ELEVATOR CONSTRUCTORS ANNUITY &
401(k) RETIREMENT PLAN

19 CAMPUS BLVD., SUITE 200, NEWTOWN SQUARE, PA 19073-3288

January 2026

To: All Contributing Employers

From: Robert O. Betts, Jr., Executive Director, on behalf of the Board of Trustees

Re: Compliance with Delayed Implementation of SECURE 2.0 Section 603 Requirements

IMPORTANT NOTICE REGARDING CATCH-UP CONTRIBUTIONS

The purpose of this communication is to advise employers that contribute to the Elevator Constructors Annuity and 401(k) Retirement Plan (or "Plan") that Plan participants who are eligible to make catch-up contributions to the Plan in 2026 ***are not*** required to designate their catch-up contributions as post-tax Roth contributions regardless of whether their prior-year's FICA wages exceeded $150,000. To the extent you have been advised by your payroll service provider or other third party advisor that certain changes in federal law (specifically, Section 603 of the SECURE 2.0 Act), mandate that your employees who:

(1) are catch-up eligible participants of the Plan, and

(2) had 2025 FICA wages in excess of $150,000

must have their catch-up contributions treated as post-tax Roth contributions in 2026, such advice fails to recognize that **the IRS has formally advised that multiemployer plans, including the Elevator Constructors Annuity and 401(k) Retirement Plan, are not required to comply with Section 603 of the SECURE 2.0 Act until the calendar year after the date on which the last collective bargaining agreement related to the Plan terminates.**

Consequently, because the current NEBA|IUEC Collective Bargaining Agreement and ECA|IUEC Collective Bargaining Agreement do not terminate until ***July 8, 2027***, the Plan continues to permit all catch-up eligible participants of the Plan to continue to designate their catch-up deferrals as pretax 401(k) deferrals through ***December 31, 2027***. Therefore, we urge all contributing employers to continue to recognize their catch-up eligible employees' elections to designate their catch-up contributions as pretax 401(k) deferrals.

This communication, including the analysis set forth herein, has been prepared in consultation with Plan legal counsel and has been drafted for the purpose of providing contributing employers, their third-party payroll service providers, or their other advisors with the Plan's legal basis for continuing to recognize the right of all catch-up eligible Plan participants to designate their catch-up deferrals as pretax 401(k) deferrals regardless of the amount of their FICA wages in 2025. We encourage all employers to review this communication carefully and to share it with their payroll service providers and other third-party advisors.

Background

Section 603 of the SECURE 2.0 Act requires that an employer's employees whose prior-year wages from the employer exceeded $150,000 must have their catch-up contributions treated as post-tax Roth contributions (hereinafter, the "Higher Wage Earner Roth Catch-Up Rule") (See Section 414(v)(7) of the Internal Revenue Code ("IRC")). On September 16, 2025, the Internal Revenue Service ("IRS") published Final Regulations implementing the Higher Wage Earner Roth Catch-Up Rule (*See* 90 Fed. Reg. 44527 *et. seq.* (Sept. 16, 2025); 26 C.F.R. § 1.401(k)-1(f)(5)(iii) through (v); 26 C.F.R. § 1.414(v)-1(a)(4); 26 C.F.R. § 1.414(v)-2 (collectively, the "Final Regulations")).[1]

[1] https://www.federalregister.gov/documents/2025/09/16/2025-17865/catch-up-contributions

For most non-collectively bargained single employer plans, the Higher Wage Earner Roth Catch-Up Rule is applicable for taxable years (generally calendar years) beginning in ***2026***. However, the Final Regulations further delayed the applicability date of the Higher Wage Earner Roth Catch-Up Rule with respect to multiemployer plans:

> ***In the case of an applicable employer plan maintained pursuant to one or more collective bargaining agreements, paragraphs (a) through (d) of [26 C.F.R. § 1.414(v)-2][2] shall not apply until the first taxable year described in paragraph (e)(2)(i) of this section, or, <u>if later</u>, the first taxable year beginning after the date on which <u>the last collective bargaining agreement related to the plan that is in effect on December 31, 2025, terminates</u> (determined without regard to any extension of those agreements). Further, if that plan is a multiemployer plan as defined in [IRC] section 414(f), [IRC] <u>section 414(v)(7) is deemed satisfied until the first taxable year beginning after the date on which the last collective bargaining agreement related to the plan that is in effect on November 17, 2025 terminates</u> (determined without regard to any extension of those agreements).***

26 C.F.R. § 1.414(v)-2(e)(2)(ii) (emphasis added). In the preamble to the Final Regulations, the IRS explained its rationale for this delay:

> ***[T]he Treasury Department and the IRS understand that multiemployer plans would benefit from a further extended applicability date for the Roth catch-up requirement because of the unique issues faced by those plans. For example, multiemployer plans do not have access to or control over their contributing employers' payroll systems and thus must implement complex administrative coordination procedures to comply with the Roth catch-up requirement. Therefore, in response to comments, § 1.414(v)-2(e)(2)(ii) of the final regulations provides that if that plan is a multiemployer plan. . . , section 414(v)(7) is deemed satisfied until the first taxable year described in the Applicability Dates section of this preamble.***

90 Fed. Reg. 44527 at 44545.

In accordance with these provisions of the Final Regulations, the Board of Trustees of the Elevator Constructors Annuity and 401(k) Retirement Plan ("Trustees") have deferred implementation of IRC § 414(v)(2)'s Higher Wage Earner Roth Catch-Up Rule until the first day of the calendar year after the July 8, 2027 termination of the current NEBA|IUEC Collective Bargaining Agreement and ECA|IUEC Collective Bargaining Agreement. Therefore, by its terms, the Plan's governing document gives all catch-up eligible Plan participants the right to designate their catch-up contributions as pretax 401(k) deferrals, or post-tax Roth contributions, or any combination of pretax 401(k) deferrals and post-tax Roth contributions *regardless of the participants' FICA wages in 2025.*

Third-Party Payroll Service Providers Refusing to Recognize the IRS' Delayed Implementation Date for Multiemployer Plans

We have been advised by several contributing employers that notwithstanding the Trustees' decision to follow IRS guidance relating to the delayed implementation date for the Higher Wage Earner Roth Catch-Up Rule, the employers' third-party payroll service providers are refusing to process Plan participant catch-up elections in accordance with the Trustees' decision to delay implementation until 2028.

---

[2] That is, 26 C.F.R. § 1.414(v)-2(a) ("Roth catch-up contribution requirement"); 26 C.F.R. § 1.414(v)-2(b) ("Rules of Operation"); 26 C.F.R. § 1.414(v)-2(c) ("Treatment of pre-tax catch-up contributions that are required to be designated Roth contributions"), and 26 C.F.R. § 1.414(v)-2(d) ("Examples").

Specifically, we have been advised by several contributing employers that if their catch-up eligible employee received FICA wages from the employer in excess of $150,000 in 2025, that employee will not be permitted to designate their catch-up contributions as pretax 401(k) deferrals in 2026.

In at least one instance, after a representative of an employer's third-party payroll service conferred with Plan counsel, the third-party payroll service has continued to refuse to modify its payroll processing to follow the Plan's rules implemented in full compliance with formal IRS guidance applicable to multiemployer plans.

However, we expect contributing employers whose third-party payroll service providers refuse to process Plan participants' catch-up contributions in accordance with IRS guidance and the Plan's governing document will demand that their third-party payroll service providers take all necessary steps to comply with the terms of the Plan's governing documents and formal IRS guidance and permit all employees who are catch-up eligible participants of the Plan to elect to make pretax 401(k) catch-up deferrals in 2026 regardless of the employees' wages in 2025. Third-party payroll service providers are required to honor participants' rights under the Plan's governing documents, and denying those rights, such as the ability to make pretax catch-up contributions, could result in both a contract breach and potential legal liability.

Please feel free to contact me if you believe that the Plan's additional assistance regarding this important matter may help your company convince its payroll service provider to comply with the Plan's requirements regarding participants' ongoing catch-up contribution rights.

cc: Board of Trustees
Plan Legal Counsel
Neill Hussey, ECA President