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Submitted electronically & via email - cliang@portoakland.com & TermDev@portoakland.com

Port of Oakland
Environmental Programs and Planning Division
Colleen Liang
530 Water Street
Oakland, CA 94607

RE: Draft EIR Comments; OAK Terminal Modernization & Development Project

Dear Ms. Liang,

On behalf of Service Employees International Union, United Service Workers West ("USWW" or "SEIU USWW"), we submit the following comments regarding the Draft Environmental Impact Report ("DEIR") for Oakland International Airport's Terminal Modernization and Development Project (the "Project", SCH No. 2021050164).

SEIU USWW represents nearly 45,000 janitors, security officers, entertainment & stadium workers across California, including thousands of workers at LAX, SFO and other airports throughout the state, including OAK. Our membership primarily consists of workers within low-wage industries, including aviation. Many of our members reside in communities near major airports and within their flight paths. For decades, our members, their families and these communities - largely Black and Brown - have endured exposure from an array of toxic pollutants produced by airport operations, adding on to the decades of environmental racism these cities and neighborhoods have faced from other sources. At work our members' breathe in these toxins at a level far above what others endure. Additionally, our union's largest office in Northern California is on Bay Farm Island right next to OAK, where staff and our members are reminded every few minutes of the consistent flight activity at this airport.

USWW recognizes the detrimental health impacts on our membership and communities produced by commercial aviation's dependency on fossil fuel consumption. For years, we've fought to raise industry standards at the bargaining table, but more recently have been expanding our commitment to confronting the environmental racism and inequity that our members and their communities face as a result of this industry's ever-expanding operations and superficial efforts on issues of sustainability.

The Draft Environmental Impact Report associated with this Project is deeply flawed in a number of ways we will explore in this comment letter. The Terminal Modernization and Development Project, as proposed, stands to have significant harmful impacts on our members, their communities, East Bay cities and the region. We hope to see the Port take these issues seriously and make considerable effort to ensure that it approaches development responsibly and equitably - or not at all.

1) **The Significant and Unavoidable Adverse Impacts Laid Out in the DEIR Disproportionately Harm Airport Workers & Communities Around the Airport**

The Draft EIR for this Project acknowledges three significant and unavoidable adverse impacts stemming from increased aviation activity and the airport's operations:

- Emissions of nitrogen oxides (NO_x) and reactive organic gasses (ROG).
- 8-hour chronic non-cancer human health hazard effects for on-airport workers.
- Greenhouse gas (GHG) emissions.

All of these impacts stand to disproportionately harm airport workers and communities near the airport who are most exposed to emissions from OAK operations.

These groups are the most direct and significant stakeholders in a project of this type - particularly the on-airport workers who live in the same frontline communities around Oakland International Airport. They are first in line for the harmful consequences of major developments like this one while receiving few of the Project's benefits. They are exposed to hazardous emissions at their workplace, only to go home for more of the same. Further still, commercial airlines turn their profits toward actively undermining the standards of the workers most affected by their activity. Trade groups like Airlines for America sue over and lobby against living wage standards¹, sick leave², and healthcare³ for the subcontracted, low-wage workers essential to the industry. Commercial airlines contribute to serious health problems for workers, their families and their communities and then the airlines spend their resources attacking the very tools these groups have to cope with those health outcomes. Every major domestic airline is a member of Airlines for America, including Southwest, who possess about 80% market share⁴ in Oakland's airport and whose business plans are key to the rationale for this Project.

This Project as it is currently proposed and the DEIR as currently written both fall woefully short of offering adequate redress to OAK's most vulnerable stakeholders, while doing an excellent job of advancing the stated business interests of the airport's most dominant carrier. The Port of Oakland and the City need to do much better than declaring these significant and adverse health impacts unavoidable while offering mitigation measures that are marginal at best.

2) **DEIR Regards Projected Growth in Activity at OAK as Inevitable Regardless of Expansion, Ignores Growth-Inducing Impact of a Project that Inherently Expands OAK's Operational Capacity**

One of the more confounding elements of this Project's DEIR is the position that the projected "*increase in passengers would occur whether or not a replacement passenger terminal is developed.*"⁵ The Project objectives go so far as to acknowledge that the Project is intended to allow the airport to "*accommodate the market-based demand,*" but the airport paradoxically argues in the DEIR that the increased demand would be met regardless of the expansion project.

¹ Re: Motion #15-0817-S1 on Living Wage at LAX, Airlines for America, City of LA Council File No. 15-0217-51, 09/19/17; *Chicago Sun Times*, "\$13.45-an-hour wage cleared for takeoff at O'Hare, Midway Airports," 09/06/17; RE: Supplemental Comments Regarding Proposed Minimum Wage Mandate, Airlines for America, Port Authority of NY & NJ, 07/27/2018; Rosenberg, Mica. "U.S. Airlines Sue Port of Seattle over Airport Workers Wage Hikes." Reuters. 11/11/14

² *Courthouse News Service*, "Airlines Call Out Massachusetts Sick-Leave Law," 04/05/18

³ *Reuters*, "San Francisco must face legal challenge to airline health insurance mandate," 8/29/23; *Legal Newsline*, "Airlines say new San Francisco law goes too far," 04/08/21

⁴ Bureau of Transportation Statistics, TranStats for Oakland International Airport (OAK), Data for June 2023

⁵ Port of Oakland, "Oakland International Airport Terminal Modernization and Development Project," DEIR, 5.3.2 (pg. 447)

To be clear, Oakland International Airport's aviation activity forecasts predict a **31% increase in annual passengers by 2028** and an **84% increase by 2038**.⁶ This would go alongside a 21% jump in air cargo tonnage by 2028 and a 38% increase by 2038.

The EIR claims that existing terminals at OAK "*were designed to accommodate an estimated 8 to 10 million annual passengers,*" then noting that "*more than 13 million annual passengers*" traveled through OAK in 2019.⁷ Very simply, it defies common sense that a Project set to add a third terminal to a two-terminal airport, and up to 16 new gates to a 29 gate airport would somehow not increase the operational capacity at that airport or affect the number of passengers going through an airport already well above intended capacity.

3) Reliance on Only "Unconstrained" Growth Forecasts is a Fatal Flaw in the EIR, Leaving the Public with No Way to Evaluate Airport's Claims that Project Would Not Increase Flights & No Sense of the Project's True Impact

The DEIR for this Project relies exclusively on "*unconstrained*" forecasts of activity and operations at OAK⁸, and the forecast report cited specifically does not "*take facility constraints or other outside limiting factors into consideration.*"⁹ That report explains that "*the forecast assumes facilities can accommodate the projected demand.*" This is a rather astonishing admission, as it means this Project assumes as a baseline the very conditions that wouldn't be fulfilled without it, then uses those conditions to justify its own creation.

Without any kind of forecasts that attempt to estimate passenger activity, cargo activity, or flight operations in a scenario where the proposed Project does not exist, it becomes impossible to actually evaluate one of the most important claims being made in this DEIR: that the OAK Terminal Modernization and Development Project would have no growth-inducing effect on the airport.

This is a fatal flaw in the EIR, leaving the public with no idea what levels of flight activity would take place at OAK 5 or 15 years from now if the existing terminal facilities - already well over capacity - had the effect of limiting activity at the airport. A true "no Project" scenario is never really considered in this EIR, and without a legitimate baseline in flight activity to compare against, the actual impact of the Terminal Modernization and Development Project is not known, and the impact laid out in this DEIR is significantly understated.

a) "Market-based" Demand Being Used to Justify Expansion is Coming from Southwest Airlines' Deliberate Choice to Concentrate Growth at OAK

Throughout the DEIR, the Port asserts that accommodating the "*market-based*" demand is a core objective of the Project.¹⁰ This makes it seem as if this is a force external to the airport, and that OAK has no choice but to push forward a massive expansion so that it can properly serve the significantly growing passenger demand that will happen with or without the Project.

⁶ Port of Oakland, "Oakland International Airport Terminal Modernization and Development Project," DEIR, 2.4 (pg. 59)

⁷ Port of Oakland, "Oakland International Airport Terminal Modernization and Development Project," DEIR, 2.5.2 (pg. 61)

⁸ OAK Comprehensive Aviation Activity Forecast Report, 7/28/20, Updated 7/2022 (pg. 11)

⁹ OAK Comprehensive Aviation Activity Forecast Report, 7/28/20, Updated 7/2022 (pg. 11)

¹⁰ Port of Oakland, "Oakland International Airport Terminal Modernization and Development Project," DEIR, 2.5 (pg. 60)

This framing - central to the rationale behind the Project - is highly misleading, however. In the Comprehensive Aviation Activity Forecast Report that underpins so much of the DEIR, the Port acknowledges that “*Southwest’s continued growth is vital to the airport’s overall growth*,”¹¹ and that OAK’s flight activity projections were based in part on “*Southwest Airlines commitment to the airport and specific plans for growth at OAK*.”¹²

This Project is not, in actuality, an attempt by the Port to ensure that OAK can comfortably accommodate inevitable demand. This Project is an attempt to accommodate a single airline’s deliberate choice to further concentrate its growth in the region at OAK. This is a business decision being made by a corporation whose objective is to maximize profit. While this is an expected motivation for Southwest Airlines, it’s not nearly a compelling enough reason to justify a development of this scale and the considerable negative impacts it will have on airport workers and communities around OAK - especially when the Port is doing so little to adequately mitigate those impacts.

4) Mitigation Outlined in the DEIR is Inadequate, Planned Project Fails to Consider Feasible Measures that Were Part of Recent & Comparable Airport Expansion

The mitigation currently proposed in this project is entirely inadequate, and the airport far too easily dismisses the significant health and air quality effects of the development as unavoidable, indirectly referencing federal preemption in the aviation industry by noting that “*the Port does not have the authority to regulate*”¹³ emissions from aircraft operations. The only mitigation laid out for the “*significant and unavoidable*” air quality and adverse health impacts associated with this Project is the use of electrical infrastructure for the terminal and cargo areas that would be built or relocated as part of this development.

This is a profound and disappointing lack of concern for the health of workers and OAK’s neighboring communities. In early 2022, Los Angeles World Airports (LAWA) agreed to a number of mitigation measures associated with the Los Angeles International Airport’s (LAX) own expansion project that OAK could explore without running afoul of industry deregulation:

- LAWA accelerated the timeline for its transition to electric or zero-emission ground support equipment (GSE) and committed funding to an incentive program that would encourage the earlier retirement of polluting diesel GSE.
- LAWA also accelerated by several years the implementation date for an electric-only purchase policy on its light-duty vehicle fleet, while also committing to plans to electrify or convert medium and heavy-duty fleet vehicles as commercially available.
- LAWA committed to the generation of 15% of its power from on-site renewable sources by 2035.
- LAWA updated the alternative fuel vehicle requirement program for vehicles that regularly serviced the airport.
- LAWA committed to participation in an independent study on the health impacts of aviation emissions on airport workers and on communities near LAX.

A significant portion of emissions associated with an airport’s operations are owed to ground vehicle trips to and from the airport, and LAWA also committed to a number of measures promoting further mass transportation at LAX, including:

¹¹ OAK Comprehensive Aviation Activity Forecast Report, 7/28/20, Updated 7/2022 (pg. 58)

¹² OAK Comprehensive Aviation Activity Forecast Report, 7/28/20, Updated 7/2022 (pg. 77)

¹³ Port of Oakland, “Oakland International Airport Terminal Modernization and Development Project,” DEIR, Table ES-2

- The development and funding of a micro-transit shuttle for LAX workers living in South Los Angeles and nearby Lennox.
- The establishment of a Carpool Parking Incentive Program for workers at LAX.
- Subsidized Metro passes for LAX workers (though OAK does offer discounted BART fares for badged employees already).

These are just recent examples from a single airport. The Port of Oakland can do significantly more to offset the adverse impacts associated with its proposed expansion than is currently being considered in the DEIR, and its failure to do so leaves it in violation of CEQA (§ 15126.4.(a)(1)).

5) DEIR Fails to Consider Recent State Measures Related to Aviation Emissions, Ignores Significant Steps Being Taken to Curb Aviation Emissions

The DEIR for this Project fails to consider a number of recent state measures related to aviation emissions, ignoring some of the most significant policy developments in that space in recent years. The airport's "Modernization" Project turns out to be anything but modern, and the development as proposed would permanently add growth-inducing infrastructure to OAK based on state policies that were outdated even before the DEIR was released.

a) Cites Outdated California Air Resources Board (CARB) Scoping Plan Despite Availability of Current Plan Months Before Release of DEIR, Avoiding Consideration of Latest Statewide Targets for Aviation Sector

In Chapter 3 of the DEIR, it is noted that the California Air Resources Board's 2022 Scoping Plan "does not include any language, targets, or measures related to aircraft emissions."¹⁴ This claim relies on an outdated Scoping Plan, as the Final 2022 plan, approved eight months before the release of this Project's DEIR, does in fact include language, targets and measures related to aircraft emissions.¹⁵

The 2022 Scoping Plan's targets for the aviation sector included:

"20% of aviation fuel demand is met by electricity (batteries) or hydrogen (fuel cells) in 2045.

*Sustainable aviation fuel meets most or the rest of the aviation fuel demand that has not already transitioned to hydrogen or batteries."*¹⁶

These updates were added in order to reduce demand for petroleum aviation fuel and to reduce GHGs, to help reduce emissions from sources covered by the statewide GHG inventory, and based on direction from Gov. Newsom to CARB Chair Liane Randolph. Even the Draft 2022 Scoping Plan update¹⁷, released over 14 months before publication of the DEIR, included language, targets and measures aimed at reducing emissions from aircraft. It was entirely possible to include this language in the DEIR, and the Port's failure to recognize or account for such an important update in policy directly concerning aviation emissions - the most significant and harmful impacts of the Project - is an egregious move.

¹⁴ Port of Oakland, "Oakland International Airport Terminal Modernization and Development Project," DEIR, 3.7-3

¹⁵ California Air Resources Board, 2022 Scoping Plan for Achieving Carbon Neutrality, December 2022

¹⁶ California Air Resources Board, 2022 Scoping Plan for Achieving Carbon Neutrality, Table 2-1, December 2022

¹⁷ California Air Resources Board, Draft 2022 Scoping Plan Update, Table 2-2, May 2022

b) Similarly Avoids Accounting for Significant Proposed Changes to Treatment of Conventional Fossil Jet Fuel under California's Low Carbon Fuel Standard (LCFS)

In a similar vein, this DEIR relies on a version of California's Low Carbon Fuel Standard that is already 4 years old, managing to avoid acknowledging that CARB's current proposal¹⁸ in the ongoing rulemaking for the LCFS contains some of the most significant changes to state policy on aviation emissions in modern history. Namely, the agency is seeking the addition of conventional fossil jet fuels as a deficit-generator in the market-based program, ending a longstanding exemption to the program's standards the industry has enjoyed for too long. This proposed change, if approved, could significantly alter the growth plans at OAK that Southwest currently has and which serve as a foundational rationale for this entire Project.

While the Port may not be required to consider proposed changes to state policy in the baseline being used for this DEIR, they should ask whether or not they would like to see this Project to be the last major airport expansion pushed through in California before the state finally caught up to commercial aviation and took steps to finally address the sector's outsized climate impact. This would be an ignoble distinction for OAK and the City of Oakland.

6) Conclusion

SEIU USWW urges the Port and City of Oakland to stay all action on this Project until the issues discussed in this comment letter are better addressed. As it stands, this DEIR has multiple serious flaws that prevent the public from gaining an accurate understanding of the true impact of this Project. The proposed mitigation is nowhere near adequate, even by the low and limited standards of recent airport expansions elsewhere in California. OAK has no obligation to permanently enshrine significant harms to its most vulnerable workers and neighboring communities for the sake of accommodating the business plans of a multi-billion dollar corporation still reliant almost entirely on polluting fossil fuels.

We appreciate the time spent in consideration of these comments, and ask that this letter be placed in the administrative record for the Project.

Sincerely,



David Huerta
President - SEIU United Service Workers West & SEIU California

¹⁸ California Air Resources Board, Standardized Regulatory Impact Assessment (SRIA), 9/8/23