

Bill No. 3662-08

NO. 05-88-GR

## ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, directing the Allegheny County Airport Authority to repay the sum of \$22,600,000 plus interest to the County.

**WHEREAS**, on or about July 29, 1999, the County of Allegheny formed the Allegheny County Airport Authority (the "Authority") pursuant to the Municipality Authorities Act; and

**WHEREAS**, pursuant thereto, Allegheny County transferred Pittsburgh International Airport ("PIT") and the County Airport in West Mifflin to the Authority for oversight, responsibility and for the full and prompt payment of all obligations with respect thereto (collectively the "Project") pursuant to that certain agreement between the parties known as the "Airport Operation, Management and Transfer Agreement between Allegheny County, Pennsylvania and the Allegheny County Airport Authority" (the "Transfer Agreement"); and

**WHEREAS**, the County had previously issued its 1987 Series C-34 and other General Obligation Bonds (the "Bonds") in the approximate sum of \$42,500,000 toward the construction and development of the Midfield Terminal Project at PIT; and

**WHEREAS**, the Bonds are defined in Section 1.14 of the Transfer Agreement as "County Debt" to be paid by the Authority pursuant to Section 3.01 of the Transfer Agreement; and

**WHEREAS**, reimbursement to the County for the Bonds is therefore part of the Authority's obligations relative to the Project;

**WHEREAS**, the Chief Executive has informed County Council that on or about December 31, 2007 the sum of \$19.9 million was received by Allegheny County as a partial payment of the County Debt; and

**WHEREAS**, the principal amount of \$22.6 million of County Debt remains outstanding, due and owing by the Authority (herein, the "Remaining County Debt"); and

**WHEREAS**, no interest on the County Debt or the Remaining County Debt has been paid by the Authority (herein, the "Interest"); and

**WHEREAS**, to date, the Authority has failed to honor its obligation to reimburse the County for the Bonds; and

**WHEREAS**, by failing to honor said obligation, the Authority has not fully and properly performed its duties relative to the Project; and

**WHEREAS**, it is the intention by this Ordinance, to cause the prompt reimbursement of the County for the Bonds;

***The Council of the County of Allegheny hereby enacts as follows:***

***SECTION 1. Incorporation of the Preamble***

The provisions set forth in the preamble to this Ordinance are incorporated by reference in their entirety herein.

***SECTION 2. Demand for Payment***

It is hereby ratified and confirmed by County Council that the reimbursement of the County by the Authority for the Bonds constitutes a material part of the Project and that the same is due and owing from the Authority. Accordingly, demand is hereby made upon the Authority for the full payment and/or reimbursement of the same by the Authority to the County, and the County Law Department is directed to send formal written notice of such demand immediately after enactment hereof.

***SECTION 3. Failure to Adhere to Demand***

The Authority shall have ninety (90) days from the date hereof to make arrangements satisfactorily to the Chief Executive and to County Council for the reimbursement of the Bonds. The County Law Department is hereby authorized and directed to make such arrangements with the Authority. In the event such arrangements are not made, the County Law Department shall report the same to County Council along with its recommended course of action. County Council shall receive such recommendation under advisement and shall take such feasible recourse to obtain reimbursement of the Bonds as it shall then determine.

**SECTION 4. *Severability***

*If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.*

**SECTION 5. *Repealer***

*Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.*

**PRIMARY SPONSOR: COUNCIL MEMBER McCULLOUGH**

**CO-SPONSOR: COUNCIL MEMBERS ROBINSON, CLEARY, DEFAZIO, DROZD, FINNERTY, & GASTGEB**

Enacted in Council, this 19<sup>th</sup> day of February, 2008,

Council Agenda No. 3662-08.



Rich Fitzgerald  
President of Council

Attest: 

John Mascio  
Chief Clerk of Council

Chief Executive Office February 29, 2008

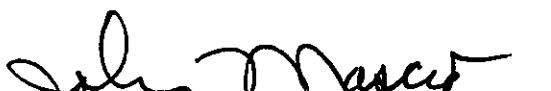
Approved: \_\_\_\_\_

Dan Onorato  
Chief Executive

Attest: \_\_\_\_\_

Donna Beltz  
Executive's Secretary

I do hereby certify that the foregoing Ordinance, duly engrossed and certified, was delivered by me to the Chief Executive for his approval or disapproval and that the Chief Executive failed to approve or disapprove the same, whereupon, it became law without his approval under the provisions of Section 311.07(E) of the Administrative Code of Allegheny County.



John Mascio  
Chief Clerk of Council



# COUNTY OF ALLEGHENY

## OFFICE OF THE CHIEF EXECUTIVE

101 COURTHOUSE • 436 GRANT STREET

PITTSBURGH, PA 15219

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DAN ONORATO  
CHIEF EXECUTIVE

February 29, 2008

Honorable President and Members  
Allegheny County Council  
119 Courthouse  
Pittsburgh, PA 15219

President and Members of Council:

ALLEGHENY COUNTY COUNCIL  
08 FEB 29 PM 4:27

I hereby return, unsigned, Council Bill 3662-08, which you forwarded to my office for consideration on February 22, 2008, allowing it to become law.

However, I question whether County Council is in conflict with and violating the plain text of the Home Rule Charter of Allegheny County. Through this Bill, County Council could be infringing upon and usurping the power and authority granted solely to the Chief Executive under the Home Rule Charter and could be seen as interfering with the Executive Branch.

Specifically, this Bill could be viewed as an attempt by County Council to negotiate a contract with the Allegheny County Airport Authority. The Home Rule Charter vests the Executive Branch with the sole authority to negotiate, award and sign, or cause to be negotiated, awarded and signed on behalf of the County, all contracts, agreements and other instruments, with limited exception not applicable in this instance. Charter, Art. V, § 2(i). Furthermore, County Council is proscribed from interfering with the operation of the Executive Branch, except through the Chief Executive or Manager. Charter, Art. IV, § 3. By directing the Law Department to take specific actions, County Council could be violating this provision as well.

I appreciate that County Council has, in effect, endorsed my efforts to recover the \$42.5 million in debt that Allegheny County issued related to the construction of Pittsburgh International Airport, \$19.9 million of which has already been received.

Sincerely,

Dan Onorato  
Allegheny County Chief Executive

cc: Mr. James M. Flynn Jr., Allegheny County Manager  
Mr. Michael H. Wojcik, Esq., Allegheny County Solicitor

Mascio, John R.



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**From:** Mascio, John R.  
**Sent:** Tuesday, March 04, 2008 10:27 AM  
**To:** Bob Macey; 'Brenda Frazier'; Burn, Jr. James; 'Charles Martoni'; Chuck McCullough; Cleary, Joan; Defazio, John P; Drozd, Matt; Ellenbogen, James; Finnerty, Michael J.; Futules Sr., Nicholas; 'Jan Rea'; Jim Burn; 'Joan Cleary'; John Defazio; Macey, Robert J.; Martoni, Charles; Mike Finnerty; 'Rich Fitzgerald'; Vince Gastgeb; 'Vince Gastgeb'; 'William Robinson'  
**Cc:** Barker, Jared; Catanese, Joe; Liptak, Jennifer M  
**Subject:** Bill No. 3662-08 returned unsigned  
**Attachments:** 3662-08 Letter from Chief Exec re unsigned.PDF

Dear Members of Council

This is to inform you that Bill No. 3662-08, entitled, "*An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, directing the Allegheny County Airport Authority to repay the sum of \$42,500,000 to the County.*" which was passed in Council on February 19, 2008, was delivered by me to the Chief Executive for his approval or disapproval, and having failed to approve or disapprove of the legislation, it became law under the provisions of Section 311.07(E) of the Administrative Code.

Although not required by law, Mr. Onorato did provide a letter (attached) explaining his reasons for not signing the bill.

I will place a hard copy his letter and this e-mail in your mail slots.

John Mascio