

MEMORANDUM

To: More Song, City Planner
Los Angeles City Planning

Job No. 1340.002

From: Lynn Kaufman, CLA, Associate Principal
Impact Sciences, Inc.

Subject: Responses to Justification for Appeal by Adams Broadwell
Joseph & Cardozo/CREED LA dated August 17, 2023,
regarding the CEQA analysis for the Found Residences
Project

Date: September 7, 2023

This memorandum was prepared by Impact Sciences, Inc., in response to the justification of appeal related to the City Planning Commission's decision to approve the Sustainable Communities Environmental Assessment (SCEA) for the Found Residences Project (Project) submitted to the City of Los Angeles (City) by Adams Broadwell Joseph & Cardozo (Adams et al) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA) dated August 17, 2023.

As detailed below, it is the opinion of Impact Sciences that none of the comments/issues raised by Adams et al/CREED LA in the Justification of Appeal letter offer any new significant information or evidence, or any information or evidence that any fact, analysis, or determination in the SCEA is incorrect or not supported with substantial evidence pursuant to the California Environmental Quality Act ([CEQA]; Public Resources Code [PRC] § 21000 et. seq.) and the *State CEQA Guidelines* (California Code of Regulations [CCR] § 15000 et. seq.). Further, all of the issues raised are identical to those raised and responded to previously, in memorandums provided to the decision makers.

Introduction

The City, as lead agency, prepared and circulated the SCEA on March 9, 2023, for a public review period of 30 days ending on April 10, 2023. According to CEQA, PRC § 21155.2 (b) (4), the lead agency must consider the comments received during consultation and review periods on the SCEA Environmental Checklist. However, comments received on a SCEA Environmental Checklist are not required to be attached to the SCEA Environmental Checklist, nor is the lead

agency required to make specific written responses to public agencies or individual commenters. Further, neither CEQA nor the *State CEQA Guidelines* require the lead agency to send responses individually or directly to commenters.

According to PRC § 21155.2 (b) (4):

Prior to acting on the Sustainable Communities Environmental Assessment, the lead agency shall consider all comments received.

Notwithstanding the above, Memorandums dated May 5, June 6¹, and July 11, 2023, prepared by Impact Sciences and reviewed by the Applicant's Counsel, were submitted to the City providing Responses to the Comments received on the SCEA by Adams et al/CREED LA. These Memorandums are available on the City's website as part of City Planning file No. CPC-2022-1048-DB-HCA,² and were provided to the members of the City Planning Commission for their consideration prior to their hearing on July 13, 2023, to consider Project approval.

The following information is provided for the record in response to the Adams et al/CREED LA justification of appeal dated August 17, 2023.

Response 1: The Project's Inclusion of a Backup Generator is Not Significant New Information

The Adams et al/CREED LA justification of appeal asserts (as it did in a letter dated July 10, 2023) that the SCEA failed to include back-up generator emissions in its air quality. Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project", but also all "reasonably foreseeable consequence[s] of the initial project." The commenter further asserts that the use of the back-up generator is a "reasonably foreseeable consequence" of the Project due to the Project's design and because of increasingly common Public Safety Power Shutoff events and extreme heat events.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, the Project Applicant has confirmed the Project will include a backup generator and fire pump as required by California Building Code (CBC) Sections 403 (High Rise Buildings), 403.3.2 (Water Supply for Fire Pumps)

1 An additional Memorandum dated June 6, 2023 responding to a comment letter submitted to the City by Mitchell M. Tsai, Attorney at Law on behalf of the Southwest Mountain States Regional Council of Carpenters, dated May 17, 2023, was also provided to the decision makers.

2 Available on Los Angeles City Planning's website at:
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjU1MTE20>.

and 403.4.8 (Standby and Emergency Power). The comment asserts that these sources were not accounted for in the SCEA's air quality analysis, and therefore the SCEA's significance finding is not supported by substantial evidence. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the Project's air quality emissions would exceed any thresholds of significance nor does it substantiate a reasonably foreseeable scenario in which impacts would be potentially significant.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, regarding the backup generator, it is anticipated that the Project will include a 250kW diesel generator with particulate matter filter capable of reducing emissions by 85 percent.³ The backup generator will only operate to provide power to life-safety equipment during emergencies. It will not be used to fully power residences for typical daily living usage during the types of power-outages cited in the comment. Thus, the generator would not be considered a regular or substantive source of air quality emissions. Furthermore, as the types of emergencies cited are unpredictable as to both timing and duration, and atypical for operations, any analysis attempting to quantify air quality emissions and associated health effects would be entirely speculative and beyond the scope of environmental review required by CEQA. In addition, the fire pump to be engaged only during times of fire emergencies, would be an all-electric fire pump. Thus, because the fire pump will not use diesel or other combustible fuels, it will not generate any on-site air quality emissions.

For these reasons, the backup generator and the fire pump do not have the potential to generate a significant operational air quality impact and the SCEA's impact determination is supported by substantial evidence.

In addition, the comment claims that based on Court findings in ***East Oakland Stadium Alliance v. City of Oakland*** 'analysis of emissions from backup generators' should have been performed. However, the proposed Oakland Waterfront Ballpark District Project (OWBD Project) analyzed in the EIR that is the subject of the legal challenge is a vastly larger and more complex project than the Found Residences Project. The OWBD Project is the redevelopment of a 50-acre site with a 35,000 seat ballpark, 3,000 residential units, 270,000 square feet of retail space, 1.5 million square feet of space for other commercial uses, a performance venue, and up to 400 hotel rooms. There will be parking for 8,900 vehicles, and nearly 20 acres will be set aside as publicly accessible open space. As discussed in the Court's findings, the EIR's air quality analysis

³ Miratech, CARB Verified DOC/DPF System Specifications (Model Number LTRV6-6-05-XR1); provided by Project Applicant.

“conservatively” assumed that the project would include 17 new emergency generators, one each at the ballpark and the mixed-use buildings. In contrast, the Found Residences Project proposes an infill development on a an approximately 15,022 square foot (0.35 acre) site. The proposed 45-unit, 15-story multi-family residential building will include one emergency generator as required by CBC Section 403 to be used during power outages to preserve life safety functions in the building.

In addition, as stated in the Court’s finding, “ ‘CEQA requires that an EIR make “a good faith effort at full disclosure.” [Citation.] “An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.” ’ ” (Save the El Dorado Canal v. El Dorado Irrigation Dist. (2022) 75 Cal.App.5th 239, 264 (El Dorado.) An EIR “is required to study only reasonably foreseeable consequences of” a project. (High Sierra Rural Alliance v. County of Plumas (2018) 29 Cal.App.5th 102, 125.) **“CEQA does not require an agency to assume an unlikely worst-case scenario in its environmental analysis.” (Id. at p. 126.)**

Further, according to *State CEQA Guidelines* Section 15204(a):

CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made...

The SCEA appropriately assessed operational air quality and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). As stated therein, the Project is a 45-unit residential development with 6,456 square feet of common open space. According to the SCAQMD, localized operational air quality emissions are of primary concern for projects with substantial stationary sources or facilities that attract mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities).⁴ As discussed above, the Project would not generate substantive on-site air quality emissions associated with the operation of the code-required backup generator. As such, it is clear the Project does not include either the type or volume of air quality source emissions that have the potential to cause significant air quality or long-term health risks. The SCEA’s determination that air quality and

⁴ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-1st-methodology-document.pdf>, accessed May 1, 2023.

health risks would be less than significant is substantiated and no further response or analysis is required.

3. *Provision of Information Related to the Need for a Health Risk Analysis*

The Adams et al/CREED LA justification of appeal asserts (as it did in a letter dated April 10, 2023) that the SCEA failed to analyze and identify potential health risks associated with construction and operations of the Project. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the construction or operation of the Project would exceed any thresholds of significance, nor does it substantiate a reasonably foreseeable scenario in which health risks would be potentially significant.

The SCEA appropriately assessed construction-related health risks and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). The comment claims that a health risk assessment (HRA) should have been conducted for the Project based on guidance from the California Office of Environmental Health Hazard Assessment (OEHHA 2015). The intent of the OEHHA 2015 guidance is to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of existing, new, or modified stationary sources. As the Project is not part of the Air Toxics Hot Spots Program and is considered an urban infill development consisting primarily of mobile and area sources (i.e., non-stationary sources), the OEHHA 2015 guidance is not applicable to the Project. While OEHHA 2015 offers limited information on conducting a short-term HRA, the guidance acknowledges the many inherent uncertainties that may occur, and it does not identify the types of short-term projects or non-stationary projects subject thereto. Moreover, OEHHA 2015 does not impose requirements for the Project to conduct an HRA nor does OEHHA 2015 indicate an HRA should be conducted for the Project. The OEHHA 2015 guidance defers to the local air district for guidance on if an HRA may be appropriate and how such analyses should be conducted. However, the South Coast Air Quality Management District (SCAQMD) has not opined on the application of OEHHA 2015 guidance to development projects such as the Project and has not published any guidance on how (or if) development projects should conduct short-term construction HRAs. As such, it would be speculative to conduct an analysis without SCAQMD's necessary oversight, and any such analysis would not be based on substantial evidence. Furthermore, it should be noted that the City's certified environmental impact report (EIR) for the Citywide Housing Element 2021-2029 and Safety Element Updates included a review of several recent construction projects within the City. As stated therein, even the largest construction projects do not have the potential to cause

significant health risks during short-term and temporary construction activities.⁵ As such, the SCEA's determination that health risks would be less than significant is substantiated and no further response is required.

The SCEA appropriately assessed operational health risks and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). As stated therein, the Project is a 45-unit residential development with 6,456 square feet of common open space. According to the SCAQMD, localized operational air quality emissions are of primary concern for projects with substantial stationary sources or facilities that attract mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities).⁶ Once operational, the majority of the Project's air quality emissions would be from mobile source emissions associated with light duty automobiles and non-truck vehicles. These types of mobile sources are not subject to the SCAQMD's health risk assessment guidance for analyzing health risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers.⁷ Furthermore, as discussed above, the Project would not generate substantive on-site air quality emissions associated with the code-required backup generator and fire pump. Further, as previously discussed, the Project Applicant has confirmed that the Project will be all electric, and no natural gas infrastructure or appliances will be included for residential use. Thus, the Project would not generate any on-site air quality or greenhouse gas (GHG) emissions from natural gas use. As such, it is clear the Project does not include either the type or volume of air quality source emissions that have the potential to cause significant long-term health risks. The SCEA's determination that health risks would be less than significant is substantiated and no further response or analysis is required.

Response 3: Provision of Information Related to Construction Noise and Vibration Analysis is Adequate

The Adams et al/CREED LA justification of appeal asserts (as it did in a letter dated July 10, 2023) that the SCEA failed to adequately analyze and mitigate temporary noise and vibration levels during construction of the Project. Contrary to this assertion, the SCEA appropriately assessed

⁵ City of Los Angeles, *Citywide Housing Element 2021-2029 and Safety Element Updates, Draft EIR*, July 2021.

⁶ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-1st-methodology-document.pdf>, accessed May 1, 2023.

⁷ SCAQMD, *Mobile Source Toxics Analysis, Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions*. Available online at: <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>, accessed May 1, 2023.

construction noise and vibration and correctly determined these impacts would be less than significant (see SCEA pages IV-136 through IV-142, and pages IV-144 through IV-147).

As stated in the SCEA, construction noise impacts would be significant if the Project violates Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. The Project would be consistent with Section 41.40 of the LAMC, and the Project would have no impact to any persons during sensitive nighttime hours.

In addition, construction noise impacts would be significant if, as indicated in LAMC Section 112.05, noise from construction equipment within 500 feet of a residential zone exceeds 75 A-weighted decibels (dBA) at a distance of 50 feet from the noise source. As stated in the SCEA, the Project Site is not located within 500 feet of a residential zone, and these noise limitations are not applicable to the Project. Furthermore, the City does not have adopted thresholds of significance for construction noise levels. The SCEA included construction noise estimates consistent with methodology established by the Federal Transit Administration (FTA).⁸ Construction noise levels were estimated at nearby sensitive receptors with the use of the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM). Consistent with FTA guidance, the SCEA calculated construction noise with the use of FTA reference noise levels (dBA Lmax) for construction equipment and presented the anticipated construction noise levels in dBA Leq. As stated by the FTA, this unit is appropriate because Leq can be used to describe noise levels from operation of each piece of equipment separately, and levels can be combined to represent the noise level from all equipment operating during a given period. Thus, the SCEA's methodology for calculating construction noise is supported by substantial evidence. Though not required, the construction noise levels identified in the SCEA were compared to the 75 dBA standard established in the LAMC for projects within 500 feet of residential zones. As shown in the SCEA, anticipated construction noise levels would not exceed the LAMC standard. It should also be noted that the SCEA's estimated construction noise levels would also not exceed the FTA's daytime construction noise criteria of 90 dBA Leq (1-hour) for residential uses. The LAMC and FTA standards represent appropriate absolute noise levels that are intended to protect human health. As it is clear that the Project would not have the potential to generate construction noise levels that exceed standards established to protect human health and no construction noise

⁸ Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*. September 2018.

would occur during sensitive nighttime hours, the SCEA's impact determination is supported by substantial evidence and no further response is required.

With respect to construction vibration impacts (annoyance), the Project would be consistent with Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. As such, the Project would have no construction vibration impact to any persons during sensitive nighttime hours. Neither the LAMC nor the Department of City Planning have adopted construction vibration thresholds of significance for human annoyance. Similar to construction noise, construction vibration is reasonably anticipated in an urban environment, like that found in the Project area, and such vibration levels would not result in health impacts or substantially affect the activities of the general public during daytime hours. Further, due to the sensitive nature of the on-site historic resources to be preserved, in order to protect these resources mitigation measures MM CUL-4 and MM NOI-2 would require that a structural monitoring program be implemented and recorded during construction to ensure that ground borne vibration levels do not exceed 0.12 inches per second, peak particle velocity (PPV). For these reasons, the SCEA's impact determination is supported by substantial evidence and no further response or analysis is required.

MEMORANDUM

To: More Song, City Planner
Los Angeles City Planning

Job No. 1340.002

From: Lynn Kaufman, CLA, Associate Principal
Impact Sciences, Inc.

Subject: Responses to Comments made by Adams Broadwell
Joseph & Cardozo/CREED LA dated April 10, 2023,
regarding the CEQA analysis for the Found Residences
Project

Date: May 2, 2023

This memorandum was prepared by Impact Sciences, Inc., in response to comments received on the Sustainable Communities Environmental Assessment (SCEA) for the Found Residences Project (Project) in a letter submitted to the City by Adams Broadwell Joseph & Cardozo (Adams et al) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA) dated April 10, 2023.

As detailed below, it is the opinion of Impact Sciences that none of the comments/issues raised by Adams et al/CREED LA offer any new significant information or evidence, or any information or evidence that any fact, analysis, or determination in the SCEA is incorrect or not supported with substantial evidence pursuant to the California Environmental Quality Act ([CEQA]; Public Resources Code [PRC] § 21000 et. seq.) and the *State CEQA Guidelines* (California Code of Regulations [CCR] § 15000 et. seq.).

1. INTRODUCTION

The City of Los Angeles (City), as lead agency, prepared and circulated the SCEA on March 9, 2023, for a public review period of 30 days ending on April 10, 2023. According to CEQA, PRC § 21155.2 (b) (4), the lead agency must consider the comments received during consultation and review periods on the SCEA Environmental Checklist. However, comments received on a SCEA Environmental Checklist are not required to be attached to the SCEA Environmental Checklist, nor is the lead agency required to make specific written responses to public agencies or individual commenters. Further, neither CEQA nor the *State CEQA Guidelines* require the lead agency to send responses individually or directly to commenters.

According to PRC § 21155.2 (b) (4):

Prior to acting on the Sustainable Communities Environmental Assessment, the lead agency shall consider all comments received.

Notwithstanding the above, this Memorandum dated May 2, 2023, prepared by Impact Sciences and reviewed by the Applicant's Counsel, was submitted to the City providing Responses to the Comments received on the SCEA by Adams et al/CREED LA. This Memorandum is available on the City's website as part of City Planning file No. CPC-2022-1048-DB-HCA,¹ and will be provided to the members of the City Planning Commission for their consideration prior to their hearing on July 13, 2023 to consider Project approval.

The following information is provided for the record in response to the Adams et al/CREED LA letter dated April 10, 2023.

2. PROVISION OF INFORMATION RELATED TO THE PROJECT DESCRIPTION (BACKUP GENERATOR AND FIRE PUMP)

The Adams et al/CREED LA letter dated April 10, 2023, asserts that the SCEA failed to include an accurate and complete project description. The comment states that the project design drawings indicate a backup generator and a fire pump will be included for the Project while noting the SCEA's air quality analysis did not include emissions associated with these sources. The Project Applicant has confirmed the Project will include a backup generator and fire pump as required by California Building Code (CBC) Sections 403 (High Rise Buildings), 403.3.2 (Water Supply for Fire Pumps) and 403.4.8 (Standby and Emergency Power). The comment asserts that these sources were not accounted for in the SCEA's air quality analysis, and therefore the SCEA's significance finding is not supported by substantial evidence. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the Project's air quality emissions would exceed any thresholds of significance nor does it substantiate a reasonably foreseeable scenario in which impacts would be potentially significant.

With regard to the backup generator, it is anticipated that the Project will include a 250kW diesel generator with particulate matter filter capable of reducing emissions by 85 percent.² The backup

¹ Available on Los Angeles City Planning's website at:
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjU1MTE20>.

² Miratech, CARB Verified DOC/DPF System Specifications (Model Number LTRV6-6-05-XR1); provided by Project Applicant.

generator will only operate to provide power to life-safety equipment during emergencies. It will not be used to power residences during the types of power-outages cited in the comment. Thus, the generator would not be considered a regular or substantive source of air quality emissions. Furthermore, as emergencies are unpredictable and atypical for operations, any analysis attempting to quantify air quality emissions and associated health effects would be entirely speculative and beyond the scope of environmental review required by CEQA. With regard to the fire pump, the Project Applicant has confirmed the Project will utilize an all-electric fire pump. Thus, because the fire pump will not use diesel or other combustible fuels, it will not generate any on-site air quality emissions. For these reasons, the backup generator and fire pump do not have the potential to generate a significant operational air quality impact and the SCEA's impact determination is supported by substantial evidence.

3. PROVISION OF INFORMATION RELATED TO THE AIR QUALITY ANALYSIS

The Adams et al/CREED LA letter dated April 10, 2023, asserts that the SCEA failed to analyze and identify potential health risks associated with construction and operations of the Project. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the construction or operation of the Project would exceed any thresholds of significance, nor does it substantiate a reasonably foreseeable scenario in which health risks would be potentially significant.

The SCEA appropriately assessed construction-related health risks and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). The comment claims that a health risk assessment (HRA) should have been conducted for the Project based on guidance from the California Office of Environmental Health Hazard Assessment (OEHHA 2015). The intent of the OEHHA 2015 guidance is to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of existing, new, or modified stationary sources. As the Project is not part of the Air Toxics Hot Spots Program and is considered an urban infill development consisting primarily of mobile and area sources (i.e., non-stationary sources), the OEHHA 2015 guidance is not applicable to the Project. While OEHHA 2015 offers limited information on conducting a short-term HRA, the guidance acknowledges the many inherent uncertainties that may occur, and it does not identify the types of short-term projects or non-stationary projects subject thereto. Moreover, OEHHA 2015 does not impose requirements for the Project to conduct an HRA nor does OEHHA 2015 indicate an HRA should be conducted for the Project. The OEHHA 2015 guidance defers to the local air district for guidance on if an HRA may be appropriate and how such analyses should be conducted. However, the South Coast Air

Quality Management District (SCAQMD) has not opined on the application of OEHHA 2015 guidance to development projects such as the Project and has not published any guidance on how (or if) development projects should conduct short-term construction HRAs. As such, it would be speculative to conduct an analysis without SCAQMD's necessary oversight, and any such analysis would not be based on substantial evidence. Furthermore, it should be noted that the City's certified environmental impact report (EIR) for the Citywide Housing Element 2021-2029 and Safety Element Updates included a review of several recent construction projects within the City. As stated therein, even the largest construction projects do not have the potential to cause significant health risks during short-term and temporary construction activities.³ As such, the SCEA's determination that health risks would be less than significant is substantiated and no further response is required.

The SCEA appropriately assessed operational health risks and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). As stated therein, the Project is a 45-unit residential development with 6,456 square feet of common open space. According to the SCAQMD, localized operational air quality emissions are of primary concern for projects with substantial stationary sources or facilities that attract mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities).⁴ Once operational, the majority of the Project's air quality emissions would be from mobile source emissions associated with light duty automobiles and non-truck vehicles. These types of mobile sources are not subject to the SCAQMD's health risk assessment guidance for analyzing health risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers.⁵ Furthermore, as discussed above, the Project would not generate substantive on-site air quality emissions associated with the code-required backup generator and fire pump. Further, as discussed below, the Project Applicant has confirmed that the Project will be all electric, and no natural gas infrastructure or appliances will be included for residential use. Thus, the Project would not generate any on-site air quality or greenhouse gas (GHG) emissions from natural gas use. As such, it is clear the Project does not include either the type or volume of air quality source emissions that have the potential to cause significant long-

³ City of Los Angeles, *Citywide Housing Element 2021-2029 and Safety Element Updates, Draft EIR*, July 2021.

⁴ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf>, accessed May 1, 2023.

⁵ SCAQMD, *Mobile Source Toxics Analysis, Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions*. Available online at: <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>, accessed May 1, 2023.

term health risks. The SCEA's determination that health risks would be less than significant is substantiated and no further response is required.

4. PROVISION OF INFORMATION RELATED TO ENERGY IMPACTS

The Adams et al/CREED LA letter dated April 10, 2023, asserts that the SCEA failed to analyze significant operational impacts associated with natural gas. The comment states that residential natural gas use contributes significantly to climate change and has health risks on residents. The Project Applicant has confirmed that the Project will be all electric, and no natural gas infrastructure or appliances will be included for residential use. Thus, the Project would not generate any air quality or GHG emissions from natural gas use and the SCEA's impact determination is supported by substantial evidence.

The comment asserts that the SCEA failed to adequately analyze operational consumption of electricity because it did not assess if on-site solar generation is feasible for the Project. As stated in the SCEA Project Description (see page II-8), the Project will include a rooftop terrace in order to fulfill open space requirements pursuant to Section 12.21G of the Los Angeles Municipal Code (LAMC). As such, it is infeasible for the Project to include rooftop solar panels. However, as stated on SCEA page II-10, the Project would meet and exceed green building and sustainability standards established by the CALGreen Code and the City of Los Angeles Green Building Code. Specifically, the Project would include the following sustainability features, which would serve to reduce the demand for energy, including electricity:

- ENERGY STAR appliances,
- Water sense labeled low water use fixtures,⁶
- Drought-tolerant landscaping,
- weather-based irrigation control,
- no invasive plants,
- drip irrigation only,
- insulated pipes, and
- LED lighting.

For these reasons, the SCEA's impact determination related to energy use is supported by substantial evidence and no further response is required.

⁶ Reducing water supply demand reduces the amount of water to be filtered, pumped, and supplied to the water infrastructure, and less energy is required by these systems.

5. PROVISION OF INFORMATION RELATED TO CONSTRUCTION NOISE AND VIBRATION ANALYSIS

The Adams et al/CREED LA letter dated April 10, 2023, asserts that the SCEA failed to adequately analyze and mitigate temporary noise and vibration levels during construction of the Project. Contrary to this assertion, the SCEA appropriately assessed construction noise and vibration and correctly determined these impacts would be less than significant (see SCEA pages IV-136 through IV-142, and pages IV-144 through IV-147).

As stated in the SCEA, construction noise impacts would be significant if the Project violates Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. The Project would be consistent with Section 41.40 of the LAMC, and the Project would have no impact to any persons during sensitive nighttime hours.

In addition, construction noise impacts would be significant if, as indicated in LAMC Section 112.05, noise from construction equipment within 500 feet of a residential zone exceeds 75 A-weighted decibels (dBA) at a distance of 50 feet from the noise source. As stated in the SCEA, the Project Site is not located within 500 feet of a residential zone, and these noise limitations are not applicable to the Project. Furthermore, the City does not have adopted thresholds of significance for construction noise levels. The SCEA included construction noise estimates consistent with methodology established by the Federal Transit Administration (FTA).⁷ Construction noise levels were estimated at nearby sensitive receptors with the use of the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM). Consistent with FTA guidance, the SCEA calculated construction noise with the use of FTA reference noise levels (dBA Lmax) for construction equipment and presented the anticipated construction noise levels in dBA Leq. As stated by the FTA, this unit is appropriate because Leq can be used to describe noise levels from operation of each piece of equipment separately, and levels can be combined to represent the noise level from all equipment operating during a given period. Thus, the SCEA's methodology for calculating construction noise is supported by substantial evidence. Though not required, the construction noise levels identified in the SCEA were compared to the 75 dBA standard established in the LAMC for projects within 500 feet of residential zones. As shown in the SCEA, anticipated construction noise levels would not exceed the LAMC standard. It should also be noted that the SCEA's estimated construction noise levels would also not exceed the

⁷ Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*. September 2018.

FTA's daytime construction noise criteria of 90 dBA Leq (1-hour) for residential uses. The LAMC and FTA standards represent appropriate absolute noise levels that are intended to protect human health. As it is clear that the Project would not have the potential to generate construction noise levels that exceed standards established to protect human health and no construction noise would occur during sensitive nighttime hours, the SCEA's impact determination is supported by substantial evidence and no further response is required.

With respect to construction vibration impacts (annoyance), the Project would be consistent with Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. As such, the Project would have no construction vibration impact to any persons during sensitive nighttime hours. Neither the LAMC nor the Department of City Planning have adopted construction vibration thresholds of significance for human annoyance. Similar to construction noise, construction vibration is reasonably anticipated in an urban environment, like that found in the Project area, and such vibration levels would not result in health impacts or substantially affect the activities of the general public during daytime hours. Further, due to the sensitive nature of the on-site historic resources to be preserved, in order to protect these resources mitigation measures MM CUL-4 and MM NOI-2 would require that a structural monitoring program be implemented and recorded during construction to ensure that ground borne vibration levels do not exceed 0.12 inches per second, peak particle velocity (PPV). For these reasons, the SCEA's impact determination is supported by substantial evidence and no further response is required.

MEMORANDUM

To: More Song, City Planner
Los Angeles City Planning

Job No. 1340.002

From: Lynn Kaufman, CLA, Associate Principal
Impact Sciences, Inc.

Subject: Responses to Comments made by Adams Broadwell
Joseph & Cardozo/CREED LA dated May 23, 2023,
regarding the CEQA analysis for the Found Residences
Project

Date: June 5, 2023

This memorandum was prepared by Impact Sciences, Inc., in response to comments received on the Sustainable Communities Environmental Assessment (SCEA) for the Found Residences Project (Project) in a letter submitted to the City Of Los Angeles (City) by Adams Broadwell Joseph & Cardozo (Adams et al) on behalf of the Coalition for Responsible Equitable Economic Development Los Angeles (CREED LA) dated May 23, 2023.

As detailed below, it is the opinion of Impact Sciences that none of the comments/issues raised by Adams et al/CREED LA offer any new significant information or evidence, or any information or evidence that any fact, analysis, or determination in the SCEA is incorrect or not supported with substantial evidence pursuant to the California Environmental Quality Act ([CEQA]; Public Resources Code [PRC] § 21000 et. seq.) and the *State CEQA Guidelines* (California Code of Regulations [CCR] § 15000 et. seq.).

Introduction

The City, as lead agency, prepared and circulated the SCEA on March 9, 2023, for a public review period of 30 days ending on April 10, 2023. According to CEQA, PRC § 21155.2 (b) (4), the lead agency must consider the comments received during consultation and review periods on the SCEA Environmental Checklist. However, comments received on a SCEA Environmental Checklist are not required to be attached to the SCEA Environmental Checklist, nor is the lead agency required to make specific written responses to public agencies or individual commenters. Further, neither CEQA nor the *State CEQA Guidelines* require the lead agency to send responses individually or directly to commenters.

According to PRC § 21155.2 (b) (4):

Prior to acting on the Sustainable Communities Environmental Assessment, the lead agency shall consider all comments received.

Notwithstanding the above, this Memorandum dated June 5, 2023, prepared by Impact Sciences and reviewed by the Applicant's Counsel, was submitted to the City providing Responses to the Comments received on the SCEA by Adams et al/CREED LA. This Memorandum is available on the City's website as part of City Planning file No. CPC-2022-1048-DB-HCA,¹ and will be provided to the members of the City Planning Commission for their consideration prior to their hearing on July 13, 2023, to consider Project approval.

The following information is provided for the record in response to the Adams et al/CREED LA letter dated May 23, 2023.

Response 1: Provision of a Health Risk Analysis (HRA) Related to Emergency Use of the Backup Generator

The Adams et al/CREED LA letter dated May 23, 2023, asserts that the SCEA failed to include back-up generator emissions in its air quality, greenhouse gas, and health risk analyses. Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project, but also all "reasonably foreseeable consequence[s] of the initial project." The commenter further asserts that the use of the back-up generator is a "reasonably foreseeable consequence" of the Project due to the Project's design and because of increasingly common Public Safety Power Shutoff events and extreme heat events.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, the Project Applicant has confirmed the Project will include a backup generator and fire pump as required by California Building Code (CBC) Sections 403 (High Rise Buildings), 403.3.2 (Water Supply for Fire Pumps) and 403.4.8 (Standby and Emergency Power). The comment asserts that these sources were not accounted for in the SCEA's air quality analysis, and therefore the SCEA's significance finding is not supported by substantial evidence. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the Project's air quality emissions would exceed any thresholds of

¹ Available on Los Angeles City Planning's website at:
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjU1MTE20>.

significance nor does it substantiate a reasonably foreseeable scenario in which impacts would be potentially significant.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, regarding the backup generator, it is anticipated that the Project will include a 250kW diesel generator with particulate matter filter capable of reducing emissions by 85 percent.² The backup generator will only operate to provide power to life-safety equipment during emergencies. It will not be used to fully power residences for typical daily living usage during the types of power-outages cited in the comment. Thus, the generator would not be considered a regular or substantive source of air quality emissions. Furthermore, as the types of emergencies cited are unpredictable as to both timing and duration, and atypical for operations, any analysis attempting to quantify air quality emissions and associated health effects would be entirely speculative and beyond the scope of environmental review required by CEQA.

For these reasons, the backup generator does not have the potential to generate a significant operational air quality impact and the SCEA's impact determination is supported by substantial evidence.

In addition, the comment claims that a health risk assessment (HRA) should have been conducted for the Project based on guidance from the California Office of Environmental Health Hazard Assessment (OEHHA 2015). The intent of the OEHHA 2015 guidance is to provide HRA procedures for use in the Air Toxics Hot Spots Program or for the permitting of existing, new, or modified stationary sources. As the Project is not part of the Air Toxics Hot Spots Program and is considered an urban infill development consisting primarily of mobile and area sources (i.e., non-stationary sources), the OEHHA 2015 guidance is not applicable to the Project. While OEHHA 2015 offers limited information on conducting a short-term HRA, the guidance acknowledges the many inherent uncertainties that may occur, and it does not identify the types of short-term projects or non-stationary projects subject thereto. Moreover, OEHHA 2015 does not impose requirements for the Project to conduct an HRA nor does OEHHA 2015 indicate an HRA should be conducted for the Project. The OEHHA 2015 guidance defers to the local air district for guidance on if an HRA may be appropriate and how such analyses should be conducted. However, the South Coast Air Quality Management District (SCAQMD) has not opined on the application of OEHHA 2015 guidance to development projects, such as the Project, and has not published any guidance on how (or if) development projects should conduct short-term

² Miratech, CARB Verified DOC/DPF System Specifications (Model Number LTRV6-6-05-XR1); provided by Project Applicant.

operational HRAs. As such, it would be speculative to conduct an analysis without SCAQMD's necessary oversight, and any such analysis would not be based on substantial evidence. As such, the SCEA's determination that health risks would be less than significant is substantiated and no further response is required.

Further, according to *State CEQA Guidelines* Section 15204(a):

CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made...

The SCEA appropriately assessed operational health risks and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). As stated therein, the Project is a 45-unit residential development with 6,456 square feet of common open space. According to the SCAQMD, localized operational air quality emissions are of primary concern for projects with substantial stationary sources or facilities that attract mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities).³ Once operational, the majority of the Project's air quality emissions would be from mobile source emissions associated with light duty automobiles and non-truck vehicles. These types of mobile sources are not subject to the SCAQMD's health risk assessment guidance for analyzing health risks from diesel particulate matter from mobile sources at facilities such as truck stops and warehouse distribution centers.⁴ Furthermore, as discussed above, the Project would not generate substantive on-site air quality emissions associated with the operation of the code-required backup generator. As such, it is clear the Project does not include either the type or volume of air quality source emissions that have the potential to cause significant long-term health risks. The SCEA's determination that health risks would be less than significant is substantiated and no further response is required.

³ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf>, accessed May 1, 2023.

⁴ SCAQMD, *Mobile Source Toxics Analysis, Health Risk Assessment Guidance for Analyzing Cancer Risks from Mobile Source Diesel Emissions*. Available online at: <http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mobile-source-toxics-analysis>, accessed May 1, 2023.

MEMORANDUM

To: More Song, City Planner
Los Angeles City Planning

Job No. 1340.002

From: Lynn Kaufman, CLA, Associate Principal
Impact Sciences, Inc.

Subject: Responses to Comments made by Mitchell M. Tsai,
Attorney At Law/SWMSRCC dated May 17, 2023,
regarding the CEQA analysis for the Found Residences
Project

Date: June 5, 2023

This memorandum was prepared by Impact Sciences, Inc., in response to comments received on the Sustainable Communities Environmental Assessment (SCEA) for the Found Residences Project (Project) in a letter submitted to the City of Los Angeles (City) by Mitchell M. Tsai, Attorney at Law (Tsai) on behalf of the Southwest Mountain States Regional Council of Carpenters (Southwest Mountain States Carpenters or SWMSRCC), dated May 17, 2023.

As detailed below, it is the opinion of Impact Sciences that none of the comments/issues raised by Tsai/SWMSRCC offer any new significant information or evidence, or any information or evidence that any fact, analysis, or determination in the SCEA is incorrect or not supported with substantial evidence pursuant to the California Environmental Quality Act ([CEQA]; Public Resources Code [PRC] § 21000 et. seq.) and the *State CEQA Guidelines* (California Code of Regulations [CCR] § 15000 et. seq.).

Introduction

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According to PRC § 21155.2 (b) (4):

Prior to acting on the Sustainable Communities Environmental Assessment, the lead agency shall consider all comments received.

Notwithstanding the above, this Memorandum dated June 5, 2023, prepared by Impact Sciences and reviewed by the Applicant's Counsel, was submitted to the City providing Responses to the Comments received on the SCEA by Tsai/SWMSRCC. This Memorandum is available on the City's website as part of City Planning file No. CPC-2022-1048-DB-HCA,¹ and will be provided to the members of the City Planning Commission for their consideration prior to their hearing on July 13, 2023, to consider Project approval.

The following information is provided for the record in response to the Tsai/SWMSRCC letter dated May 17, 2023.

Response 1: Use of Local Workforce and Associated Environmental Benefit

The comment suggests the City should require the Project to utilize a local workforce for construction, claiming it would serve to reduce environmental impacts such as vehicle trip lengths and associated air quality and greenhouse gas (GHG) emission reductions. It is important to note that the comment does not offer any calculations or evidence that the Project's air quality or GHG emissions would exceed any thresholds of significance, nor does it substantiate a reasonably foreseeable scenario in which air quality or GHG impacts would be potentially significant. In fact, if the purported environmental benefit would occur as the comment suggests, the air quality and GHG impacts presented in the SCEA would be further reduced from the already less-than-significant impacts identified therein.

Response 2: Imposition of Training Requirements for the Project's Construction Activities to Prevent Community Spread of COVID-19 and Other Infectious Diseases

The comment recommends that the City adopt measures to mitigate public health risks from the Project's construction due to the COVID-19 pandemic. Health risks related to the transmission of viruses are not a CEQA issue, and no specific response is required. Notwithstanding that this topic is outside the scope of CEQA, the City and the State of California, through California Division of Occupational Safety and Health (OSHA), have clear requirements regarding worker safety at

¹ Available on Los Angeles City Planning's website at:
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjU1MTE20>.

construction sites. The Proposed Project shall comply with all requirements regarding worker safety that are in place during the time of proposed Project construction. Further, the National Center for Disease Control and Prevention (CDC) declared the federal COVID-19 Public Health Emergency (PHE) ended on May 11, 2023.

Response 3: Applicability and Use of a SCEA for the Project

The comment incorrectly asserts the Project does not meet the criteria for the use of a SCEA, claiming the Project Site is not located within a Transit Priority Area (TPA), High Quality Transit Corridor (HQTC), nor located within one-half mile of a major transit stop.

As provided in Chapter III, Sustainable Communities Environmental Assessment Eligibility, of the SCEA, the proposed Project is a transit priority project that clearly meets the intent of both Senate Bill (SB) 375 and the Southern California Association of Government's (SCAG) Regional Transportation Plan / Sustainable Communities Strategy (RTP/SCS). The purpose of SB 375 was to revise CEQA to encourage projects "that will help the state achieve its climate goals under Assembly Bill (AB) 32, assist in the achievement of state and federal air quality standards, and increase petroleum conservation" (see SB 375, Section 1(f)). To meet the state's AB 32 climate goals, SB 375 requires all metropolitan transportation organizations, including SCAG, to prepare an SCS that integrates transportation and land use planning in a manner that results in reduced vehicle miles traveled (VMT) and, as a result, reduced GHG emissions.

Chapter III of the SCEA provides the following discussion related to the applicability and use of a SCEA for the Project:

SB 375 provides CEQA streamlining opportunities for certain transit priority projects (TPPs). A TPP is a project that meets the following three criteria (see PRC, § 21155 (b)):

1. Contains at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75;
2. Provides a minimum net density of at least 20 units per acre; and
3. Is within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan.

As discussed below, the proposed Project qualifies as a TPP pursuant to the criteria set by PRC § 21155.

Consistency with Criterion (a)

The proposed Project consists of 45 four-bedroom multi-family units encompassing a maximum of approximately 67,599 square feet. The new construction is 100 percent residential and as such, the proposed Project would consist of over the minimum of 50 percent residential uses and be consistent with this Criterion. If considered as part of the larger Project Site, the usable, residential component encompasses up to approximately 67,599 square feet of the approximately 93,369 square feet of gross floor area, or approximately 72 percent of the gross floor area, which is also over the minimum of 50 percent residential uses.

Consistency with Criterion (b)

The Project Site is approximately 0.35 acres (15,022 sf). With 45 residential dwellings, the proposed Project would have a density of 129 units per acre. As such, the proposed Project would have over the required minimum density of 20 units per acre and be consistent with this Criterion.

Consistency with Criterion (c)

Public Resources Code (PRC) § 21155 (b) defines a “high-quality transit corridor” as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

PRC § 21099 defines a “transit priority area” as an area within one-half mile of a major transit stop that is “existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to § 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.” PRC § 21064.3 defines “major transit stop” as “a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15-minutes or less during the morning and afternoon peak commute periods.” PRC § 21155 (b) states that a “major transit stop” is defined in PRC § 21064.3, except that, for purposes of § 21155 (b), it also includes major transit stops that are included in the applicable regional transportation plan.

The proposed Project is located within a HQTAs as defined by SCAG and a transit priority area as defined by SB 743. The Project Site is located within approximately 0.33 miles of the Metro Hollywood/Vine Station. The Metro B (Red) Line provides service intervals less than 15 minutes during peak commute hours. As such, the Project would be located within one-half mile of a major transit stop and be consistent with this Criterion.

Response 4: Evaluation and Preservation of Identified Historical Resources

ASM's evaluation does find that the Baker Garage at 6422 Selma Avenue is recommended eligible for the California Register of Historical Resources (CRHR) and local register and therefore is a historical resource for the purposes of CEQA. CEQA Section 21084.1 states that significant impacts may occur if "a project may cause a substantial adverse change in the significance to a historic resource." *State CEQA Guidelines* Section 15064.5(b)(1) defines a substantial adverse change as "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired."

According to Section 15064.5(b)(2)(A), "the significance of a historic resource is materially impaired when a project demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the CRHR as determined by a lead agency for purposes of CEQA." Projects that are found to be in conformance with the Secretary of the Interior's (SOI) Standards for the Treatment of Historic Properties (Standards) will not result in a substantial adverse change in the significance of a historical resource.

The SOI Standards do not render a historic structure 'untouchable,' but rather require that 'the historic character of a property will be retained and preserved.'

Substantial discussions took place with the expert historians at the City's Office of Historic Preservation (OHR) regarding the following issues:

- The percentage of the structure of the Baker Garage to remain;
- How its current condition is to be fully photographically documented to Historic American Buildings Survey (HABS) Level 2 standards;
- How the new building will restore the façade of the original building to return it, as close as possible, to its earliest iteration;
- How it is to be protected and preserved during construction via structural monitoring; and
- What additional interpretive material will be incorporated to the Project on-site to provide context for the building and its place in Hollywood history.

Following these meetings, OHR stated that they accept the findings and recommended mitigation measures provided in the CRHR dated August 20, 2021, and that the Project impacts on the eligible historic resource will be less than significant following the implementation of the mitigation measures. OHR further stated that they are comfortable with the Project moving forward as analyzed.

There are four mitigation measures to ensure that the integrity of the historic resource is preserved and protected to the fullest extent possible before, during, and after construction of the Project:

MM CUL-1 Prior to any demolition or construction activity, the garage at 6422 Selma Avenue will be documented to Historic American Buildings Survey (HABS) Level 2 standards, according to the outline format described in the Historic American Building Survey Guidelines for Preparing Written Historical Descriptive Data. Photographic documentation should follow the Photographic Specification–Historic American Building Survey, including 10-15 archival quality, large-format photographs of the exterior and interior of the building and its architectural elements. Construction techniques and architectural details should be documented, especially noting the measurements, hardware, and other features that tie architectural elements to a specific date. If original architectural plans are located, they should be archivally reproduced, following HABS standards. Three copies of the HABS documentation package, with one copy including original photo negatives, will be produced, with at least one copy placed in an archive or history collection accessible to the general public.

MM CUL-2 Additional review of the Project by OHR will only be required if, during construction, more than 10 percent of the materials currently proposed for retention cannot be retained as planned. For example, if after removal and storage of the wooden trusses it is discovered that 5 percent more of the wood must be replaced prior to reinstallation, no additional review will be required and the wood elements of the truss that require replacement will be made in-kind. However, if 15 percent more of the brick walls must be removed than is currently planned (33 percent), subsequent review of the construction plans would be required by OHR.

MM CUL-3 Develop at least two interpretative signs or murals that would communicate the significance of the garage at 6422 Selma Avenue to the Hollywood community. This could consist of a permanent interpretive exhibit that would incorporate

information from historic photographs, HABS documentation, or other materials to highlight the building's association with the automobile and the significance of the automobile to Hollywood. The interpretive signs should be developed by a team that includes a SOI-qualified historian. At least one of the signs should be located near the Selma entrance to the garage to be accessible to the general public. The second mural could be located on the interior of the garage.

MM CUL-4 Prior to the start of construction, surveys shall be performed to document the conditions of the masonry of the remaining walls at 6422 Selma Avenue as well as the Gilbert Hotel building. A structural monitoring program shall be implemented and recorded during construction to ensure that ground borne vibration levels do not exceed 0.12 inches per second, peak particle velocity (PPV). The structural monitoring plan shall include documentation, consisting of video and/or photographic documentation of accessible and visible areas on the exterior of the buildings. A historic architect (meeting SOI's Professional Qualification Standards) or structural engineer with experience with historic masonry buildings shall establish baseline structural conditions of the building and prepare the shoring design. Additionally, a qualified acoustical engineer shall be retained to review the proposed construction equipment and develop and implement a vibration monitoring program capable of documenting the construction-related ground vibration levels at the Project Site during demolition and excavation phases where heavy construction equipment (e.g., large bulldozer and drill rig) would be operating within 15 feet of the affected buildings.

The vibration monitoring system shall measure and continuously store the PPV in inch/second. Vibration data shall be stored on a one-second interval. The system shall also be programmed for two preset velocity levels: a warning level of 0.07 inch/second (PPV) and a regulatory level of 0.12 inch/second (PPV). The system shall also provide real-time alert when the vibration levels exceed either of the two preset levels.

- In the event the warning level of 0.07 inch/second (PPV) is triggered, the contractor shall identify the source of vibration generation and provide steps to reduce the vibration level, including but not limited to

halting/staggering concurrent activities and utilizing lower vibratory techniques.

- In the event the regulatory level of 0.12 inch/second (PPV) is triggered, the contractor shall halt the construction activities and visually inspect the Baker Garage for any damage. Results of the inspection must be logged. The contractor shall identify the source of vibration generation and provide steps to reduce the vibration level. Vibration measurement shall be made with the new construction method to verify that the vibration level is below the warning level of 0.07 inch/second (PPV). Construction activities may then restart.
- In the event damage occurs to historic finish materials due to construction vibration, such materials shall be repaired in consultation with a qualified preservation consultant.
- The structure-monitoring program shall be submitted to the City of Los Angeles Department of Building and Safety (LADBS) and received into the case file for the associated discretionary action permitting the Project prior to initiating any construction activities.

The SCEA's impact determination related to historical resources is supported by substantial evidence and no further response is required.

Response 5: Need for Mitigation Measures Under CEQA

The comment asserts that the SCEA must incorporate “all” feasible mitigation measures from prior applicable EIRs. Contrary to these comments, CEQA only requires, and a SCEA need only incorporate, relevant, applicable mitigation measures from prior EIRs where those measures are needed to mitigate significant or potentially significant impacts identified by the SCEA. (See Public Resources Code §§ 21002, 21155.2(b)(2), 21155.2(b)(5)(i), 21159.28(a); *State CEQA Guidelines* §§ 15002, 15021, 15126(f), 15126.4(a)(3), (4).). Consistent with CEQA, the RTP/SCS Program EIR (RTP/SCS EIR) mitigation monitoring and reporting program (MMRP) itself states that the lead agency should consider imposing the listed mitigation measures when needed “to reduce substantial adverse effects” (emphasis added).

The comment asserts the SCEA does not incorporate certain mitigation measures from the RTP/SCS EIR and MMRP. Specifically, the comments assert that the SCEA fails to incorporate PMM-GEO-1, PMM HYD-1, PMM AES-1, PMM AQ-1, and PMM-GHG-1 from the RTP/SCS EIR.

The SCEA concluded that the Project would not cause significant impacts associated with hydrology/water quality, aesthetics, air quality or GHGs. No mitigation measures are required for these issue areas. All checklist questions for Geology and Soils stated impacts would be less than significant without mitigation except for checklist question (f), which included MM-GEO-1 as a standard and performance-based measure in the event paleontological resources are unearthed during ground-disturbing activities. The measure identifies regulatory compliance with federal, state, and local guidelines, including those set forth in California PRC § 21083.2.

The RTP/SCS EIR MMRP does not include project-level mitigation measures that are required to be incorporated into the Project. However, the RTP/SCS EIR MMRP does provide a list of mitigation measures that SCAG determined a lead agency can and should consider, as applicable and feasible, where the lead agency has concluded that a project has the potential to result in significant effects. The City has complied with PRC §§ 21155.2 and 21159.28. The City has reviewed all mitigation measures contained in the RTP/SCS EIR and determined their applicability to the Project and whether the Project would be in substantial compliance with the mitigation measure as proposed. For each such mitigation measure, the City considered whether to use the RTP/SCS EIR mitigation measure or an equally effective City mitigation measure or federal, state, regional, or City regulation (see page 1 of the RTP/SCS EIR MMRP: “Lead agencies may use, amend, or not use measures identified in this Program EIR as appropriate to address project-specific conditions. The determination of significance and identification of appropriate mitigation is solely the responsibility of the lead agency.”)

Contrary to the comments, the RTP/SCS EIR MMRP itself states that the lead agency should consider imposing the listed mitigation measures when needed “to reduce substantial adverse effects” (emphasis added) (see e.g., PMM AQ-1, PMM HAZ-1, PMM HAZ-5). In addition, mitigation can only be incorporated when it is relevant and applicable to a project. As explained in Appendix A, Incorporation of Feasible Mitigation Measures, Performance Standards, and Criteria From Prior Applicable EIRs, of the SCEA, mitigation measures in the RTP/SCS EIR that are within the purview of SCAG (see, e.g., PMM HAZ-2, PMM HAZ-3, PMM HAZ-4, SMM AES-1, SMM AG-3) are neither relevant nor applicable to the Project. Other measures simply do not apply to this urban, infill location because the subject conditions do not exist on the Project Site (see, e.g., PMM AG-1, PMM BIO-1(c)).

The RTP/SCS EIR MMRP also states that a lead agency has the sole discretion to use, amend, or not use measures identified therein, and may instead consider whether to use an equally effective City mitigation measure or federal, state, regional, or local regulation. The SCEA fully and adequately analyzed the Project's potentially significant impacts, and it included and addressed all feasible mitigation measures from prior certified EIRs. The comments, therefore, do not raise any issues that alter the analysis or conclusions of the SCEA and do not involve any new significant impacts or add "significant new information" that would require recirculation of the SCEA.

Response 6: Construction Noise Impacts

The comment asserts the SCEA fails to adequately assess and mitigate construction noise impacts. Contrary to this assertion, the SCEA appropriately assessed construction noise and correctly determined these impacts would be less than significant (see SCEA pages IV-136 through IV-142).

As stated in the SCEA, construction noise impacts would be significant if the Project violates Section 41.40 of the Los Angeles Municipal Code (LAMC), which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. The Project would be consistent with Section 41.40 of the LAMC, and the Project would have no impact to any persons during sensitive nighttime hours.

In addition, construction noise impacts would be significant if, as indicated in LAMC Section 112.05, noise from construction equipment within 500 feet of a residential zone exceeds 75 A-weighted decibels (dBA) at a distance of 50 feet from the noise source. As stated in the SCEA, the Project Site is not located within 500 feet of a residential zone, and these noise limitations are not applicable to the Project. Furthermore, the City does not have adopted thresholds of significance for construction noise levels. The SCEA included construction noise estimates consistent with methodology established by the Federal Transit Administration (FTA).² Construction noise levels were estimated at nearby sensitive receptors with the use of the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM). Consistent with FTA guidance, the SCEA calculated construction noise with the use of FTA reference noise levels

² Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*. September 2018.

(dBA Lmax) for construction equipment and presented the anticipated construction noise levels in dBA Leq. As stated by the FTA, this unit is appropriate because Leq can be used to describe noise levels from operation of each piece of equipment separately, and levels can be combined to represent the noise level from all equipment operating during a given period. Thus, the SCEA's methodology for calculating construction noise is supported by substantial evidence. Though not required, the construction noise levels identified in the SCEA were compared to the 75 dBA standard established in the LAMC for projects within 500 feet of residential zones. As shown in the SCEA, anticipated construction noise levels would not exceed the LAMC standard. It should also be noted that the SCEA's estimated construction noise levels would also not exceed the FTA's daytime construction noise criteria of 90 dBA Leq (1-hour) for residential uses. The LAMC and FTA standards represent appropriate absolute noise levels that are intended to protect human health. As it is clear that the Project would not have the potential to generate construction noise levels that exceed standards established to protect human health and no construction noise would occur during sensitive nighttime hours, the SCEA's impact determination is supported by substantial evidence and no further response is required.

MEMORANDUM

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Los Angeles City Planning

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Impact Sciences, Inc.

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Prior to acting on the Sustainable Communities Environmental Assessment, the lead agency shall consider all comments received.

Notwithstanding the above, this Memorandum dated July 11, 2023, prepared by Impact Sciences and reviewed by the Applicant's Counsel, was submitted to the City providing Responses to the Comments received on the SCEA by Adams et al/CREED LA. This Memorandum is available on the City's website as part of City Planning file No. CPC-2022-1048-DB-HCA,¹ and will be provided to the members of the City Planning Commission for their consideration prior to their hearing on July 13, 2023, to consider Project approval.

The following information is provided for the record in response to the Adams et al/CREED LA letter dated July 10, 2023.

Response 1: The Project's Inclusion of a Backup Generator is Not Significant New Information

The Adams et al/CREED LA letter dated July 10, 2023, asserts that the SCEA failed to include back-up generator emissions in its air quality. Courts have explained that a complete description of a project must "address not only the immediate environmental consequences of going forward with the project, but also all "reasonably foreseeable consequence[s] of the initial project." The commenter further asserts that the use of the back-up generator is a "reasonably foreseeable consequence" of the Project due to the Project's design and because of increasingly common Public Safety Power Shutoff events and extreme heat events.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, the Project Applicant has confirmed the Project will include a backup generator and fire pump as required by California Building Code (CBC) Sections 403 (High Rise Buildings), 403.3.2 (Water Supply for Fire Pumps) and 403.4.8 (Standby and Emergency Power). The comment asserts that these sources were not accounted for in the SCEA's air quality analysis, and therefore the SCEA's significance finding is not supported by substantial evidence. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the Project's air quality emissions would exceed any thresholds of

¹ Available on Los Angeles City Planning's website at:
<https://planning.lacity.org/pdiscaseinfo/search/encoded/MjU1MTE20>.

significance nor does it substantiate a reasonably foreseeable scenario in which impacts would be potentially significant.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, regarding the backup generator, it is anticipated that the Project will include a 250kW diesel generator with particulate matter filter capable of reducing emissions by 85 percent.² The backup generator will only operate to provide power to life-safety equipment during emergencies. It will not be used to fully power residences for typical daily living usage during the types of power-outages cited in the comment. Thus, the generator would not be considered a regular or substantive source of air quality emissions. Furthermore, as the types of emergencies cited are unpredictable as to both timing and duration, and atypical for operations, any analysis attempting to quantify air quality emissions and associated health effects would be entirely speculative and beyond the scope of environmental review required by CEQA. In addition, the fire pump to be engaged only during times of fire emergencies, would be an all-electric fire pump. Thus, because the fire pump will not use diesel or other combustible fuels, it will not generate any on-site air quality emissions.

For these reasons, the backup generator and the fire pump do not have the potential to generate a significant operational air quality impact and the SCEA's impact determination is supported by substantial evidence.

In addition, the comment claims that based on Court findings in ***East Oakland Stadium Alliance v. City of Oakland*** 'analysis of emissions from backup generators' should have been performed. However, the proposed Oakland Waterfront Ballpark District Project (OWBD Project) analyzed in the EIR that is the subject of the legal challenge is a vastly larger and more complex project than the Found Residences Project. The OWBD Project is the redevelopment of a 50-acre site with a 35,000 seat ballpark, 3,000 residential units, 270,000 square feet of retail space, 1.5 million square feet of space for other commercial uses, a performance venue, and up to 400 hotel rooms. There will be parking for 8,900 vehicles, and nearly 20 acres will be set aside as publicly accessible open space. As discussed in the Court's findings, the EIR's air quality analysis "conservatively" assumed that the project would include 17 new emergency generators, one each at the ballpark and the mixed-use buildings. In contrast, the Found Residences Project proposes an infill development on a an approximately 15,022 square foot (0.35 acre) site. The proposed 45-unit, 15-story multi-family residential building will include one emergency generator as required

² Miratech, CARB Verified DOC/DPF System Specifications (Model Number LTRV6-6-05-XR1); provided by Project Applicant.

by CBC Section 403 to be used during power outages to preserve life safety functions in the building.

In addition, as stated in the Court's finding, " 'CEQA requires that an EIR make "a good faith effort at full disclosure." [Citation.] "An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." ' ' " (Save the El Dorado Canal v. El Dorado Irrigation Dist. (2022) 75 Cal.App.5th 239, 264 (El Dorado.) An EIR "is required to study only reasonably foreseeable consequences of" a project. (High Sierra Rural Alliance v. County of Plumas (2018) 29 Cal.App.5th 102, 125.) **"CEQA does not require an agency to assume an unlikely worst-case scenario in its environmental analysis."** (Id. at p. 126.)

Further, according to *State CEQA Guidelines* Section 15204(a):

CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made...

The SCEA appropriately assessed operational air quality and correctly determined these impacts would be less than significant (see SCEA pages IV-40 through IV-46). As stated therein, the Project is a 45-unit residential development with 6,456 square feet of common open space. According to the SCAQMD, localized operational air quality emissions are of primary concern for projects with substantial stationary sources or facilities that attract mobile sources that may spend long periods queuing and idling at the site (e.g., warehouse or transfer facilities).³ As discussed above, the Project would not generate substantive on-site air quality emissions associated with the operation of the code-required backup generator. As such, it is clear the Project does not include either the type or volume of air quality source emissions that have the potential to cause significant air quality or long-term health risks. The SCEA's determination that air quality and health risks would be less than significant is substantiated and no further response is required.

³ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-1st-methodology-document.pdf>, accessed May 1, 2023.

Response 2: Provision of Information Related to Construction Noise and Vibration Analysis is Adequate

The Adams et al/CREED LA letter dated July 10, 2023, asserts that the SCEA failed to adequately analyze and mitigate temporary noise and vibration levels during construction of the Project. Contrary to this assertion, the SCEA appropriately assessed construction noise and vibration and correctly determined these impacts would be less than significant (see SCEA pages IV-136 through IV-142, and pages IV-144 through IV-147).

As stated in the SCEA, construction noise impacts would be significant if the Project violates Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. The Project would be consistent with Section 41.40 of the LAMC, and the Project would have no impact to any persons during sensitive nighttime hours.

In addition, construction noise impacts would be significant if, as indicated in LAMC Section 112.05, noise from construction equipment within 500 feet of a residential zone exceeds 75 A-weighted decibels (dBA) at a distance of 50 feet from the noise source. As stated in the SCEA, the Project Site is not located within 500 feet of a residential zone, and these noise limitations are not applicable to the Project. Furthermore, the City does not have adopted thresholds of significance for construction noise levels. The SCEA included construction noise estimates consistent with methodology established by the Federal Transit Administration (FTA).⁴ Construction noise levels were estimated at nearby sensitive receptors with the use of the Federal Highway Administration (FHWA) Roadway Construction Noise Model (RCNM). Consistent with FTA guidance, the SCEA calculated construction noise with the use of FTA reference noise levels (dBA Lmax) for construction equipment and presented the anticipated construction noise levels in dBA Leq. As stated by the FTA, this unit is appropriate because Leq can be used to describe noise levels from operation of each piece of equipment separately, and levels can be combined to represent the noise level from all equipment operating during a given period. Thus, the SCEA's methodology for calculating construction noise is supported by substantial evidence. Though not required, the construction noise levels identified in the SCEA were compared to the 75 dBA standard established in the LAMC for projects within 500 feet of residential zones. As shown in the SCEA, anticipated construction noise levels would not exceed the LAMC standard. It should also be noted that the SCEA's estimated construction noise levels would also not exceed the

⁴ Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*. September 2018.

FTA's daytime construction noise criteria of 90 dBA Leq (1-hour) for residential uses. The LAMC and FTA standards represent appropriate absolute noise levels that are intended to protect human health. As it is clear that the Project would not have the potential to generate construction noise levels that exceed standards established to protect human health and no construction noise would occur during sensitive nighttime hours, the SCEA's impact determination is supported by substantial evidence and no further response is required.

With respect to construction vibration impacts (annoyance), the Project would be consistent with Section 41.40 of the LAMC, which prohibits construction activity from occurring between 9:00 PM and 7:00 AM Monday through Friday, and between 6:00 PM and 8:00 AM on Saturday. This is intended to protect persons occupying sleeping quarters in any hotel, apartment, or other place of residence. As such, the Project would have no construction vibration impact to any persons during sensitive nighttime hours. Neither the LAMC nor the Department of City Planning have adopted construction vibration thresholds of significance for human annoyance. Similar to construction noise, construction vibration is reasonably anticipated in an urban environment, like that found in the Project area, and such vibration levels would not result in health impacts or substantially affect the activities of the general public during daytime hours. Further, due to the sensitive nature of the on-site historic resources to be preserved, in order to protect these resources mitigation measures MM CUL-4 and MM NOI-2 would require that a structural monitoring program be implemented and recorded during construction to ensure that ground borne vibration levels do not exceed 0.12 inches per second, peak particle velocity (PPV). For these reasons, the SCEA's impact determination is supported by substantial evidence and no further response is required.

MEMORANDUM

To: More Song, City Planner
Los Angeles City Planning

From: Lynn Kaufman, CLA, Associate Principal
Impact Sciences, Inc.

Subject: Responses to Comments made by Adams Broadwell Joseph & Cardozo/CREED
LA dated July 10, 2023, regarding the CEQA analysis for the Found Residences
Project

Date: July 11, 2023

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As previously discussed in Impact Sciences' Memo dated May 2, 2023, the Project Applicant has confirmed the Project will include a backup generator and fire pump as required by CBC Sections 403, 403.3.2 and 403.4.8. The comment asserts that these sources were not accounted for in the SCEA's air quality analysis, and therefore the SCEA's significance finding is not supported by substantial evidence. It is important to note that the comment only contends that the SCEA's impact determination was not based on substantial evidence; it does not provide any calculations or evidence that the Project's air quality emissions would exceed any thresholds of significance nor does it substantiate a reasonably foreseeable scenario in which impacts would be potentially significant.

As previously discussed in Impact Sciences' Memo dated May 2, 2023, regarding the backup generator, it is anticipated that backup generator will only operate to provide power to life-safety equipment during emergencies. Thus, the generator would not be considered a regular or substantive source of air quality emissions. Furthermore, as the types of emergencies cited are unpredictable as to both timing and duration, and atypical for operations, any analysis attempting to quantify air quality emissions and associated health effects would be entirely speculative and beyond the scope of environmental review required by CEQA.

For these reasons, the backup generator and the fire pump do not have the potential to generate a significant operational air quality impact and the SCEA's impact determination is supported by substantial evidence.

In addition, the comment claims that based on Court findings in *East Oakland Stadium Alliance v. City of Oakland* 'analysis of emissions from backup generators' should have been performed. However, the proposed Oakland Waterfront Ballpark District Project (OWBD Project) analyzed in the EIR that is the subject of the legal challenge is a vastly larger and more complex project than the Found Residences Project. The OWBD Project is the redevelopment of a 50-acre site with a 35,000 seat ballpark, 3,000 residential units, 270,000 square feet of retail space, 1.5 million square feet of space for other commercial uses, a performance venue, and up to 400 hotel rooms. There will be parking for 8,900 vehicles, and nearly 20 acres will be set aside as publicly accessible open space. As discussed in the Court's findings, the EIR's air quality analysis "conservatively" assumed that the project would include 17 new emergency generators, one each at the ballpark and the mixed-use buildings. In contrast, the Found Residences Project proposes an infill development on a an approximately 15,022 square foot (0.35 acre) site. The proposed 45-unit, 15-story multi-family residential building will include one emergency generator as required by CBC Section 403 to be used during power outages to preserve life safety functions in the building.

In addition, as stated in the Court's finding, " 'CEQA requires that an EIR make "a good faith effort at full disclosure." [Citation.] "An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make

a decision which intelligently takes account of environmental consequences.” ’ ’ (Save the El Dorado Canal v. El Dorado Irrigation Dist. (2022) 75 Cal.App.5th 239, 264 (El Dorado.) An EIR “is required to study only reasonably foreseeable consequences of” a project. (High Sierra Rural Alliance v. County of Plumas (2018) 29 Cal.App.5th 102, 125.) **“CEQA does not require an agency to assume an unlikely worst-case scenario in its environmental analysis.” (Id. at p. 126.)**

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¹ SCAQMD, *Final Localized Significance Methodology*, Revised July 2008. Available online at: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-1st-methodology-document.pdf>, accessed May 1, 2023.