



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT

Item No.
5

Meeting Date: **OCTOBER 4, 2012**

Subject:

Amend Authority Policy 8.30 – Airport Land Use Commission

Recommendation:

Adopt Resolution No. 2012-0106, amending Authority Policy 8.30 to provide policy clarifications to Airport Land Use Commission practices.

Background/Justification:

Airport Authority Policy 8.30 provides the operational practices for the Authority acting in its capacity as the Airport Land Use Commission (ALUC) for San Diego county pursuant to §21670.3 of the California Public Utilities Code. The policy is largely derived from that statute and has been revised periodically to conform to amended State mandates or to optimize Authority performance of the ALUC function.

The proposed amendment of Policy 8.30 would make the following five clarifications of policy, shown in ~~strikeout~~/underline, with justifications provided for each item.

CLARIFICATION 1:

POLICY 8.30 – AIRPORT LAND USE COMMISSION

PURPOSE: To implement the legislative directive for the Authority to: (i) coordinate the airport planning of public agencies within the County of San Diego, California (the "County"); and (ii) ~~prepare, adopt, and update~~ prepare, adopt, and update an "Airport Land Use Compatibility Plan" (as more fully defined in Appendix A, "ALUCP") for ~~County Airports on or before June 30, 2005~~ each public-use and military airport in the County by engaging in a public collaborative planning process.

Justification: *The Authority will engage in a public collaborative planning process when preparing and updating an Airport Land Use Compatibility Plan (ALUCP). This language conforms to a statutory amendment which replaced a previous deadline for ALUCP adoption.*

CLARIFICATION 2:

POLICY STATEMENT:

- (3) *Authority Review of Local Actions.*
- (b) *Authority Review Requirements.*

000038

(ii) *Other Actions Subject to Authority Review.*

- (B) Ministerial Permits. Ministerial permits which have implications for airport land use compatibility factors shall be subject to Authority review ~~prior to the adoption of an ALUCP for an Airport. After adopting an ALUCP, ministerial permits should continue to be submitted to the Authority for review, but only for an advisory review in the same manner as discretionary projects.~~

Justification: *Only local agency ministerial permits which have implications for airport land use compatibility factors shall be subject to ALUC review under the governing ALUCP. This language clarifies that not all ministerial permits require ALUC review or should be submitted for advisory ALUC review.*

CLARIFICATION 3:

(e) *Authority Project Review and Determination Process.* The Authority shall review applications for compliance with the criteria and policies set forth in the applicable ALUCP. The Authority may consider its own interpretive guidelines and past precedents. After review, the Authority's staff shall place the matter on the Board's agenda for the earliest possible Board meeting if the project does not qualify for staff review. The Authority's staff shall determine if the application can be put on the ~~information~~, consent or administrative calendar or whether it must receive a public hearing. The application may be placed on the ~~information~~, consent or administrative calendar if the Authority's staff determines that the project application is ~~consistent or~~ conditionally consistent with the applicable ALUCP. Such an application may be removed from the ~~information~~, consent or administrative calendar at the request of any interested party, member of the public or Board member. In such event, the application shall be heard at the same Board meeting or may be continued at a subsequent Board meeting by a vote of the Board. The application shall receive a public hearing prior to any determination by the Authority that the project application is inconsistent with the applicable ALUCP and notice of the public hearing shall be provided to the referring agency.

Justification: *Only staff recommendations of conditionally consistent determinations are reported for ALUC consideration and may be removed from a consent calendar of a Board agenda for alternative action or continuance by the Board acting as the ALUC. Inconsistent determinations are not eligible to be consent agenda items. This language clarifies that consistent determinations are made by ALUC staff and reported separately as an information item on the consent agenda, as already provided for by Policy (3.f).*

CLARIFICATION 4:(4) *Administrative Provisions.*(c) *Notices.*

- (i) ~~Local Agency Designation of Person(s) to Receive Notices.~~ Each Local Agency within the County shall designate in writing (addressed to the President/CEO) not more than two (2) employees, officers, or other representatives who makes

~~application for consistency determination review are authorized to shall~~ receive notices regarding action taken under the authority of this policy. ~~The notice also shall provide a mailing address and work telephone number and a telecopier number, for each designated person.~~

- (ii) *Delivery of Authority Notices.* Whenever the Authority provides written notice under this policy, the notice shall be mailed ~~sent~~ by electronic or first class mail, or by a next-day package delivery service, ~~or delivered by telecopier.~~
- (iii) *Effective Date of Notices Delivered by the Authority.* Whenever the Authority gives written notice under or concerning this policy by electronic mail or next-day package delivery service ~~and/or telecopier~~, the notice shall be deemed to have been received on the day it was transmitted ~~sent~~ by telecopier electronic mail, or, if given only by next-day package delivery service, on the following day on which the notice was delivered or given to a next-day package service for delivery. If the Authority gives notice only by depositing a copy of the notice in first class mails, the notice shall be deemed to have been received three (3) days after the date on which it was deposited in the United States mail.

Justification: *All local agency notices are sent to the project manager of record noted in the application submitted to the ALUC, and by electronic mail, in lieu of telecopier (fax) transmission. This language clarifies that notice is not restricted to only two representatives designated by the agency, and further provides for electronic mail as a more secure, direct means of delivery over shared fax transmittal.*

CLARIFICATION 5:

APPENDIX A

DEFINITIONS

"Airport" means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft. Included are any appurtenant areas that are used, or intended for use, for Airport buildings or any other Airport facilities or right-of-way, and all Airport buildings and facilities located thereon. Public-Use Airports, Special-Use Airports, Heliports, Helipads and Helistops and Airstrips shall be considered Airports for purposes of this policy.

~~**"Helipad"** means a small, designated area, usually with a prepared surface, on a heliport, Airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters. Included are any appurtenant areas, which are used, or intended for use, for helipad buildings or other helipad facilities or rights of way, and all helipad buildings and facilities located thereon.~~

~~**"Heliport"** means a facility used for operating, basing, housing and maintaining helicopters. Included are any appurtenant areas, which are used, or intended for use, for heliport buildings or other heliport facilities or rights of way and all heliport buildings and facilities located thereon.~~

~~"Helistop" means any area of land, water, or structure not designated as either a heliport or a helipad, which is used, or intended for use, for the landing and take-off of helicopters. Such areas generally provide only minimal facilities to accommodate helicopter landings and take-offs.~~

~~"Special-Use Airport" means an airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public services, and/or personal use.~~

Justification: *Special-use airports, helipads, heliports, and helistops are not considered airports subject to ALUC review. Only public-use and military airports are defined by statute and administrative guidance as within the land use compatibility planning scope of the ALUC. This language clarifies that private airports and helicopter-only facilities are not included and should not be considered as airports.*

Fiscal Impact:

ALUC functions are funded through the Airport Planning FY13 operating budget and adequate funds for the subject of this staff report are budgeted within personnel costs. There are no capital or other expenditures related to this matter and no revenue will be realized as income for budgeting purposes.

Authority Strategies:

This item supports one or more of the Authority Strategies, as follows:

Community Strategy Customer Strategy Employee Strategy Financial Strategy Operations Strategy

Environmental Review:

- A. This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. This Board action is not a "project" subject to CEQA. Pub. Res. Code §21065.
- B. This Board action is not a "development" as defined by the California Coastal Act. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

Prepared by:

KEITH WILSCHETZ
DIRECTOR, AIRPORT PLANNING

RESOLUTION NO. 2012-0106

A RESOLUTION OF THE BOARD OF THE
SAN DIEGO COUNTY REGIONAL AIRPORT
AUTHORITY, AMENDING AUTHORITY POLICY 8.30
TO PROVIDE POLICY CLARIFICATIONS TO
AIRPORT LAND USE COMMISSION PRACTICES

WHEREAS, the Legislature of the State of California designated the San Diego County Regional Airport Authority to serve as the Airport Land Use Commission for the County of San Diego and authorized the Authority to perform the Airport Land Use Commission functions ascribed thereto within the State Aeronautics Act; and

WHEREAS, the Authority adopted Policy 8.30 to implement the legislative directive for the Authority to coordinate the airport planning of public agencies within the County of San Diego and adopt an Airport Land Use Compatibility Plan for each public-use and military airport within the County; and

WHEREAS, Policy 8.30 has been revised periodically to conform to amended State mandates or to optimize Authority performance of the Airport Land Use Commission function; and

WHEREAS, the Board desires to make five policy clarifications by amending Policy 8.30 to reflect amended mandates or operational practices, to wit: (1) the Authority will engage in a public collaborative planning process when preparing and updating an Airport Land Use Compatibility Plan, (2) only local agency ministerial permits which have implications for airport land use compatibility factors shall be subject to Airport Land Use Commission review under the governing Airport Land Use Compatibility Plan, (3) only staff recommendations of conditionally consistent determinations are reported for Airport Land Use Commission consideration and may be removed from a consent calendar of a Board agenda for alternative action or continuance by the Board acting as the Airport Land Use Commission, (4) all local agency notices are sent by electronic mail to the project manager of record noted in the application submitted to the Airport Land Use Commission, and (5) special-use airports, helipads, heliports, and helistops are not considered airports subject to Airport Land Use Commission review.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the proposed amendments to Authority Policy 8.30 to provide policy clarifications to Airport Land Use Commission practices, as indicated in Attachment A; and

BE IT FURTHER RESOLVED that the Board finds that this Board action is not a "project" subject to the California Environmental Quality Act, as amended (Pub. Res. Code §21065), and is not a "development" as defined by the California Coastal Act (Pub. Res. Code §30106).

PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a regular meeting this 4th day of October, 2012, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

POLICIES

- ARTICLE 8 - GENERAL OPERATIONS**
PART 8.3 - STRATEGY AND PLANNING
SECTION 8.30 - AIRPORT LAND USE COMMISSION
-

PURPOSE: To implement the legislative directive for the Authority to: (i) coordinate the airport planning of public agencies within the County of San Diego, California (the “County”); and (ii) ~~adopt~~ prepare, adopt, and update an “Airport Land Use Compatibility Plan” (as more fully defined in Appendix A, “ALUCP”) for ~~County Airports on or before June 30, 2005~~ each public-use and military airport in the County by engaging in a public collaborative planning process.

POLICY STATEMENT:

(1) General Provisions.

(a) Defined Terms. All capitalized terms not otherwise defined in the body of this policy shall have the corresponding meanings set forth in Appendix A.

(b) Authority. The San Diego County Regional Airport Authority (the “**Authority**”), is acting in its capacity as the Airport Land Use Commission (“**ALUC**”) for the County, as provided by §21670.3 of the California Public Utilities Code (“**P.U.C.**”). The Authority has adopted this policy in recognition of its governmental obligations under the laws of the State of California, which designate the Authority as the proper Local Agency in the County to protect public health, safety and welfare by ensuring the orderly expansion of Airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports, to the extent that these areas are not already devoted to incompatible uses consistent with P.U.C. §21670.3.

(c) Powers and Duties. The Authority has the following powers and duties, subject to the limitations upon its jurisdiction as set forth in P.U.C. §21676:

(i) To assist Local Agencies in ensuring compatible land uses in the vicinity of all new Airports and in the vicinity of existing Airports to the extent that the land in the vicinity of those Airports is not already devoted to incompatible uses;

(ii) To coordinate planning at the state, regional and local levels, so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety and welfare;

(iii) To prepare and adopt an ALUCP for each airport in the County, pursuant to the requirements of P.U.C. §21670.3 and §21675. Any ALUCP developed pursuant to

§21675 and adopted pursuant to §21675.1 by the San Diego Association of Governments shall remain in effect until the Authority adopts a new ALUCP for the respective airport; and

(iv) To review the plans, regulations and other actions of Local Agencies and Airport Operators pursuant to the requirements of P.U.C. §21670.3 and §21676.

(d) Conflicts of Interest. Any member of the Authority's Board (the "Board") shall temporarily disqualify himself or herself from participating in the review or adoption of a proposal or ALUCP, if there is a conflict of interest pursuant to P.U.C. §21672, other applicable state law, and/or a violation or potential violation of the Authority's Conflicts of Interest Code.

(e) Schedule of Fees. The Authority may establish a schedule of fees necessary to comply with Article 3.5 of Division 9 of the P.U.C. Those fees shall be charged to the proponents of actions, regulations or permits and shall not exceed the estimated reasonable cost of providing the service. The fees shall be imposed pursuant to Gov. Code §66016. The Authority may not charge fees for actions in connection with any Airport that does not have an adopted ALUCP.

(f) Amendments, Termination or Suspension. This policy may be amended, terminated or suspended only by official and duly noticed action of the Board. The Board may, in its sole and exclusive exercise of its full legislative discretion, amend, terminate, or suspend this policy at any time.

(g) Partial Invalidity. In the event that any court of competent jurisdiction determines that any portion or provision of this policy is invalid, illegal or unenforceable, or temporarily enjoins enforcement or application of any portion or provision of this policy, all other provisions of this policy shall remain enforceable and in effect unless and until revoked, suspended or modified by the Authority.

(h) No Waiver or Creation of Implied Policy of Enforcement. Neither any (i) failure of the Authority to take any act or action in strict enforcement of this policy, inadvertent or otherwise, nor (ii) affirmative waiver of enforcement of this policy by the Authority in a specific instance after consideration of special requests or circumstances, shall be deemed to constitute the establishment of any express or implied policy of the Authority in the enforcement or non-enforcement of this policy, and shall not be relied upon by any person in making any determination, or taking any action, in violation of any provision of this policy.

(2) Airport Land Use Compatibility Plan.

(a) Purpose of Airport Land Use Compatibility Plan. The ALUCP is the fundamental tool used by the Authority in fulfilling its purpose of promoting Airport land use compatibility. Specifically, compatibility plans have two purposes: (i) to provide for the orderly growth of each Airport and the area surrounding each Airport within the jurisdiction of the Authority; and (ii) to safeguard the general welfare of the inhabitants within the vicinity of each Airport within the jurisdiction of the Authority and the public in general.

(b) Preparation of Airport Land Use Compatibility Plan. The Authority shall be responsible for the preparation of an ALUCP for each Airport within the County. The ALUCP shall provide for the orderly growth of each Airport and the area surrounding each Airport within the Authority's jurisdiction, and shall provide policies to safeguard the general welfare of the inhabitants within the vicinity of each Airport and the public in general, as required by P.U.C. §21675. The ALUCP that is adopted by the Authority shall include and shall be based on a long-range Master Plan or an Airport Layout Plan, where available, that reflects the anticipated growth of such Airport during at least the next twenty (20) years. In preparing an ALUCP, the Authority may develop height restrictions on buildings, specify use of land and determine building standards, including soundproofing adjacent to Airports within the planning area. The ALUCP also may identify where additions or changes to local jurisdictions' general and specific plans will be necessary. The ALUCP also should include a clear statement of compatibility criteria and Authority review procedures.

The Authority shall also include within the ALUCP the area within the jurisdiction of the Authority surrounding any military Airport for all of the purposes identified above. The ALUCP provisions shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone ("AICUZ") prepared for that military Airport. The Authority does not have, however, any jurisdiction or authority over the territory or operations of any military Airport.

The Authority shall submit to the Division of Aeronautics of the California Department of Transportation one (1) copy of the ALUCP and each amendment to the ALUCP.

(c) Amendments to Airport Land Use Compatibility Plan. The ALUCP shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year. For an ALUCP that pertains to more than one Airport in the County, this limitation allows separate amendments for the portion dealing with each individual Airport. Any policies applicable to all Airports in the Authority's jurisdiction shall be amended only once during a calendar year. Coordination with local jurisdictions shall be conducted prior to the approval of any ALUCP amendments.

A periodic review of the ALUCP shall be conducted in order to keep the ALUCP up to date with changes in state laws, local land uses, Airport development and activity, and current concepts for achieving noise and safety compatibility.

(d) Adoption of Airport Land Use Compatibility Plan and Amendments. The ALUCP and any amendments shall be approved and adopted by the Authority, and shall constitute the Authority's recommendation to the Local Agency for compatible land uses within the Airport Influence Area. Prior to adopting each ALUCP or amendment, the Authority shall engage in a public collaborative planning process and hold a public hearing consistent with this policy. [P.U.C. §21670.3(b)]

(3) Authority Review of Local Actions.

(a) Overview. One of the fundamental responsibilities of the Authority is the review of Local Agencies' land use plans, Airport plans and certain other land use projects and actions for compliance with the criteria and policies set forth in the applicable ALUCP. The process that the Authority shall follow for this review process depends upon the following three (3) factors: (i) the type of local action involved; (ii) whether a compatibility plan exists for the Airport; and (iii) what action the Local Agency has taken with regard to making its general plan consistent with the Authority's ALUCP.

(b) Authority Review Requirements. Local Agencies must refer certain actions to the Authority for review. Referral of other local actions, primarily individual development projects, is required in some instances, but voluntary in others.

(i) Actions For Which Authority Review Is Mandatory.

(A) General Plans and Specific Plans. Any proposal by a Local Agency to adopt a general plan or specific plan shall be referred to the Authority for review, if the boundaries of the plan are within the Airport Influence Area of an Airport, irrespective of whether an ALUCP has been adopted for the Airport. If an ALUCP has not been adopted, then the Airport Influence Area is defined to mean the study area for such plan or the land within two (2) miles of the Airport boundary pursuant to P.U.C. §21675.1(b). Amendments to such plans also shall be referred to the Authority, if the change affects locations within an Airport Influence Area. In such instances, referral shall take place prior to the Local Agency's action to adopt or amend the plan consistent with the requirements of P.U.C. §21676(b).

The requirement for submittal of general plans and specific plans exists regardless of whether a proposal is initiated by the Local Agency to adopt or amend a general or specific plan or whether a proposal is initiated based upon the requirement for the Local Agency's plans to be reviewed for consistency with an ALUCP that is newly adopted or amended by the Authority. California Gov. Code §65302.3 requires Local Agencies to either amend their general plans and any affected specific plan to be consistent with the Authority's ALUCP within one-hundred eighty (180) days of when the Authority adopted or amended its ALUCP, or take the steps necessary to overrule the Authority.

(B) Ordinances and Regulations. Authority review of Local Agency proposals to adopt or amend Zoning, building, and other land use ordinances and regulations shall be required in instances where those ordinances and regulations have implications for Airport land use noise or safety compatibility pursuant to the requirements of P.U.C. §21676(b).

(C) Airport Plans. The Authority shall require a mandatory review of Airport Master Plans, construction plans for new Airports and Airport expansion plans (including the construction of a new runway, the extension or realignment of an existing runway and the acquisition of Runway Protection Zones or any interest in land for purposes of safety) for consistency with the adopted ALUCP for that Airport pursuant to the requirements of P.U.C. §21676(c), §21661.5 and §21664.5, respectively.

(ii) Other Actions Subject to Authority Review.

(A) Individual Land Use Development Projects. The Authority shall require a mandatory review of all actions, regulations and permits involving the vicinity of an Airport within the Authority's jurisdiction under the following circumstances: (i) prior to the Authority adoption of an ALUCP for an Airport; and (ii) when a Local Agency has neither revised its general plan or specific plan to be consistent with the Authority's ALUCP nor overruled the Authority with regard to the ALUCP pursuant to the requirements of P.U.C. §21675.1(b) and §21676.5(a).

The Authority requests that, even when the Authority has adopted an ALUCP for an Airport and the Local Agency has revised its general plan or specific plan to be consistent with the Authority's ALUCP, the Local Agency continue to submit major land use actions for review, including, but not limited to, large developments where site design and other factors, such as building height, have potential compatibility implications, even when the overall development may be acceptable. The Authority's project review on these types of non-mandatory project submittals shall be advisory in nature.

(B) Ministerial Permits. Ministerial permits which have implications for airport land use compatibility factors shall be subject to Authority review prior to the adoption of an ALUCP for an Airport. After adopting an ALUCP, ministerial permits should continue to be submitted to the Authority for review, but only for an advisory review in the same manner as discretionary projects.

(C) CEQA Documents. The Authority is not a Responsible Agency for the purposes of the California Environmental Quality Act ("CEQA") and therefore is not legally required to respond to a CEQA document. The Authority's sole responsibility is to make a compatibility determination regarding the project that is the subject of the Environmental Documentation. However, the Authority has the right and authority to provide comments to the Lead Agency to help ensure the highest level of compatibility.

(c) Information Required for Project Reviews. Requests by Local Agencies to the Authority for project review shall be submitted in writing. Requests shall state fully and fairly the reason for the referral and shall include the names, addresses and telephone numbers of all applicants, project location and assessor's parcel number, a detailed project description, site plans, maps, heights of buildings, any Environmental Documentation and any other material necessary to fully understand the matter for which a project review is being requested. Applicants must include this information on the form entitled "Application for ALUC Determination of Consistency," available at the Authority's offices. The Authority reserves its right to request additional information and documents regarding any project submittal.

In addition to the material required to be submitted, the Authority may require the submittal to include the appropriate fees associated with the request for project review. These fees shall not exceed the estimated cost of providing service and shall be consistent with any Schedule of Fees established by the Authority pursuant to this policy.

(d) Determination Requirements. The Authority shall respond to a Local Agency with respect to a mandatory project submittal within sixty (60) days of referral pursuant to the requirements of P.U.C. §21675.2(a) and §21676(d). This response period does not begin until such time as all information necessary for accomplishment of the project review has been submitted to the Authority and the Authority has deemed the application complete.

(e) Authority Project Review and Determination Process. The Authority shall review applications for compliance with the criteria and policies set forth in the applicable ALUCP. The Authority may consider its own interpretive guidelines and past precedents. After review, the Authority's staff shall place the matter on the Board's agenda for the earliest possible Board meeting **if the project does not qualify for staff review**. The Authority's staff shall determine if the application can be put on the ~~information~~, consent or administrative calendar or whether it must receive a public hearing. The application may be placed on the ~~information~~, consent or administrative calendar if the Authority's staff determines that the project application is ~~consistent or~~ conditionally consistent with the applicable ALUCP. Such an application may be removed from the ~~information~~, consent or administrative calendar at the request of any interested party, member of the public or Board member. In such event, the application shall be heard at the same Board meeting or may be continued at a subsequent Board meeting by a vote of the Board. The application shall receive a public hearing prior to any determination by the Authority that the project application is inconsistent with the applicable ALUCP and notice of the public hearing shall be provided to the referring agency.

The Authority may determine that a project application is inconsistent with the criteria and policies of the applicable ALUCP by taking the following steps: (i) the holding of a public hearing; and (ii) the making of specific factual findings that the action proposed is inconsistent with the criteria and policies of the applicable ALUCP. If the Authority makes a finding that the project application is inconsistent with the applicable ALUCP, the referring agency shall be notified.

(f) Authorization for Staff Review. The Authority's President/Chief Executive Officer or his or her designee (the "President/CEO") is authorized to determine the consistency of proposed actions referred to the Authority by Local Agencies in the following circumstances:

(i) where the proposed actions are determined to be consistent with the ALUCP; or (ii) where the Local Agency submittal was voluntary. Staff review and consistency determinations shall be made consistent with the determination deadlines specified in this policy. Any determination of consistency made pursuant to this section shall be placed on the information calendar on the Board's agenda for the earliest possible meeting.

(g) Reconsideration Criteria for Determinations of Consistency. An applicant may request that the Authority reconsider its previous action on an application. The request for reconsideration shall be made within thirty (30) days of the decision on the application. The applicant must show that there is relevant new evidence which could not have reasonably been presented at the original hearing or that an error of fact or law occurred. Only the applicant and persons who participated in the original proceedings are eligible to testify. If the Board grants reconsideration, then the matter shall be scheduled for a public hearing as if it were a new application.

(h) Applicant's Rights and Responsibilities after the Authority's Consistency Determination has been Made. If the Authority determines that a proposed action is inconsistent with an applicable ALUCP, then a Local Agency may overrule the Authority's determination by taking the following mandatory steps: (i) the holding of a public hearing; (ii) the making of specific Findings that the action proposed is consistent with the purposes of The State Aeronautics Act; and (iii) the approval of the proposed action by a two-thirds vote of the agency's governing body.

If a Local Agency decides to overrule an Authority determination, then the following apply: (a) the Local Agency's approval of a plan, ordinance or project takes effect as if the Authority had approved the project or found it consistent with the ALUCP; (b) if a Local Agency adopts or amends a general plan or specific plan for the Airport area by overruling the Authority, then subsequent Authority review of individual development projects related to that overruling become voluntary consistent with P.U.C. §21676.5(b); and (c) if the Local Agency overrules the Authority's consistency determination on any project subject to mandatory review by the Commission, then the Authority shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the Authority's action or recommendation pursuant to P.U.C. §21678 and §21675.1(f).

(i) Authority's Rights and Responsibilities if the Local Agency Overrules the Authority's Consistency Determination. If a Local Agency overrules the Authority's consistency determination, then the Local Agency shall provide notification to the Authority of the proposed overruling, providing the specific Findings for their review and comment, thirty (30) days prior to the final hearing and decision on whether to overrule the Authority. The Local Agency shall include comments from the Authority in the public record of any final decision to overrule the Authority.

(4) Administrative Provisions.

(a) Public Hearings. Public hearings shall be held in accordance with the procedures identified for public hearings for the Authority.

(b) Authority Information Requests. In addition to all other authority granted to the President/CEO, the President/CEO shall have the authority to provide any information, reports, applications or other related documents, in whatever form or format that the President/CEO may determine useful in the implementation or enforcement of the provisions of this policy.

(c) Notices.

(i) Local Agency ~~Designation of Person(s) to Receive Notices~~. Each Local Agency ~~within the County shall designate in writing (addressed to the President/CEO) not more than two (2) employees, officers or other representatives who~~ makes application for consistency determination review are authorized to ~~shall~~ receive notices regarding action taken under the authority of this policy. ~~The notice also shall provide a mailing address and work telephone number and a telecopier number, for each designated person.~~

(ii) Delivery of Authority Notices. Whenever the Authority provides written notice under this policy, the notice shall be ~~mailed sent~~ by electronic or first class mail, or by a next-day package delivery service, ~~or delivered by telecopier.~~

(iii) Effective Date of Notices Delivered by the Authority. Whenever the Authority gives written notice under or concerning this policy by electronic mail or next-day package delivery service ~~and/or telecopier~~, the notice shall be deemed to have been received on the day it was ~~transmitted sent~~ by telecopier electronic mail, or, if given only by next-day package delivery service, on the day following the day on which the notice was delivered or given to a next-day package service for delivery. If the Authority gives notice only by depositing a copy of the notice in first class mails, the notice shall be deemed to have been received three (3) days after the date on which it was deposited in the United States mail.

(iv) Effective Date of Notices or Requests. Whenever this policy requires any person to file or submit any notice or document to the Authority, that notice or document shall be deemed to have been delivered on the first working day when it is actually received by the Authority.

(d) Modification of Forms or Guidelines.

(i) Authority. The President/CEO may prepare, modify or augment any form required to be filed under this policy, may require the filing of additional forms or information not otherwise referenced in this policy, or may prepare, modify or augment any Authority consistency review guidelines or other administrative guidelines without Board action, if the President/CEO reasonably determines that the action would facilitate the implementation and enforcement of this policy, or any other Authority ordinances, rules, regulations or policies.

(ii) Notices. When the President/CEO exercises his or her authority under subsection (i) above, the President/CEO promptly shall give notice to all Local Agencies and other interested parties who are required or permitted to use those forms, information or

000051

POLICY SECTION NO. 8.30

guidelines, and the President/CEO shall specify the date upon which use of the new or modified forms, information or guidelines is required.

000052

APPENDIX A**DEFINITIONS**

“**Airport**” means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft. Included are any appurtenant areas that are used, or intended for use, for Airport buildings or any other Airport facilities or right-of-way, and all Airport buildings and facilities located thereon. Public-Use Airports, ~~Special-Use Airports, Heliports, Helipads and Helistops~~ and Airstrips shall be considered Airports for purposes of this policy.

“**Airport Influence Area**” means a planning area designated by the Authority around each Public-Use Airport which is, or reasonably may become, affected by Airport operations including, but not limited to noise, fumes, or other influence, or which is, or reasonably may become, a site for a hazard to aerial navigation. If an ALUCP has not been adopted, then the Airport Influence Area means the land within two (2) miles of the Airport boundary. See California Public Utilities Code §21675.1(b).

“**Airport Layout Plan (ALP)**” means a scale drawing of existing and proposed Airport facilities, their location on an Airport, and the pertinent clearance and dimensional information required to demonstrate conformance with applicable standards.

“**Airport Master Plan (AMP)**” means a long-range plan for development of an Airport, including descriptions of the data and analyses on which the plan is based.

“**Airport Operator**” means any person or entity having the authority and responsibility for the establishment and operation of an Airport.

“**California Environmental Quality Act**” or “**CEQA**” means the statutes adopted by the state legislature for the purpose of maintaining a quality environment for the people of the state now and in the future. CEQA establishes a process for state agency and Local Agency review of projects, as defined in the implementing guidelines, which may adversely affect the environment. See California Public Resources Code §21000, et. seq.

“**Airport Land Use Compatibility Plan**” or “**ALUCP**” means the compatibility plan that presents the areas currently impacted or likely to be impacted by noise levels and flight activities associated with aircraft operations of one or more Airports. An ALUCP usually presents in narrative and graphic form the noise, safety and other criteria that will enable Local Agencies to compatibly plan and develop the land within the Airport Influence Area.

“**Draft EIR**” means an EIR containing the information specified in §15122 through §15131 in the CEQA Guidelines.

“**Environmental Documentation**” means Initial Studies, Negative Declarations, draft and final EIRs, documents prepared as substitutes for EIRs and Negative Declarations under a program certified pursuant to California Public Resources Code §21080.5, and documents prepared under the National Environmental Policy Act (“NEPA”) and used by a state agency or Local Agency in the place of Initial Study, Negative Declaration, or an EIR.

000053

“Environmental Impact Report” or **“EIR”** means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects. The term EIR may mean either a Draft EIR or a Final EIR depending on the context.

“Environmental Impact Statement” or **“EIS”** means an impact document prepared pursuant to the NEPA. NEPA uses the term EIS in the place of the term EIR, which is used in CEQA.

“Final EIR” means an EIR containing the information contained in the draft EIR, comments either verbatim or in summary received in the review process, a list of persons commenting, and the response of the Lead Agency to the comments received.

“Findings” means the legally relevant sub-conclusions which expose a government agency’s mode of analysis of facts, regulations and policies, and which bridge the analytical gap between raw data and ultimate decision.

~~**“Helipad”** means a small, designated area, usually with a prepared surface, on a heliport, Airport, landing/takeoff area, apron/ramp, or movement area used for takeoff, landing, or parking of helicopters. Included are any appurtenant areas, which are used, or intended for use, for helipad buildings or other helipad facilities or rights-of-way, and all helipad buildings and facilities located thereon.~~

~~**“Heliport”** means a facility used for operating, basing, housing and maintaining helicopters. Included are any appurtenant areas, which are used, or intended for use, for heliport buildings or other heliport facilities or rights-of-way and all heliport buildings and facilities located thereon.~~

~~**“Helistop”** means any area of land, water, or structure not designated as either a heliport or a helipad, which is used, or intended for use, for the landing and take-off of helicopters. Such areas generally provide only minimal facilities to accommodate helicopter landings and take-offs.~~

“Initial Study” means a preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

“Lead Agency” means the public agency, which has the principal responsibility for carrying out or approving a project. The Lead Agency will decide whether an EIR or Negative Declaration will be required for the project and will cause the document to be prepared.

“Local Agency” means any public agency, including, but not limited to, cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board, commission or organizational subdivision of a Local Agency when so designated by order or resolution of the governing legislative body of the Local Agency.

“Negative Declaration” means a written statement by the Lead Agency briefly describing the reasons that a proposed project, not exempt from CEQA, will not have a significant effect on the environment and, therefore, does not require the preparation of an EIR.

“**Public Agency**” means any state agency, board, or commission and any local or regional agency, as defined in the CEQA Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.

“**Public-Use Airport**” means a publicly or privately owned Airport that offers the use of its facilities to the public without prior notice or special invitation or clearance and that has been issued a California Airport Permit by the Aeronautics Program of the California Department of Transportation.

“**Responsible Agency**” means a public agency, which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purpose of CEQA, the term Responsible Agency includes all public agencies other than the Lead Agency, which have discretionary approval power over the project.

“**Runway Protection Zone (RPZ)**” means an area (formerly called a clear zone) off the end of a runway used to enhance the protection of people and property on the ground.

~~“**Special-Use Airport**” means an airport not open to the general public, access to which is controlled by the owner in support of commercial activities, public services, and/or personal use.~~

“**The State Aeronautics Act**” means The State Aeronautics Act, California Public Utilities Code §21670, et seq.

“**Zoning**” means a police power measure, enacted primarily by units of local government, in which the community is divided into districts or zones within which permitted and special uses are established, as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they must be uniform within districts. A zoning ordinance consists of two parts - the text and a map.

[Amended by Resolution No. 2012-_____ dated October 4, 2012.]

[Amended by Resolution No. 2008-0029 dated March 6, 2008.]

[Amended by Resolution No. 2005-0027 dated March 7, 2005.]

[Amended by Resolution No. 03-075 dated November 10, 2003.]

[Adopted by Resolution No. 03-020R dated April 3, 2003.]

000055