistop. The proposed project does not meet any of the criteria above and is, therefore, not subject to ALUC consistency review.

### **City of Newport Beach Municipal Code.**

**Chapter 2.20 (Emergency Services).** This chapter provides for the preparation and implementation of plans to provide services within the City in the event of an emergency, to empower certain City officials to promulgate orders and regulations necessary to provide for the protection of life and property or to preserve public order and safety, and to provide for the coordination of the emergency service functions of the City with all other public agencies and affected private persons, corporations, and organizations.

**Chapter 9.04 (Fire Code).** The City of Newport Beach has adopted the 2007 California Fire Code with City amendments and some exceptions. Chapter 9.04 of the City’s Municipal Code, also known as the Fire Code, establishes a variety of regulations related to hazards such as: recommendations for development on land containing or emitting toxic substances, hazardous materials documentation procedures, hazardous materials management plan, storage tank regulations, etc. In addition, the City Fire Department enforces locally developed regulations which reduce the amount and continuity of fuel (vegetation) available, firewood storage, debris clearing, proximity of vegetation to structures and other measures aimed at “Hazard Reduction.” Additional provisions include construction standards for new structures and remodels, road widths and configurations designed to accommodate the passage of fire trucks and engines, and requirements for minimum fire flow rates for water mains.

**City of Newport Beach General Plan.** Hazards are addressed in the Safety Element of the City General Plan (2006). The following goals and policies are applicable to the proposed project.

**Goal S 7 Minimization of Hazardous Materials Exposure.** Exposure of people and the environment to hazardous materials associated with methane gas extraction, oil operations, leaking underground storage tanks, and hazardous waste generators is minimized.

**Goal S 8 Protection from Aviation-Related Hazards.** Residents, property, and the environment are protected from aviation-related hazards.

**Policy S 8.6 John Wayne Airport Traffic Pattern Zone.** Use the most currently available John Wayne Airport (JWA) Airport Environs Land Use Plan (AELUP) as a planning resource for evaluation of land use compatibility and land use intensity in areas affected by JWA operations. In particular, future land use decisions within the existing JWA Clear Zone/Runway Protection Zone should be evaluated to minimize the risk to life and property associated with aircraft operations. (Imp. 14.3).

**S 9 Adequate Disaster Planning.** Effective emergency response to natural or human-induced disasters that minimizes the loss of life and damage to property, while also reducing disruptions in the delivery of vital public and private services during and following a disaster.

#### **4.9.4 Impact Significance Criteria**

Thresholds for evaluating impacts related to hazards and hazardous materials are based on Appendix G of the State CEQA Guidelines. Impacts resulting from hazards or hazardous conditions in the project area are considered to be significant if implementation of the proposed project would:

**Threshold 4.9.1:** Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials

- Threshold 4.9.2:** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment
- Threshold 4.9.3:** Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school
- Threshold 4.9.4:** Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment
- Threshold 4.9.5:** For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would result in a safety hazard for people residing or working in a project area
- Threshold 4.9.6:** For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area
- Threshold 4.9.7:** Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan
- Threshold 4.9.8:** Expose people or structures to a significant risk of loss, injury, or death involving wildfires, including where wildlands are adjacent to urbanized areas or where residents are intermixed with wildlands

The IS, included as Appendix A, substantiates that impacts associated with the following thresholds would be less than significant: Thresholds 4.9.6 and 4.9.8. These thresholds will not be addressed in the following analysis.

#### 4.9.5 Project Impacts

**Threshold 4.9.1:** Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

OR

**Threshold 4.9.2:** Would the project create a significant hazard to the public or the environment through the reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

**Less than significant with mitigation.** Project construction would involve the routine use of hazardous materials such as fuels, paints, and solvents. In compliance with government regulations, the amount of these materials present during construction is limited and does not pose a significant

hazard. The City is required to implement standard best management practices (BMPs) with regard to hazardous materials storage and use during construction (refer to Mitigation Measures in Section 4.10, Hydrology and Water Quality).

Mitigation Measure 4.9.1 is intended to address concerns related to the possible discovery of unknown wastes or suspect materials during the construction process. Adherence to Mitigation Measure 4.9.1 would reduce this possible impact to a less than significant level.

Based on the site surveys conducted as part of the Phase I ESA, the presence of ACMs, LBPs, and PCB-containing fixtures cannot be ruled out. ACMs are used in some building materials such as acoustical tiles, and PCBs are used in electrical transformers. Because the proposed project includes demolition and utility relocations and the presence of these chemicals cannot be ruled out, mitigation is required. Mitigation Measure 4.9.2 is intended to address the potential for encountering ACMs, LBPs, and PCB-containing fixtures. Mitigation Measure 4.9.2 requires predemolition surveys. Should ACMs, LBPs, or PCBs be discovered prior to demolition of the existing structure, precautions would be necessary to ensure that the materials are properly removed. With implementation of Mitigation Measure 4.9.2, possible impacts related to these chemicals would be reduced to a less than significant level.

Project operation would involve the use of potentially hazardous materials (e.g., solvents, cleaning agents, paints, pesticides) typical of government office building parking, structures, parks, and library facilities that, when used correctly, would not result in a significant hazard to employees working within the proposed Civic Center structures. Operation of the proposed project would not produce hazardous emissions or handle acutely hazardous materials, substances, or waste. It is also noted that the proposed project would not include fuel storage and dispensing for City vehicles. Fuel would be stored on site for a backup generator for the Emergency Operations Center (EOC). Fuel would be stored in an aboveground tank located south of the proposed parking structure, west of the southern parking structure access driveway. The generator would be mounted above the fuel storage tank. This type of system is called a generator sub-base fuel storage tank. The primary safety concerns for aboveground fuel storage tanks are ensuring that the entire system is liquid tight and that the storage tank is properly constructed in accordance with recognized national standards. Mitigation Measure 4.9.3 requires the City to comply with Fire Department Guidelines E.02 for the installation of generator sub-base fuel storage tanks. The Guidelines require review of quantities and types of liquids to be stored; distances from tanks and dispensers to property lines, buildings, and other exposures; vehicle access; vehicle impact protection; protected tanks and their supports; methods of storage and dispensing; overflow prevention; spill containment; vents; vapor recovery dispensers; and other equipment and accessories. Review and approval of proposed plans for the proposed generator sub-base fuel storage tank and compliance with Guideline E.02 would ensure that the generator and fuel storage tank would not result in significant hazards to employees or visitors to the Civic Center. Therefore, with mitigation, the proposed project would not result in a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous waste as a result of the proposed project. In addition, operation of the proposed project would not create a significant hazard to the public or to the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment since no acutely hazardous materials would be handled on site, and no mitigation is required.

**Threshold 4.9.3: Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

**No Impact.** The proposed project would not produce hazardous emissions or handle acutely hazardous materials, substances, or waste. The proposed project site is not located within 0.25 mile of an existing or proposed school. Therefore, no impacts related to hazardous emissions or the handling of hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school would occur, and no mitigation is required.<sup>1</sup>

**Threshold 4.9.4: Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment?**

**No Impact.** The proposed project site is not included on any hazardous materials sites pursuant to Government Code Section 65962.5 and will not create a significant hazard to the public or the environment. No mitigation is required.

**Threshold 4.9.5: Would the project or a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would result in a safety hazard for people residing or working in a project area?**

**Less than significant with mitigation.** The project site is located approximately 3.5 miles south-southeast of JWA, which is overseen by the ALUC. The proposed project site is not located within the Clear Zone/Runway Protection Zones or the Accident Potential Zone for JWA, as designated in the City's General Plan. The project site is also located outside the 60 and 65 dBA CNEL noise contours for JWA and outside of the FAR Part 77 Obstruction Imaginary Surfaces for JWA. A portion of the northern parcel (proposed project site north of San Miguel Drive) is located within the AELUP for JWA.

Based on a letter received from the ALUC, dated April 27, 2009, a small portion of the northern parcel is located within the 20,000 ft FAR Part 77 Notification Area for JWA. Although there are no permanent structures proposed for this parcel, the FAA is requiring the FAR Part 77 review to consider trees or any other improvement that achieves some height. Because control of trees or other improvements can be enacted after the project is approved, but implemented prior to issuance of building permits, this FAR Part 77 would be commenced after project approval in compliance with Mitigation Measure 4.9.4, discussed below.

---

<sup>1</sup> According to the Newport Mesa Unified School District website, the closest school is Lincoln Elementary School, which is located 0.38 mile from the project site.

FAR Part 77 states that all applicants proposing any construction or alterations that may affect navigable airspace must file a Notice of Proposed Construction or Alteration (Form 7460-1) with the FAA. This notice will allow the FAA to conduct an initial screening determination regarding the proposed project. The initial screening determination from the FAA may state one of the following:

- The proposed project is not identified as an obstruction and would not be a hazard to air navigation; or
- The proposed project would be an obstruction unless reduced to a specified height and is presumed to be a hazard to air navigation pending further study.

If the proposed development is identified as a presumed hazard, the FAA may require further aeronautical study or allow the City to choose to reduce the height of the proposed improvements. After the FAA completes the additional aeronautical study, it will normally issue a Determination of Hazard to Air Navigation or a Determination of No Hazard to Air Navigation.

Mitigation Measure 4.9.4 states that the City shall file a Notice of Proposed Construction or Alteration to the FAA prior to the issuance of building permits. Mitigation Measure 4.9.4 is intended to ensure that the City complies with applicable FAA requirements and coordinates with the FAA in a timely manner. Mitigation Measure 4.9.4 requires the City to obtain a ~~Notification-Determination~~ of No Hazard to Air Navigation prior to commencing building construction. With implementation of Mitigation Measure 4.9.4, potential impacts to people working in the project area (resulting from the project's proximity to JWA) would be less than significant.

**Threshold 4.9.7            Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

**Less than Significant.** The City of Newport Beach Emergency Management Plan may be activated and directed by a number of individuals within the City, including but not limited to the City Manager, Fire Chief, and Police Chief. MacArthur Boulevard is a designated tsunami evacuation route for coastal areas of the City.<sup>1</sup> The proposed project site is not located in the tsunami inundation area.

Roads that are used as response corridors/evacuation routes usually follow the most direct path to or from various parts of a community. For the project area, the main corridor would normally be MacArthur Boulevard or Avocado Avenue, although emergency response vehicles may choose to use a variety of routes to access the site. Direct access for emergency vehicles would be via the emergency entrance off MacArthur Boulevard. Emergency vehicles may also access the site via the two entrances off Avocado Avenue.

Access to, from, and on site for emergency vehicles would be reviewed and approved by the Fire Department prior to project construction. All proposed structures would be required to comply with all applicable codes and ordinances for emergency vehicle access, which would ensure adequate access to, from, and on site for emergency vehicles. In addition, traffic generated by the proposed project would not result in significant delays to emergency vehicles. Emergency vehicles, such as fire

<sup>1</sup> City of Newport Beach Emergency Management Plan. 2004.



trucks and ambulances, use lights and sirens while moving along streets to respond to a request for emergency services. The Newport Beach Fire Department also uses traffic signal preemption technology to temporarily alter normal signal time allocation at intersections, in order to give preference to the movement of the emergency vehicle through the intersections. In addition, after mitigation, the proposed project would not result in a significant traffic impact to any study area intersections. The proposed project's impact on emergency vehicle response times would be less than significant, and no mitigation is required. For additional information refer to Sections 4.2, Traffic, and 4.13, Public Services, Utilities, and Service Systems of this EIR.

The proposed project also includes the construction of an EOC on the proposed project site. The EOC would be constructed underneath the Library Terrace and Civic Green between the proposed parking structure and the City Hall administration building. There would be two access points to the EOC, one on the southeast and one on the southwest side of the EOC. Both access points are exterior doors with controlled access, meaning only personnel associated with EOC activities could enter. During a major emergency or disaster, centralized emergency management is essential. An EOC allows for face-to-face coordination among personnel who must set priorities for the use of limited resources and evaluate the need to request mutual aid. When the EOC is activated, 45 representatives from various City Departments are generally present. From the EOC, the department representatives would be able to centralize City authority, simultaneously coordinate department activities, liaise with different levels of local, State, and federal government, and coordinate with all other outside agencies.

The EOC would be an independent facility from the City Hall administration building that could be activated for extended periods of time. The facility would include space for emergency management personnel, volunteer communications and support, a shower and changing area, and a kitchen nook to coordinate meals for EOC staff. The EOC would be built to an essential services building standard consistent with the Essential Services Seismic Safety Act of 1986. During nonemergency times, the EOC would be used for emergency preparedness activities and any other City training.

Therefore, because the proposed structures would not block emergency vehicle access to the site or to any adjacent site, would not result in significant delays to emergency vehicles off site (e.g., due to traffic generation) and allows the City to upgrade and centralize emergency operations, implementation of the proposed project would not interfere with adopted emergency response plans. The proposed project would not result in a significant impact related to emergency response plans for emergency evacuation routes, and no mitigation is required.

#### **4.9.6 Cumulative Impacts**

**Less than significant.** The assessment of potential cumulative impacts with regard to hazards and hazardous materials relates to the ability for impacts to occur off site. The hazardous materials study area considered for cumulative impacts consisted of (1) the area that could be affected by proposed project activities, and (2) the areas affected by other projects where activities could directly or indirectly affect the presence or fate of hazardous materials on site. In general, only projects occurring adjacent to or very close to the project site are considered due to the limited potential impact area associated with release of hazardous materials into the environment. None of the cumulative projects listed in Table 4.1.C (Figure 4.1.4) are in close enough proximity to the proposed project site that they

could be affected by proposed on-site project activities or directly or indirectly affect the presence or fate of hazardous materials on site.

The proposed project includes government office buildings, a park, a parking structure, and library facilities that involve the use of limited amounts of hazardous materials. Based on the distance to the nearest cumulative project and the amount of hazardous materials use and hazardous waste disposal associated with the proposed project and other hazardous materials effects from past, present, and reasonably foreseeable projects within the City of Newport Beach, the project's contribution to cumulative impacts would be considered to be less than significant.

Because the proposed project is subject to FAA review, as described above, and the project would not be permitted if it would result in a potential aviation hazard, the proposed project would not cumulatively contribute to any potential airport proximity hazards. Furthermore, for the proposed project and all other projects in the area to be approved, each project is required to be consistent with the existing plans, programs, and policies related to hazards and hazardous materials. Consistency with these plans prevents this and other projects from creating cumulative impacts in terms of hazards and hazardous materials.

#### **4.9.7 Level of Significance Prior to Mitigation**

The proposed project may result in a significant impact related to the possible discovery of unknown waste or suspect materials on the project site during demolition, grading, or construction activities. In addition, the presence of ACMs, LBPs, and PCBs cannot be ruled out and the City must comply with Guideline E.02 related to generator sub-base fuel storage tanks. A portion of the proposed project site is located within the FAR Part 77 Notification Area for JWA.

#### **4.9.8 Mitigation Measures**

- Mitigation Measure 4.9.1**      **Contingency Plan.** Prior to commencement of grading activities, the City of Newport Beach Fire Chief or designee shall review and approve a contingency plan that addresses the potential to encounter on-site unknown hazards or hazardous substances during construction activities. The plan shall indicate that if construction workers encounter underground tanks, gases, odors, uncontained spills, or other unidentified substances, the contractor shall stop work, cordon off the affected area, and notify the Orange County Health Care Agency (OCHCA). The OCHCA responder shall determine the next steps regarding possible site evacuation, sampling, and disposal of the substance consistent with local, State, and federal regulations.
- Mitigation Measure 4.9.2**      **Predemolition Surveys.** Prior to commencement of demolition activities, the Director of the City of Newport Beach (City) Building Department shall verify that predemolition surveys for asbestos-containing materials (ACMs) and lead-based paints (LBPs) (including sampling and analysis of all suspected building materials)

and inspections for polychlorinated biphenyl (PCB)-containing electrical fixtures shall be performed. All inspections, surveys, and analyses shall be performed by appropriately licensed and qualified individuals in accordance with applicable regulations (i.e.: American Society for Testing and Materials (ASTM) E 1527-05, and 40 Code of Federal Regulations (CFR), Subchapter R, Toxic Substances Control Act [TSCA], Part 716). If the predemolition surveys do not find ACMs, LBPs, or PCB-containing electrical fixtures, the inspectors shall provide documentation of the inspection and its results to the City of Newport Beach Building Department to confirm that no further abatement actions are required. If the predemolition surveys find evidence of ACMs, LBPs, or PCB-containing electrical fixtures, all such materials shall be removed, handled, and properly disposed of by appropriately licensed contractors according to all applicable regulations during demolition of structures (40 CFR, Subchapter R, TSCA, Parts 745, 761, and 763). Air monitoring shall be completed by appropriately licensed and qualified individuals in accordance with applicable regulations both to ensure adherence to applicable regulations (e.g., South Coast Air Quality Management District [SCAQMD]) and to provide safety to workers and the adjacent community. The City shall provide documentation (e.g., all required waste manifests, sampling, and air monitoring analytical results) to the County of Orange Health Care Agency showing that abatement of any ACMs, LBPs, or PCB-containing electrical fixtures identified in these structures has been completed in full compliance with all applicable regulations and approved by the appropriate regulatory agency(ies) (40 CFR, Subchapter R, TSCA, Parts 716, 745, 761, 763, and 795 and California Code of Regulations [CCR] Title 8, Article 2.6). An Operating & Maintenance Plan (O&M) shall be prepared for any ACM, LBP, or PCB-containing fixtures to remain in place and will be reviewed and approved by the County of Orange Health Care Agency.

### **Mitigation Measure 4.9.3**

**Generator Sub-Base Fuel Storage Tank.** Prior to issuance of building permits, the Director of the City of Newport Beach Building Department or designee shall review installation plans for the generator sub-base fuel storage tank. The plans shall include the design, details, and specifications pertaining to the following:

- Quantities and types of liquids to be stored
- Distances from tanks and dispensers to property lines, buildings, and other exposures
- Vehicle access
- Fire appliance

- Vehicle impact protection
- Protected tanks and their supports
- Methods of storage and dispensing
- Overfill prevention, spill containment, vents, vapor recovery dispensers, and other equipment and accessories

**Mitigation Measure 4.9.4**

**Determination of No Hazards.** The City of Newport Beach (City) shall file a Notice of Proposed Construction or Alteration (Form 7460-1) with the Federal Aviation Administration (FAA) in accordance with Federal Aviation Regulation (FAR) Part 77. The Director of Planning, or designer, shall verify that the City has received a Determination of No Hazard to Air Navigation prior to the issuance of building permits for the northern parcel.

**4.9.9 Level of Significance after Mitigation**

Implementation of Mitigation Measure 4.9.1 reduces potential impacts related to the discovery of unknown wastes or suspect materials during construction activities to a less than significant level. Implementation of Mitigation Measure 4.9.2 reduces potential impacts related to the possibility of encountering ACMs, LBPs, and PCB-containing materials during demolition for the Library expansion to a less than significant level. Implementation of Mitigation Measure 4.9.3 would reduce potential impacts related to the proposed on-site generator and fuel storage tank to a less than significant level. Implementation of Mitigation Measure 4.9.4 reduces potential impacts to people working in the project area (resulting from the project's proximity to JWA) to a less than significant level.