

**MEMORANDUM OF AGREEMENT RE:
BONUS PAYMENTS TO HIGHLY COMPENSATED EMPLOYEES**

This Memorandum of Agreement ("Agreement") is made between the Retirement Board of Allegheny County (RBAC) and the Allegheny County Airport Authority (ACAA) (collectively "the Parties").

RECITALS

WHEREAS the Retirement Board of Allegheny County is responsible for the administration of the Allegheny County Employees' Retirement System ("Plan").

WHEREAS the Plan is administered in accordance with the governing statutory provisions set forth in 16 P.S. §§ 4701-4716 ("Retirement Law") and applicable provisions of the Internal Revenue Code and the regulations thereto.

WHEREAS the Retirement Law defines "County employee" to include "any person employed by an authority formed after January 1, 1998" (16 P.S. § 4701).

WHEREAS the Allegheny County Airport Authority (ACAA) was formed after January 1, 1998, and its employees participate in the Plan.

WHEREAS the ACAA has a bonus program whereby upper management and executive level personnel are eligible to receive bonus compensation equal to a percentage of the employee's annual salary for the prior calendar year as provided in the attached Performance Bonus program which is marked as Exhibit A.

WHEREAS highly compensated employees of the ACAA are eligible for bonus compensation as described above; and

WHEREAS the Parties wish to formalize their mutual understanding and agreements regarding the applicable criteria and treatment of bonuses paid to highly compensated employees under the Plan.

THEREFORE, intending to be legally bound, the Parties agree as follows:

DEFINITIONS

For purposes of this Agreement, the following terms shall have the following meanings unless the context clearly indicates otherwise:

"Applicable Year" shall mean the calendar year that was reviewed to determine whether to pay a Bonus.

"Bonus" shall mean payment(s) by the ACAA to an Employee that is in addition to the Employee's regular wages or salary and is issued for services previously rendered during the Applicable Year for which the Employee received wages or salary that were treated as Compensation under the Plan for the prior Plan Year.

"Employee" shall mean any person employed by the Allegheny County Airport Authority.

"Employer" shall mean the Allegheny County Airport Authority.

"Highly Compensated Employee" or **"HCE"** shall mean any Employee who had compensation in the Applicable year from the Employer in excess of the amount identified in 26 U.S.C.A. § 414(q)(B)(i) as adjusted annually by the Secretary of Labor.

"HCE Bonus" shall mean a Bonus payable to a Highly Compensated Employee.

"Participant" shall mean an Employee or former Employee who is accruing benefits under the Plan or who is or will be receiving benefits.

"Participant's compensation" refers to the compensation received from the Employer for the year, as defined in 26 U.S.C.A. § 415(c)(3)(A), (D).

"Plan" is the pension plan administered by the RBAC and is synonymous with the Allegheny County Employees' Retirement System as it shall be amended from time to time.

"Plan Year" shall mean the twelve (12) consecutive-month period ending on December 31.

STIPULATIONS OF THE PARTIES

1. HCE Bonuses are based on the ACAA's Performance Bonus Program.
2. HCE Bonuses are determined and paid during the calendar year following the Applicable Year, subsequent to the review of budget and/or revenue outcomes for the Applicable Year.
3. HCE Bonuses are calculated by multiplying the Employee's salary from the ACAA for the Applicable Year by a specified percentage.
4. HCE Bonuses are separate from, and in addition to, the Employee's regular salary received during the Applicable Year.
5. Recipients of HCE Bonuses have already contributed to the Plan and received service credit with respect to wages and salary received during the Applicable Year.
6. HCE Bonuses are not regular wages or salary and fall outside of "Compensation" as defined in 16 P.S. § 4701.

STANDARDS AND PROCEDURES

A. Administration of HCE Bonuses for Plan Purposes

7. All HCE Bonuses shall be administered in accordance with this Agreement and shall not be treated as "compensation" under the Plan.
8. Accordingly, the ACAA shall not deduct employee contributions from HCE bonus pay.
9. The ACAA's offer of HCE Bonuses to Employees shall be conditioned upon the Employee's acknowledgment and waiver of any claims relating to the treatment of such bonuses under the Plan.

10. The ACA shall, upon request, identify to the Plan all Highly Compensated Employees who are eligible to receive a Bonus or have received such Bonus.

B. Determining Highly Compensated Employee Bonuses

11. The RBAC adopts, and the ACA agrees to apply, the compensation test in 26 U.S.C.A. § 414(q)(B)(i) as the standard for determining an HCE Bonus for Plan purposes.¹

12. Under the compensation test, an Employee is highly compensated if the participant's compensation for the Applicable year exceeded the dollar threshold in 26 U.S.C.A. § 414(q)(B)(ii).

13. The HCE dollar threshold is adjusted annually; the Secretary of Labor is required to adjust the threshold amount "at the same time and in the same manner as under" 26 U.S.C.A. § 415(d).

14. The annual adjustment is published through a Notice ordinarily titled "[year] Limitations Adjusted as Provided in Section 415(d), etc."

15. The HCE threshold, as adjusted, is \$155,000 for 2024 and \$160,000 for 2025. For reference, the threshold was adjusted in the preceding five years as follows: \$150,000 for 2023, \$135,000 for 2022, \$130,000 for 2021, \$130,000 for 2020, and \$125,000 for 2019.

16. The annual adjustment shall apply automatically, upon publication, and shall not require amendment to this Agreement.

¹ The Board does not elect or adopt, and the Parties will not apply, the clause in 26 U.S.C.A. § 414(q)(B)(ii).

17. The "participant's compensation" is the Employee's compensation from the ACA for the Applicable Year, as defined in 26 U.S.C.A. § 415(c)(3)(A), (D), and includes:

- a. any elective deferral as defined in 26 U.S.C.A. § 402(g), such as "any employer contributions under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year" and "any employer contribution to purchase an annuity contract under section 403(b) under a salary reduction agreement."
- b. any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of Internal Revenue Code section 457.

18. If the participant's compensation for the Applicable Year exceeds the HCE threshold, any Bonus offered or paid to the Employee shall be considered a HCE Bonus.

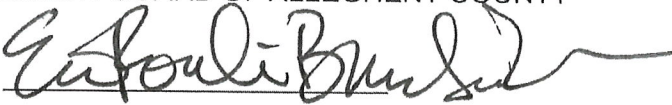
19. The ACA will, upon request, identify to the Plan all Highly Compensated Employees who are eligible to receive or have received a Bonus.

AMENDMENTS TO THE AGREEMENT

20. The Parties agree to meet and confer in the event of a material change in facts or applicable law that may require amendment to this Agreement.

21. This Agreement may only be amended through written mutual agreement of the Parties.


RETIREMENT BOARD OF ALLEGHENY COUNTY

By: 

Title: President

Date: 12/19/24

ALLEGHENY COUNTY AIRPORT AUTHORITY

By: 

Title: Chairman

Date: 1/17/25