

COUNCIL OF THE CITY OF ABERDEEN
Resolution No. 11-R-04

Introduced By:	Mayor Michael E. Bennett
Date Introduced:	April 25, 2011
Date Adopted:	April 25, 2011
Date Effective:	April 25, 2011

RESOLUTION NO. 11-R-04

**A RESOLUTION AMENDING THE
ABERDEEN POLICE DEPARTMENT PENSION PLAN
FIFTH AMENDMENT**

1 WHEREAS, the Mayor and Council of the City of Aberdeen adopted the City of
2 Aberdeen Police Department Pension Plan (the "Plan") effective January 1, 2000 by
3 passage of Resolution No. 562-99.

4 WHEREAS, the Mayor and Council of the City of Aberdeen were advised by the
5 legal counsel serving as advisor to the Plan, to adopt resolutions to approve an
6 amendment to the Plan specifying certain matters relating to: (1) defining pay used to
7 determine benefits under the Plan to reflect the historical recordkeeping for the Plan and
8 to facilitate the calculation of participants' benefits, (2) to clarify the use of accrued sick
9 leave in the calculation of retirement benefits, and (3) to update the Plan's provisions
10 regarding maximum benefits payable under the Plan to reflect regulations issued by the
11 United States Treasury Department.

12 NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council hereby
13 adopt the Fifth Amendment to the Plan effective as provided in the Amendment and
14 substantially reflecting the terms set forth on the attached Exhibit A to this Resolution.

15 LET IT BE FURTHER RESOLVED, that this Resolution shall take effect from
16 the date of its adoption.

EXHIBIT A

17 **FIFTH AMENDMENT TO THE**
18 **CITY OF ABERDEEN POLICE DEPARTMENT PENSION PLAN**

19 WHEREAS, THE MAYOR & COUNCIL OF THE CITY OF ABERDEEN adopted
20 the City of Aberdeen Police Department Pension Plan (the "Plan") effective January 1, 2000;
21 and

22 WHEREAS, Section 9.1 of the Plan provides that the City shall have the right to
23 amend the Plan at any time.

24 NOW, THEREFORE, the Plan is hereby amended as follows, effective as of the
25 date of adoption, unless otherwise specifically provided herein:

26 **FIRST CHANGE**

27 The definition of "Average Compensation" in Section 1.7(c) shall be amended to read
28 as follows:

29 (c) **Average Compensation**

30 (1) "Average Compensation" means the average of a Participant's Per-pay
31 Compensation, equal to 1/36th of the total amount of a Participant's
32 Per-pay Compensation for the 78 consecutive pay periods of the
33 Participant's employment as a Covered Individual which produce the
34 highest average.

35 (2) Any pay period during which a Participant was on an unpaid leave of
36 absence which is not credited for Years of Eligibility Service pursuant
37 to Section 3.2(a)(1) or Section 3.4(c)(1) for all or any part of the pay
38 period shall be disregarded for purposes of the foregoing, and the
39 existence of such pay periods shall be ignored and shall not be
40 counted in determining the 78 consecutive pay periods of the
41 Participant's employment which produce the highest average.

42 (3) If the Participant's employment as a Covered Individual does not
43 provide 78 consecutive pay periods as aforesaid, Compensation for
44 the Participant's actual number of consecutive full calendar months of
45 employment as a Covered Individual will be totaled and divided by
46 the number thereof.

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SECOND CHANGE

48 The definition of "Compensation" in Section 1.7(i) shall be amended to read as follows:

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(i) **Compensation**

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(1) "Compensation" means the Participant's base salary rate or wages, determined without regard to:

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(A) overtime, bonuses, longevity payments and other extra remuneration;

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(B) when expressed on an annual basis, amounts in excess of the applicable dollar limit in effect as of the 1st day of the Plan Year under Section 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Internal Revenue Code;

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(C) contributions, credits or benefits under this Plan or under any other retirement, deferred compensation, fringe benefit or employee welfare benefit Plan; or

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(D) direct reimbursement for expenses; provided, however, that Compensation shall include any amount that would have qualified as Compensation but for the fact that it constitutes a pick-up contribution under Section 4.4 or a salary reduction under any plan described in Section 132(f), 414(h)(2), 457(b) or 125 of the Internal Revenue Code.

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(2) Notwithstanding the preceding, for any period when the Participant is employed as a Covered Individual but is on an unpaid leave of absence which is credited for Years of Eligibility Service pursuant to Section 3.2(a) or 3.4(c)(1) or a temporary furlough which is credited for Years of Eligibility Service pursuant to Section 3.2(b), his or her Compensation during that leave of absence or furlough shall be deemed to be the Compensation the Participant would have earned during the pay period(s) he or she was on that unpaid leave of absence or furlough if the Participant had been paid Compensation at the rate in effect for his or her position at the end of the pay period immediately preceding the pay period in which that unpaid leave of absence or furlough began.

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THIRD CHANGE

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Section 5.3 shall be amended to read as follows:

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In the event a Participant remains a Covered Individual after his or her Normal Retirement Date, then, subject to the limitations set forth in Section 5.6 and subject to Section 6.3, the Participant shall be entitled to receive, commencing on the 1st day of the month coincident with or otherwise next following his or her Termination Date, the benefit to which the Participant would have been entitled pursuant to Section 5.1(a) (without regard to unused sick leave credited pursuant to Section 5.1(b)) if he or she had retired at the Normal Retirement Date, but adjusted:

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(a) by including any additional Years of Creditable Service which have accrued since his or her Normal Retirement Date, subject to the limitations set forth in Section 5.1, plus unused sick leave credited pursuant to Section 5.1(b);

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(b) notwithstanding any provision in the definition of Average Compensation to the contrary, by taking into account any increases in Average Compensation which may be generated by increases in Compensation earned since his or her Normal Retirement Date; and

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(c) notwithstanding anything to the contrary, the Participant's Accrued Benefit upon Deferred Retirement shall not be less than the Actuarial Equivalent of his or her Accrued Benefit at the Participant's Normal Retirement Date (without regard to unused sick leave credited pursuant to Section 5.1(b)).

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FOURTH CHANGE

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Section 5.6(a) shall be amended to read as follows effective July 1, 2008:

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(a) **Maximum Benefit**

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To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 5.6, the maximum monthly benefit to which any Participant may be entitled at any time pursuant to Sections 5.1 through 5.5 (hereafter referred to as the "maximum benefit") shall be equal to one-twelfth (1/12th) of the amount set forth in Section 415(b)(1)(A) of the Internal Revenue Code (such amount, as adjusted by the Internal Revenue Service for cost of living increases, hereafter referred to as the "monthly dollar limit"). The rate of benefit accrual shall be frozen or reduced accordingly to comply with the limitations.

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115 **FIFTH CHANGE**

116 Section 5.6(b) shall be amended to read as follows effective July 1, 2008:

117 **(b) Actuarial Adjustment of Dollar Limit**

118 The monthly dollar limit shall be subject to actuarial adjustment as follows:

119 (1) If the benefit is payable in any form other than a single life annuity or
120 a qualified joint and survivor annuity (as defined for purposes of
121 Section 415 of the Internal Revenue Code), the monthly dollar limit
122 shall be reduced so that it is the Actuarial Equivalent of the single life
123 annuity.

124 (2) (i) With respect to a benefit beginning before age 62, the
125 monthly dollar limit shall be reduced to the Actuarial Equivalent of a
126 monthly benefit in the amount of the monthly dollar limit beginning
127 at age 62

128 (ii) Notwithstanding the foregoing, however, in no event shall the
129 monthly dollar limit applicable to benefits beginning before age 62 be
130 reduced for Participants who have been credited with at least 15
131 Years of Creditable Service:

132 A. As a full-time employee of the City in a position
133 providing police protection;

134 B. In Military Service; or

135 C. In a combination of A. and B.

136 (3) With respect to a benefit beginning after age 65, the monthly dollar
137 limit shall be increased so that it is the Actuarial Equivalent of the
138 monthly dollar limit applicable to a benefit beginning at age 65.

139 (4) For purposes of this subsection (b), "Actuarial Equivalent" shall be as
140 defined in Section 1.7(b), except that the interest rate assumption for
141 purposes of a computation under paragraph (1) or (2) above shall not
142 be less than five percent or any higher rate specified in the definition
143 of "Actuarial Equivalent." For purposes of a computation under
144 paragraph (3) above, the interest rate assumption shall not be greater
145 than five percent or any lower rate specified in the definition of
146 "Actuarial Equivalent."

147 (5) This subsection shall apply to distributions with annuity starting dates
148 on or after December 31, 2002.

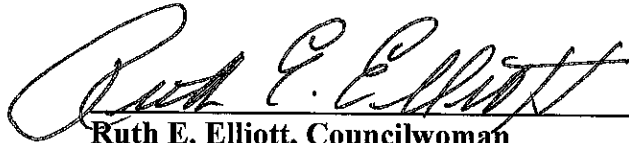
149 (i) The applicable mortality table used for purposes of
150 adjusting any benefit or limitation under 415(b)(2)(B), (C), or
151 (D) of the Internal Revenue Code and the applicable mortality
152 table used for purposes of satisfying the requirements of
153 417(e) of the Internal Revenue Code is the table prescribed in
154 Revenue Ruling 2001-62.

155 (ii) For any distribution with an annuity starting date on
156 or after the effective date of this section and before the
157 adoption date of this section, if application of the amendment
158 as of the annuity starting date would have caused a reduction
159 in the amount of any distribution, such reduction is not
160 reflected in any payment made before the adoption date of
161 this section. However, the amount of any such reduction that
162 is required under 415(b)(2)(B) of the Internal Revenue Code
163 must be reflected actuarially over any remaining payments to
164 the Participant.

COUNCIL OF THE CITY OF ABERDEEN



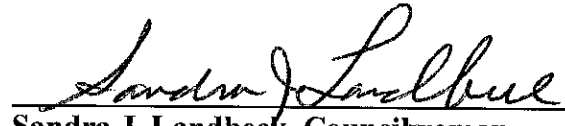
Michael E. Bennett, Mayor



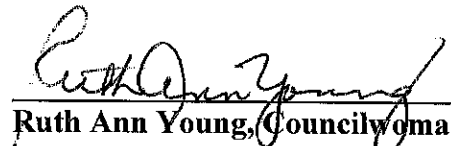
Ruth E. Elliott, Councilwoman



Bruce E. Garner, Councilman



Sandra J. Landbeek, Councilwoman



Ruth Ann Young, Councilwoman

ATTEST:

SEAL:



Monica A. Correll, City Clerk

DATE: April 26, 2011