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May 17, 2021

Via Electronic Mail Only

Ms. Joan Zatopek
Aviation Planning and Development Manager
530 Water St, Oakland, CA 94607
jzatopek@portoakland.com

Re: Request for Public Records (Gov. Code secs. 6250 et seq.)

Dear Joan:

Pursuant to the California Public Records Act (“PRA”), Government Code Sections 6250 et seq., and the amendments to the California Constitution provided by Proposition 59, we request that Oakland International Airport (“OAK”) provide us with the following documents:

1. All documents containing drawings depicting any element(s) of the “Oakland International Airport Terminal Development Project” as that project is described in the Notice of Preparation issued by OAK on May 7, 2021 (“OAK Terminal Development Project”). *The time period for this request is from January 1, 2018 through the present.*
2. Any communications sent or received between OAK staff, contractors, employees or agents and representatives of Southwest Airlines in connection with aviation forecasts and/or future development plans for OAK (including the OAK Terminal Development Project). *This request is intended as an update to our prior request dated November 5, 2020. The time period for this request is from November 5, 2020 through the present. Please be sure to include in your response all document related to the following April 16, 2020 email, which was previously produced by OAK in response to our request dated November 5, 2020:*

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From: Bryant L. Francis
Sent: Thursday, April 16, 2020 8:46 PM
To: Randy Gillespie <Randy.Gillespie@wnco.com>
Subject: Backburner thoughts which remain on simmer..

Randy,

This is the last thing either of us can think much about at the moment, but I still need to update you on some related things. Obviously our plan to meet last month didn't happen and our world has gotten even more dark since then. During the call Sara and I had with you, David, and Steve, he closed with the statement that the future outlook for OAK remains the same. We continue to work behind the scenes to prepare for a return to the Board. However, we have pushed this timeline back to September instead of June, because we hope to have the opportunity to return to the table with you guys over the summer.

If we do not proceed in the early fall, we're faced with several risks and related delays. They include:

- the need to redo much of the forecast work which has already been conducted with a likely \$1 million cost and around 9-months to complete.
- require changing the base year from 2019 to 2020, resulting in a much steeper impact between no project and project and potentially the amount of mitigation required. That work couldn't begin until end of 1Q21 because we would need to wait until 2020 numbers are final.
- the need to re-engage the FAA (we very much have their attention now and a fairly simple path to get their ok on the variance between our forecast and theirs).
- the fact that Ricondo may back out of the work because they were selected in 2018...we will then have to redo that process.
- there is a strong likelihood that a longer delay will trigger a Master Plan process, which is far more involved and lengthy in duration than a focus on a specific project in the current document.

Without that last point being factored in, anything beyond going to the Board in the early Fall will mean about 15-18 months of additional delay, pushing us back to starting in 2022. With factoring in the triggering of a Master Plan because of the delay, it would likely increase that delay to 24-30 months, meaning 2023 start.

Can you conceive of us connecting in the early summer to see how we can align, which would allow time to introduce something to the other carriers and go to the Board in early Fall as currently planned? Or, do you think that the current landscape and its uncertainty is very likely to derail any opportunity for that engagement to occur and we are automatically pushing back the timeline which guarantees a 2022-2023 start?

Thoughts?

Bryant

3. Any communications sent or received between OAK staff, contractors, employees or agents and representatives of airlines other than Southwest Airlines in connection with the OAK Terminal Development Project. *The time period for this request is from January 1, 2018 through the present.*
4. Any communications sent or received between OAK staff, contractors, employees or agents and representatives of the Federal Aviation Administration in connection with the OAK Terminal Development Project. *The time period for this request is from January 1, 2018 through the present.*
5. Any communications sent or received between OAK staff, contractors, employees or agents and representatives of any freighter and/or belly cargo operators in

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connection with the OAK Terminal Development Project. To assist you in responding to this request, we note that the Notice of Preparation issued by OAK on May 7, 2021 states, in relevant part (emphasis added): “Cargo and Support Facilities. In order to accommodate the new terminal footprint, existing facilities need to be demolished and relocated, *including freighter and belly cargo*, public parking, and airline provisioning. **Replacement facilities for freighter and belly cargo would be relocated within the Terminal Area near Ron Cowan Parkway, which would require demolition of the existing Oakland Maintenance Center (OMC) Hangar and relocation of employee parking.** The OMC would not be replaced. Public and employee parking would be relocated to the parking areas shown on Figure 3. Replacement facilities for airline provisioning and catering buildings and a new consolidated receiving and distribution center would be constructed northeast of the existing main parking lot. The existing fuel system, and potentially the fuel farm, would require expansion and upgrades to support the new terminal.” *The time period for this request is from January 1, 2018 through the present.*

6. Any documents related to OAK’s decision to proceed with the OAK Terminal Development Project without undertaking a Master Plan update. To assist you in responding to this request, we note that the April 16, 2020 email previously produced by OAK in response to our prior request dated November 5, 2020 states, in relevant part, “There is a strong likelihood that a longer delay will trigger a Master Plan process, which is far more involved in lengthy in duration than a focus on a specific project in the current document.” *The time period for this request is from January 1, 2018 through the present.*

Government Code section 6252 (e) and (g) broadly define the records and writings to be disclosed under the Public Records Act. The term “records” includes, but is not limited to, letters, memoranda, electronic mail and data, memoranda to files, and any other correspondence sent or received, or other information that would be an agency record subject to the requirements of the PRA when maintained by an agency in any format, including an electronic format. In this request, “communication” includes, but is not limited to, written correspondence, facsimile, e-mail, text messages, agendas for calls and in-person conversations, and records of calls and in-person conversations, or notes of such communications.

Pursuant to the Public Records Act, please make a determination on and respond to this request within 10 days of your receipt of it. Gov’t Code § 6256. If you determine that any of the information is exempt from disclosure under the PRA, I ask that you

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ensure that your determination is consistent with Proposition 59, enacted on November 3, 2004, which amended the state Constitution to require that all exemptions from disclosure of public records be “narrowly construed.” Cal. Const. Art. I, § 3(b)(2).

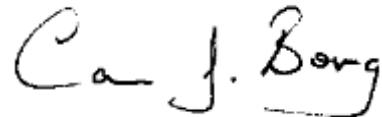
If you nonetheless determine that the requested record is subject to an exemption, I further request that: (1) you exercise your discretion to disclose the record notwithstanding the exemption; or (2) pursuant to Government Code section 6253(c), you provide a written response describing the legal authority or authorities on which you rely.

If any of the requested records are currently in electronic format, we request electronic transmission of these records. These electronic records may be placed on an FTP site or mailed on a CD to the above address. Please also notify me of the direct cost of making any paper copies of the requested records before such copies are made. *See Gov’t Code § 6253(d)* (fees may only be charged for the direct costs of duplication).

If I can provide any other clarification that will help expedite your attention to this request, please contact me at (415) 552-7272 or borg@smwlaw.com. *See Gov’t Code § 6253.1* (requiring public agency to contact and provide assistance to members of the public making a request that may be denied).

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Carmen Borg, Urban Planner, AICP

cc: Catrina Fobian, Deputy Port Attorney, Port of Oakland
Osa Wolff, Attorney for CLASS
Matt Pourfarzaneh, President, CLASS

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