

TOPICAL RESPONSES

TOPICAL RESPONSE 1 COGENERATION FACILITIES

As stated in the Draft EIR, the cogeneration facility is not a part of the proposed Master Plan Update Project (See e.g., Draft EIR, pages 3.3-25 and 3.4-27.) The City of Newport Beach provided approval-in-concept for the cogeneration facility on September 17, 2002, and the California Coastal Commission approved the project on December 10, 2002. The California Coast Commission issued Coastal Development Permit No. 5-02-325 for the cogeneration facility on June 12, 2003. The facility has obtained all necessary air quality permits for current operations from the South Coast Air Quality Management District. The City issued a grading permit for the facility on July 22, 2003 and construction commenced on August 26, 2003. The cogeneration facility has been constructed and is fully operational. As such, the cogeneration facility was considered part of "existing conditions" in the Draft EIR. (Draft EIR, pages 3.1-2 and 3.1-6 (Land Use), page 3.2-5 (Traffic), page 3.3-1-2 and 3.3-15 (Air Quality), pages 3.4-10-11, 3.4-13 and 3.4-14 (Noise), and 3.5-2 (Aesthetics).) No discretionary approvals are presently required to continue operation of the cogeneration facility, and the proposed Master Plan Update Project does not request any modifications or additions to the facility; therefore, the cogeneration facility is not considered part of the proposed project.

Because the cogeneration facility is not considered part of the proposed Master Plan Update Project, the California Environmental Quality Act (CEQA) does not require that the Draft EIR assess aspects of the cogeneration facility. See e.g., *Silveira v. Las Gallinas Valley San. Dist.*, 54 Cal. App. 4th 980 (1997) (where the reviewing court found that CEQA documentation did not need to assess potential odor impacts from an existing sanitary sewer facility when the proposed project related solely to transfer of ownership and involved no physical changes to the facility), and *City of Ukiah v. County of Mendocino*, 96 Cal. App. 3d 47 (1987) (where the reviewing court held that only the effects of a reclamation plan need be assessed under CEQA and that analysis of mining operations generally at the facility were not subject to review since mining rights were vested and not included as part of the reclamation plan being reviewed). Thus, the Draft EIR was neither required to assess potential impacts of the cogeneration facility (including alleged visual and air quality impacts which are the focus of comments received on this issue) nor was the Draft EIR required to include "mitigation" for any alleged impacts, since the proposed Master Plan Update Project bears no relation to the operation of the existing cogeneration facility.

Despite not being a part of the proposed Master Plan Update Project, the Draft EIR did examine certain elements of cogeneration facility operation, but only where operation of the existing cogeneration facility had the potential to affect implementation of the proposed project. Said differently, because the cogeneration facility is an existing facility, where the existing condition presented by the cogeneration facility had the potential to affect environmental aspects of proposed Master Plan Update Project implementation those potential impacts were accounted for in the Draft EIR (pp. 3.1-14, 3.2-12, 3.3-25-26, 3.4-27-28, and 3.5-7). However, in general, operation of the cogeneration facility was not required to be assessed as it is not part of the proposed Master Plan Update Project for which impacts were being assessed in the Draft EIR. Of note is that potential impacts related to the implementation of the proposed Master Plan Update Project in the context of the existing cogeneration facility were determined to be less than significant (see Draft EIR, pages 3.1-14, 3.2-19, 3.2-26, 3.4-28, and 3.5-8).

With regard to the listing of the South Coast Air Quality Management District (SCAQMD) as a responsible agency (Draft EIR, page 2-8), this listing was inadvertent and will be removed in Final EIR as the SCAQMD is not a responsible agency as that term is defined by CEQA (CEQA Guidelines §15381). The cogeneration facility is not part of the proposed Master Plan Update Project; therefore any permits that SCAQMD may need to issue for any future engines

to be installed internal to the cogeneration facility are also not considered part of the proposed project (see Draft EIR, pages 3.3-25–26 (discussing the potential for three additional engines to be installed indoors at the cogeneration facility, but noting that installation of these engines is not contingent on or necessitated by the proposed Master Plan Update Project).

TOPICAL RESPONSE 2 SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

Comments have been providing stating that the City of Newport Beach should have prepared a different type of EIR, such as a subsequent EIR, rather than a supplemental EIR.

Prior Environmental Documentation

Hoag has been subject to prior environmental review by the City. In 1979, the first Master Plan and EIR were prepared and approved for Hoag (construction of Hoag commenced in the early 1950 which preceded CEQA). At the time the 1979 Master Plan was prepared, Hoag facilities were located solely on what is now known as the Upper Campus; Hoag did not own the Lower Campus. The 1979 Master Plan provided for 217,600 sf of additional uses, included a new 10-story hospital tower, and provided for the expansion of the existing tower (the West Tower); a new hospital tower was not constructed until 2005 as the Sue and Bill Gross Women's Pavilion (East Tower).

On June 19, 1984, Hoag purchased the approximate 22-acre Lower Campus site from the State of California. Subsequent to that purchase and prior to the 1992 Master Plan and EIR, Hoag constructed the Patty and George Hoag Cancer Center and a child care center in 1991 on the Lower Campus. The development of the Lower Campus was completed with separate CEQA documentation.

In 1992, the City certified the *Hoag Hospital Master Plan Final EIR No. 142* for the Hoag Hospital Master Plan and adopted both PC Text and the "Development Agreement Between the City of Newport Beach and Hoag Memorial Hospital Presbyterian" (Development Agreement). In 1994, the City approved Ordinance No. 94-8 to readopt the Development Agreement.

The 1992 Master Plan allows for up to 1,343,238 sf of uses at Hoag, inclusive of the Upper and Lower Campuses. Of the 1,343,238 sf of permitted development, the Master Plan allocates 765,349 sf of uses to the Upper Campus and 577,889 sf of uses to the Lower Campus. Currently, 698,121 sf have been constructed on the Upper Campus and 188,149 sf have been constructed on the Lower Campus. It should be noted that the Master Plan provides for redevelopment of current uses at Hoag. The Master Plan was intended to guide development at Hoag over a period of approximately 21 years. The PC Text and the Development Agreement set forth the development standards and terms and conditions by which the hospital campus may be developed, and it included maximum permissible building area, building height limits, and permitted land uses.

Since the 1992 Master Plan and Final EIR No. 142 were approved, Hoag has constructed a cardiac services addition, a parking structure, a new inpatient hospital tower (the Sue and Bill Gross Women's Pavilion [East Tower]), and a minor expansion to the James Irvine Surgery Center on the Upper Campus. On its Lower Campus, Hoag has constructed a conference center with an associated parking structure, two auxiliary parking lots, an employee childcare center, and a cogeneration facility. Additionally, Hoag relocated the methane gas flare and upgraded the scrubbing/cleaning technology associated with the methane gas flare onto the Lower Campus. The Lower Campus is currently under construction with the relocation and expansion of Hoag's child care center; a retaining wall project was recently completed.

Proposed Master Plan Update

No additional square footage is proposed as a part of the Project. The Project proposes to reallocate up to 225,000 sf of previously approved (but not constructed) square footage from the

Lower Campus to the Upper Campus. The maximum allowable building area on the Upper Campus would be 990,349 sf (if all 225,000 sf is reallocated) and the maximum allowable building area on the Lower Campus would be 577,889 sf (if no square footage is reallocated). However, in no event could the combined total building areas of both the Upper and Lower Campuses exceed 1,343,238 sf. No site-specific development projects are proposed as a part of the Master Plan Update Project.

Under the existing provisions of the PC Text, mechanical equipment noise generated from Hoag Hospital shall not exceed 55 decibels (dB) at all Hoag property lines. This noise restriction, which was established prior to the creation of the City's Noise Element and Noise Ordinance, is proposed to be eliminated. Instead, noise generated at Hoag would be governed by the City's Noise Ordinance, except as otherwise provided in paragraphs 1 and 2 below and as depicted on Exhibit 2-5 (see Section 2.0, Project Description, Exhibit 2-5).

1. The applicable noise standard at the Hoag property line adjacent to the loading docks shall be as follows:

| | 7 AM – 10 PM Daytime | 10 PM – 7 AM Nighttime |
|--------------|-------------------------|---------------------------|
| Leq (15 min) | 70 dBA | 58 dBA |

2. Within the loading dock area, delivery vehicles and the loading and unloading of delivery vehicles shall be exempt from any applicable noise standards.

Supplemental EIR

CEQA §21166 states that the lead agency must prepare a subsequent or supplemental EIR when one of the following events occurs:

1. Substantial changes to the project are proposed that require major revisions to the EIR.
2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions in the EIR.
3. New information, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete, becomes available.

CEQA Guidelines §15162 provides that a subsequent EIR is required if:

1. Substantial changes are proposed in the project requiring major revisions to the previous EIR because of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes have occurred with respect to the circumstances under which the project is undertaken, which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified as complete shows any of the following: (a) the project will have one or more significant effects not discussed in the previous EIR; (b) significant effects previously examined will

be substantially more severe than shown in the previous EIR; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (d) mitigation measures or alternatives which are considerably different from those analyzed in the Final EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

CEQA Guidelines §15163 allows a lead agency to prepare a supplement to an EIR when any of the conditions described in CEQA Guidelines §15162 (stated above) would require the preparation of a Subsequent EIR, but only minor additions or changes are necessary to make a previous EIR adequately apply to the project in the changed situation. CEQA Guidelines §15163(b) further states, "the supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised" and "the supplement may be circulated by itself without re-circulating the previous Draft or Final EIR."

The City determined that a Supplement to Final EIR No. 142 was the appropriate CEQA documentation to evaluate the potential impacts associated with the proposed modifications to the Hoag Hospital Master Plan. Substantial changes were not proposed to the Hoag Master Plan resulting in new significant environmental effects or a substantial increase in the severity of previously identified significant effects (CEQA Guidelines §15162(1)). Changes in the circumstances under which the Hoag Master Plan Update Project will be implemented would not result in new significant effects that substantially increase the severity of previously identified significant effects (CEQA Guidelines §15162(2)). New information which was not known and could not have been known at the time the previous EIR was certified would not result in one or more significant effects not discussed in Final EIR No. 142, or a substantial increase in the severity of effects identified in Final EIR No. 142, or that mitigation or alternatives that are now feasible are rejected by the Applicant (CEQA Guidelines §15162(3)).

CEQA Guidelines §15163 requires that a supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised.

In summary, new information and changed circumstances do not invalidate a prior programmatic EIR. Changed circumstances only become relevant if they are substantial and would require revisions in the prior EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects (see CEQA Guidelines §15162(a)(2)).

Further, it is important to note that it is not the substantial changes in the project or a substantial increase in the severity of effects that are involved in the project that triggers the need for a subsequent versus a supplemental EIR. Rather, it is whether the changes in the project or the increase in the severity of effects require major revisions of a previous EIR or minor additions or changes to make the previous EIR adequate (see California Public Resources Code §21166 and CEQA Guidelines §15163(a)). If the former, then a Subsequent EIR is appropriate. If the latter, a Supplemental EIR is appropriate. This is a critical distinction because even if the proposed Master Plan Update Project would result in substantial changes to the previously approved project or substantially increase the severity of impacts, which it does not, a subsequent EIR would be required only if such changes required major rather than minor revisions to the previous EIR. In this case minor revisions were needed so a supplemental EIR was the appropriate document to prepare.

This position is supported by resources agency comments accompanying CEQA Guidelines §15162. That comment reads: "A supplement to an EIR may be distinguished from a

subsequent EIR by the following: a supplement augments a previously certified EIR to the extent necessary to address the conditions described in Section 15162 and to examine mitigation and project alternatives accordingly. It is intended to revise the previous EIR through supplementation. A subsequent EIR, by contrast, is a complete EIR which focuses on the conditions described in Section 15162."

While several judicial decisions have addressed the need or lack thereof for a Subsequent or Supplemental EIRs in various circumstances, none have specified which of the two kinds of documents should be prepared in a given situation. In this case, the City as the lead agency determined that the appropriate vehicle for addressing the relevant conditions described in Section 15162 was preparation of a Supplemental EIR. This Supplemental EIR includes the minor additions and changes necessary to make the previous EIR adequate. The City feels there is substantial evidence in the record to support this decision.

TOPICAL RESPONSE 3 NOISE

EXISTING NOISE STANDARDS APPLICABLE TO HOAG

City of Newport Beach Noise Ordinance

The *Newport Beach Noise Ordinance* is presented in three sections of the *Municipal Code*: Sections 10.26, 10.28, and 10.32. Section 10.28 "Loud and Unreasonable Noise" is often referred to as a "Nuisance Ordinance" because it does not contain any specific noise level limits. It prohibits "the making, allowing, creation or maintenance of loud and unreasonable, unnecessary, or unusual noises which are prolonged, unusual, annoying, disturbing and/or unreasonable in their time, place and use are a detriment to public health, comfort, convenience, safety, general welfare and the peace and quiet of the City and its inhabitants." The specific provisions of Chapter 10.28 were revised substantially by the City in 2001, but the concept of the section was unchanged. Sections 10.28.040 and 10.28.045 are relevant to Hoag because they regulate construction noise and property maintenance noise. These sections prohibit noise generating construction or property maintenance activities on Sunday and holidays and between 6:30 PM and 7:00 AM Monday through Friday and between 6:00 PM and 8:00 AM Saturday. Section 10.32 "Sound Amplifying Equipment" regulates the use of sound amplification equipment and provides for permitting of sound amplification equipment.

Chapter Section 10.26 "Community Noise Control" is the most relevant to Hoag because it presents specific standards for noise generated on one property so that it does not significantly impact adjacent properties. This section is summarized and the specific noise standards from the Noise Ordinance are presented below. Section 10.26 was adopted in 1995. Prior to that time (e.g., when Final EIR No. 142 was certified by the City of Newport Beach), the City had not established specific sound level limits.

The following table presents the Noise Ordinance standards identified in Section 10.26 of the City's *Municipal Code*. The Noise Ordinance is applicable to noise generated from sources such as parking lots, loading docks, and mechanical equipment. The Noise Ordinance requirements cannot be applied to mobile noise sources such as heavy trucks when traveling on public roadways. Federal and State laws preempt control of the mobile noise sources on public roads. However, the requirements can be applied to vehicles traveling on private property.

The City's exterior and interior noise criteria are given in terms of 15 minute Leq and Lmax noise levels. The noise levels specified are those that are not to be exceeded at a property from noise generated at a neighboring property. Noise levels are to be measured with A-weighting and a slow time response. Greater noise levels are permitted during the day (7 AM to 10 PM) than during the nighttime period (10 PM to 7 AM).

Section 10.26.055, "Noise Level Measurement," defines the locations where measurements are to be made to determine compliance with the noise standards; it effectively defines where the Noise Ordinance standards are applicable. For residential areas, the exterior standard is applicable to any part of a private yard, patio, deck, or balcony normally used for human activity. The standards are not applicable to non-human activity areas such as trash container storage areas, planter beds, above or contacting a property line fence, or other areas not normally used as part of the yard, patio, deck, or balcony. Interior noise standards are applicable anywhere inside the room at least four feet from the walls, or within the frame of an open window.

**CITY OF NEWPORT BEACH
NOISE ORDINANCE STANDARDS**

| Zone | Noise Metric | Allowable Noise Level | |
|---|--------------|-------------------------|---------------------------|
| | | 7 AM to 10 PM (daytime) | 10 PM to 7 AM (nighttime) |
| Exterior Noise Standards | | | |
| I Residential: Single-family, two- or multiple-family | Leq (15 min) | 55 dBA | 50 dBA |
| | Lmax | 75 dBA | 70 dBA |
| II Commercial | Leq (15 min) | 65 dBA | 60 dBA |
| | Lmax | 85 dBA | 80 dBA |
| III Residential Portions of Mixed-Use Properties ^a | Leq (15 min) | 60 dBA | 50 dBA |
| | Lmax | 80 dBA | 70 dBA |
| IV Industrial and Manufacturing | Leq (15 min) | 70 dBA | 70 dBA |
| | Lmax | 90 dBA | 90 dBA |
| Interior Noise Standards | | | |
| I Residential | Leq (15 min) | 45 dBA | 40 dBA |
| | Lmax | 65 dBA | 60 dBA |
| III Residential Portions of Mixed-Use Properties ^a | Leq (15 min) | 45 dBA | 45 dBA |
| | Lmax | 65 dBA | 65 dBA |

^a Residential uses within 100 feet of a commercial property where noise is from said commercial property.

Section 10.26.045 sets different noise standards for heating, ventilation, and air conditioning (HVAC) equipment. HVAC equipment "in or adjacent to residential areas" cannot generate a noise level in excess of 50 dBA unless it includes a timing device that will deactivate the equipment between 10:00 PM and 7:00 AM in which the standard is 55 dBA.

Section 10.26.035, "Exemptions," presents noise sources that are exempt from the provisions of the *Noise Ordinance*. Item L directly relates to the Hoag operations. Item L reads, "Any noise sources specifically identified and mitigated under the provisions of a use permit, modification permit, development agreement or planned community district development plan adopted prior to the date of adoption of this chapter." The Development Agreement between the City and Hoag, which was adopted prior to the Noise Ordinance, as it affects allowable noise generation, is discussed below.

Item G of Section 10.26.035 exempts noise sources associated with the maintenance of real property and instead requires that they be subject to Chapter 10.28 of the Municipal Code. Section 10.28.45 sets limits on the times of day that any "tool, equipment or machine" can be operated "in a manner which produces loud noise that disturbs, or could disturb, a person of normal sensitivity who works or resides in the vicinity." Specifically, the code section restricts these activities to between 7:00 AM and 6:30 PM Monday through Friday, and between 8:00 AM and 6:00 PM on Saturday. These activities are prohibited on Sundays and federal holidays.

Hoag Hospital Development Agreement

Item 3.5 of the Development Agreement between the City of Newport Beach and Hoag Memorial Hospital Presbyterian (approved February 14, 1994, Ordinance No. 94-8) reads as follows:

Compliance with General Regulations. Hoag is required to comply with the Existing General Regulations. As to those Existing General Regulations which require the payment of fees, costs, and expenses, Hoag shall pay the fee, cost, or expense required as of the data on which Hoag submits the application for Project Specific Approval. Hoag shall also comply with any Future General Regulations that do not impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan. Hoag shall also comply with all provisions of the Uniform Building Code, whether adopted before or after the Project Specific Approvals are submitted. Hoag shall also comply with the Coastal Act and the City's certified Local Coastal Program.

Items 2.17, 2.18, and 2.19 define "Existing General Regulations," "Future General Regulations," and "General Regulations" as follows:

2.17 "Existing General Regulations" means those General Regulations approved by the City on or before the Approval Date (irrespective of their effective date) and not rescinded or superseded by City Action taken on or before the Approval Date

2.18 "Future General Regulations" means those General Regulations (see Section 2.19 below) adopted by the City after the Approval date.

2.19 "General Regulations" means those ordinances, rules, regulations, policies, and guidelines of the City, which are generally applicable to the use of land and/or construction within the City and include, the Fair Share Traffic Contribution Ordinance, Uniform Building Codes and water and sewer connection and fee ordinances.

Item 3.5 of the Development Agreement exempts Hoag from the Noise Ordinance (Section 10.26 of the *Municipal Code*, a Future General Regulation) where the application of the Noise Ordinance would "impair Hoag's ability to develop the Property in accordance with the density, intensity, height and location of development specified in the Master Plan." In most cases, noise generated by activities at Hoag should be able to be mitigated to below the Noise Ordinance limits without impairing the development of the property, and the Noise Ordinance would apply to these cases. There could be some cases where enforcement of the Noise Ordinance would impair the development of the property and would not be applicable in these cases.

Section II "General Notes" item 7 of the *Hoag Memorial Hospital Presbyterian Planned Community Development Criteria and District Regulations* (Adopted by the City Council, City of Newport Beach, Ordinance No 92-3 May 26, 1992) reads:

New mechanical appurtenances on building rooftops and utility vaults, excluding communications devices, on the upper campus shall be screened from view in a manner compatible with building materials. Rooftop mechanical appurtenances or utility vaults shall be screened on the lower campus. Noise shall not exceed 55 dBA at all property lines. No new mechanical appurtenances may exceed the building height limitations as defined in these district regulations.

This item preempts the HVAC regulations presented in Section 10.26.045 of the Noise Ordinance. Therefore, mechanical equipment at Hoag cannot exceed 55 dBA at the property line under the existing Development Agreement.

PROPOSED NOISE STANDARDS

Under the existing provisions of the PC Text, mechanical equipment noise generated from Hoag Hospital shall not exceed 55 decibels (dB) at all Hoag property lines. This noise restriction, which was established prior to the creation of the City's Noise Element and Noise Ordinance, is proposed to be eliminated. Instead, noise generated at Hoag would be governed by the City's Noise Ordinance, except as otherwise provided in paragraphs 1 and 2 below and as depicted on Exhibit 2-5 (see Section 2.0, Project Description, Exhibit 2-5 of the Draft EIR).

1. The applicable noise standard at the Hoag property line adjacent to the loading docks shall be as follows:

| | 7 AM – 10 PM Daytime | 10 PM – 7 AM Nighttime |
|--------------|-------------------------|---------------------------|
| Leq (15 min) | 70 dBA | 58 dBA |

2. Within the loading dock area, delivery vehicles and the loading and unloading of delivery vehicles shall be exempt from any applicable noise standards.

In addition, the grease pit cleaning, which is exempt from the City's Noise Ordinance because it is a maintenance activity, would occur on a Saturday between the hours of 11:00 AM and 3:00 PM.

Existing and proposed noise limits are as follows:

| Noise Source | Current Limit (dBA) | Proposed Limit (dBA) |
|---|--|-----------------------------|
| Mechanical Equipment at West Tower & Ancillary Building | 55 Leq ^a | 70 Leq (Day)/58 Leq (Night) |
| Loading Dock (delivery vehicles and the loading/unloading ops.) | 60 Leq 80 Lmax ^b | Exempt |
| Loading Dock (non-delivery operations) | 60 Leq 80 Lmax ^b | 70 Leq (Day)/58 Leq (Night) |
| Grease Trap | Exempt | Exempt |
| Cogeneration Plant (nearest residence) | 60 Leq (Day)/50 Leq ^b (Night) | 60 Leq (Day)/50 Leq (Night) |

^a Existing Development Agreement
^b Based on Mixed Use Residential standard contained in Chapter 10.26

Mechanical Equipment

Buildout of the Hoag Master Plan under either the existing Master Plan assumptions or the proposed Master Plan Update assumptions may require additional HVAC equipment which could include roof-mounted equipment. Final EIR No. 142 set a noise level limit for mechanical equipment of 55 dBA. This noise level limit for mechanical equipment is included in the Development Agreement between the City and Hoag. This limit is being exceeded for the existing mechanical equipment. The noise level at the Villa Balboa condominiums was measured at 58 dBA; this exceeds the Development Agreement limits by 3 dBA. The sources of this noise exceedance are both the rooftop equipment mounted on the Ancillary Building and the HVAC equipment located on the third floor of the West Tower.

The HVAC system would be required to be upgraded on the Ancillary Building (see Mitigation Measure 3.4-2). New mechanical equipment would be required to comply with proposed modifications to the Development Agreement which would effectuate a change from the current 55 dBA level to 70 dBA (daytime) and 58 dBA (nighttime) when measured at the property line adjacent to the loading dock area. Modifications would include the following:

Kitchen Exhaust Fans. The existing kitchen exhaust fans would be replaced with new ducting and new fans. The new fans would operate at a lower speed and be selected for their low noise generation. It is very possible that the new fans would result in noise levels that comply with the Noise Ordinance. However, the kitchen exhaust fans are not in place. To ensure that a significant noise reduction is achieved, the City is requiring a noise study to demonstrate that the new fans, in combination with the other mechanical equipment, meets the proposed revised noise limits of 70 dBA and 58 dBA (daytime and nighttime, respectively) at the property line.

Roof Top Exhaust Fans. New smaller and quieter exhaust fans would be located on the roof of the Ancillary Building. Additionally, a seven-foot-high architectural screen wall is proposed to be added to the west and to portions of the northern and southern edges of the Ancillary Building. This solid screen wall would act as noise barrier for the small exhaust fans that are located along the western portion of the building. A gap of a few inches may be needed along the bottom of the parapet wall for drainage, but would be fitted with a skirt to cover the gap as viewed from the residential area.

The modeled noise level at the upper floor of the nearest condominium was calculated including the effect of the seven-foot-high screen wall. The projected noise level is 42.1 dBA at the property line; this is below the criteria for the current Development Agreement (55 dBA), the City's Noise Ordinance (50 dBA), and the revised nighttime noise limit (58 dBA). When combined with the other fans in the area of Hoag, these new fans would not significantly add to the total noise level. In summary, the addition of the 22 fans on the Ancillary Building, when combined with the construction of the 7-foot-high screen wall, would not generate significant noise levels or exceed the revised noise standards.

Air Handlers. The air handlers on the third floor of the western face of the West Tower would need to be reduced by 3 dBA to comply with the current Development Agreement. Acoustic louvers are proposed to mitigate four of the fans. One fan would remain; acoustic louvers could be used to mitigate the noise at this fan location. Due to the open nature of this building floor, acoustic louvers would be used around the perimeter of this floor.

These measures are projected to bring the mechanical equipment noise into compliance with the current 55 dBA Development Agreement noise limit and the proposed revised 58 dBA nighttime property line noise limit.

Loading Dock Area Activities

Existing loading dock activities exceed the Noise Ordinance limits on a regular basis. By increasing the development at the Upper Campus, the Project could result in an additional increase in activity at the loading dock. However, a substantial increase due to the Project is not expected when compared to buildout of Hoag consistent with the existing Master Plan.

The primary source of noise at the dock is from delivery trucks. While more delivery truck visits to the loading dock could occur with the buildout of the Master Plan, it is likely that increased deliveries would be accommodated through larger loads in a similar number of trucks. An increase in the number of trucks is not expected to result in an increase in noise levels

generated by the loading dock but would instead increase the frequency of high noise levels generated by truck activity. The hours of access to the loading dock and West Hoag Drive, the roadway that runs along the western side of the Upper Campus, are restricted; gates are closed at 8:00 PM and open at 7:00 AM.

However, activities in the loading dock area currently and will continue to exceed the noise limits contained in the Noise Ordinance. The proposed Master Plan Update Project contains exemption language to address this issue. Within the loading dock area, delivery vehicles and the loading and unloading of delivery vehicles would be exempt from any applicable noise standards and other loading dock area noise would be subject to limits of 70 dB (daytime) and 58 dB (nighttime).

Cogeneration Facility

The cogeneration facility is addressed in detail in Topical Response 1. The City's Noise Ordinance regulations apply to this use because this facility is not being considered a mechanical equipment operation that would be regulated by the current Development Agreement. The particular paragraph in the Development Agreement refers to "new mechanical appurtenances on building rooftops and utility vaults" and the cogeneration facility is not consistent with this description. Residential areas within 100 feet of the Hoag property line would be protected by the Zone 3 – Mixed Use Residential criteria. The noise criterion for Zone 3 is 50 dBA (Leq) during the night and 60 dBA during the day. The noise levels for the cogeneration facility are below the nighttime criteria of 50 dBA contained in the Noise Ordinance. Nighttime noise levels have ranged from 46.1 dBA to 49.8 dBA at the upper floor of the nearest residence to the cogeneration facility. With the current equipment in operation, the noise levels generated by the cogeneration facility are in compliance with the Noise Ordinance at locations within 100 feet of the property line.

A fourth cooling tower is being installed at the facility. The addition of this cooling tower is expected to increase the cooling tower portion of the noise levels by approximately 1.2 dB. The addition of the fourth cooling tower is expected to raise the overall noise level to between 46.7 and 50.4 dBA. The operation of a fourth cooling tower is not part of the proposed Master Plan Update Project because the cogeneration facility is already permitted and no further approvals from the City are required for this facility to operate. Therefore, the operation of the cogeneration plant becomes a Noise Ordinance compliance issue. That is, the City would need to take measurements once the fourth cooling tower is operational and determine if it is in compliance with the Noise Ordinance. Should the City determine the cogeneration facility is not in compliance, the City would require Hoag to correct the situation to maintain compliance with the Noise Ordinance limits.

MITIGATION PROGRAM

- SC 3.4-1 During construction, the Applicant shall ensure that all noise-generating activities be limited to the hours of 7:00 AM to 6:30 PM on weekdays and 8:00 AM to 6:00 PM on Saturdays. No noise-generating activities shall occur on Sundays or national holidays in accordance with the City of Newport Beach Noise Ordinance.

With the exception of noise measures which have already been successfully implemented, all other mitigation measures, project design features, and standard City conditions would be applicable. The City is requiring additional and/or modified measures (including noise-related measures) where modified measures can be more successfully implemented. They are as follows:

Additional Mitigation Measures to Reduce Impacts of the Proposed Master Plan Update Project

Construction Activities

MM 3.4-1 Prior to the initiation of vibration-generating demolition and construction activities, the Hoag Construction Project Manager shall notify building/department representatives that these activities are planned. This notification will allow for the relocation of vibration-sensitive equipment in portions of buildings that could be affected.

The Hoag construction staff shall work with the Project Contractor to schedule demolition and construction activities that use heavy equipment and are located within 50 feet of buildings where vibration-sensitive medical procedures occur, such that demolition and construction activities are not scheduled concurrent with sensitive medical operations. A system of communications would be established between selected vibration-sensitive uses/areas and Construction Managers so that noise or vibration which would affect patient care or research activities can be avoided.

On-Site Activities: Mechanical Equipment

MM 3.4-2 The final plans for heating, ventilation, and air conditioning (HVAC) equipment for the Ancillary Building and West Tower shall be submitted to the City for review and approval. The plans shall be reviewed by an Acoustical Engineer to ensure that they will achieve 58 dBA (Leq) at the property line adjacent to the loading dock area. These plans need to be submitted within six months of the certification of the *Hoag Memorial Hospital Presbyterian Master Plan Update Final Supplemental EIR (SEIR)*. If Hoag does not pursue the redesign of the HVAC systems for the Ancillary Building and West Tower, Hoag shall submit within six months of the certification of the Final SEIR a plan to the City that details how Hoag will bring the current equipment into compliance with the 58 dBA nighttime noise limit when measured at the property line adjacent to the loading dock area.

MM 3.4-3 Prior to issuance of building permits for any project that includes HVAC equipment, an acoustical study of the noise generated by the HVAC equipment shall be performed and a report that documents the results shall be submitted. This report shall present the noise levels generated by the equipment and the methodology used to estimate the noise levels at nearby residential uses or property boundary, as applicable; the report will also demonstrate that combined noise levels generated by all new HVAC equipment does not exceed the applicable Development Agreement limits. This study shall be reviewed and approved by the City prior to issuance of building permits. After installation of the equipment, noise measurements shall be performed and provided to the City that demonstrates compliance with applicable noise level limits.

participate; (iii) only those windows/sliders that do not already have dual pane glass will be replaced; (iv) the replacement windows/sliders will be installed by a third-party contractor as part of one overall program pursuant to a contract between the Villa Balboa Homeowners Association (Association) and such third-party contractor selected by the Association; (v) the Association shall provide the Applicant with a written estimate from the contractor stating that the total cost of the replacement program and obtain Applicant's written approval of such work prior to executing a contract with the contractor; (vi) the total cost of the window/slider replacement and related patch-up work to be reimbursed by the Applicant to the Association for the replacement and related for all Owners shall not exceed the sum of \$150,000.000; and (vii) provided the Applicant receives the reimbursement request from the Association within 60 days following completion of the work, the Applicant shall reimburse the Association for the cost of the window/slider replacement work within 30 days of the Applicant's receipts of a final receipt or bill from the Association evidencing that the window/slider replacement work was completed pursuant to the approved estimate.