

COUNCIL OF THE CITY OF ABERDEEN
Resolution No. 14-R-09

Introduced By:	Mayor Michael E. Bennett
Date Introduced:	September 29, 2014
Date Adopted:	September 29, 2014
Date Effective:	September 29, 2014

RESOLUTION NO. 14-R-09

**A RESOLUTION FOR THE PURPOSE OF
AMENDING THE CITY OF ABERDEEN POLICE DEPARTMENT
PENSION PLAN WITH A SIXTH AMENDMENT**

1 **WHEREAS**, the Mayor and City Council of the City of Aberdeen adopted the City of
2 Aberdeen Police Department Pension Plan (the “Plan”) effective January 1, 2000; and
3

4 **WHEREAS**, Section 9.1 of the Plan provides that the City shall have the right to amend
5 the Plan at any time; and
6

7 **WHEREAS**, recommendations from the Retirement Committee include two changes: the
8 purchase of prior law enforcement service and the spouse definition based on IRS
9 guidance; and
10

11 **WHEREAS**, the first change to the Plan adds a feature allowing participants to
12 “purchase” prior law enforcement service with another governmental employer, intended
13 to be a recruiting tool designed so as to not increase the cost of the Plan to the City; and
14

15 **WHEREAS**, the participant will be required to pay to the Plan the cost of the service
16 purchased, determined on an actuarial basis, with payments for the service credit made in
17 a variety of ways including rollovers from other retirement plans; and
18

19 **WHEREAS**, the Retirement Committee will develop procedures for implementing the
20 purchase of service; and
21

22 **WHEREAS**, the second change to the Plan clarifies that the term “spouse” includes an
23 individual of the same sex as the participant if the individuals are lawfully married under
24 a state’s law and to specifically exclude an individual in a domestic partnership with the
25 participant; and

1 **WHEREAS**, the definition of a “spouse” is relevant for the determination of eligibility
2 for a surviving spouse annuity benefit from the Plan, the timing of distributions from the
3 Plan, and the rights of individuals to death benefits in the event the participant fails to
4 designate a beneficiary.

5
6 **NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and City Council that the
7 City shall amend the Aberdeen Police Department Pension Plan with the Sixth
8 Amendment as attached hereto as **Exhibit A**.

9
10 **BE IT FURTHER RESOLVED** that this Resolution shall take effect from the date of its
11 adoption.
12

EXHIBIT A

FIRST CHANGE

Article III shall be amended by the addition of the following Section 3.6:

3.6 PURCHASE OF PRIOR LAW ENFORCEMENT SERVICE

(a) A Participant may elect to receive credit for Years of Eligibility Service and Years of Creditable Service (to a maximum of 10 years) to the extent of the Covered Individual's service performed as a sworn law enforcement officer (1) with another state, municipality or political subdivision with the United State of America, or (2) with the government of the United States of America. Such election is available only if the Participant is not entitled to receive any pension benefits with respect to the service performed for the other employer. If the Participant does so elect, he/she shall be required to pay over to the Plan the amounts determined in accordance with the following:

(1) Cost of Purchase – It is the intent of the City that a participant who elects to purchase credit for service hereunder pays the full actuarial cost of the credit for service. The Participant's election to purchase service shall include an election by the Participant of an assumed retirement date (the "Assumed Retirement Date") upon which the cost to purchase service will be based. The Assumed Retirement Date will be a date that is no earlier than the Participant's projected Normal Retirement Date. The cost of the purchase equals the present value of the Participant's projected Accrued Benefit including the credit for the service purchased hereunder and calculated on the basis of the Participant's Assumed Retirement Date, less the present value of the Participant's projected Accrued Benefit without the service credit purchased hereunder. Present value will be determined using the interest, post-retirement mortality, post-retirement benefit increase and pay increase assumptions used by the enrolled actuary to perform the most recent actuarial valuation of the Plan.

(2) Timing of Election to Purchase Service – If the Participant makes an election to purchase service under this Section 3.6, the election shall be made, and the Participant shall make the required payments to the Plan by the later of: June 30, 2015, or within the five year period beginning with the Participant's Employment Commencement Date. Notwithstanding the foregoing, the Participant's election of the timing of payment for credit for service may be modified by the City to the extent necessary to conform to Section 415 of the Internal Revenue Code.

(3) Methods of Payment for Purchased Service – The Participant's election to purchase credit for service shall also include an election of the method by which the Participant will purchase the credit for service. The Participant may pay over

to the Plan the amounts calculated pursuant to subsection 3.6(a)(1) hereof by either (1) a single sum cash payment made on an after-tax basis and by direct payment to the Plan by the Participant, (2) a rollover from another employer's qualified retirement plan, (3) a rollover from an eligible deferred compensation plan of a governmental employer within the meaning of Section 457(e)(1)(A) of the Code, established pursuant to Section 457(b) of the Code, (4) a rollover from a tax deferred annuity established pursuant to Section 403(b) of the Code, (5) a rollover from an individual retirement account established pursuant to Section 408(a) of the Code, or (6) a combination of any of the methods designated in (1) through (5). Notwithstanding the foregoing, the Participant's election of the method of payment for purchased service may be modified by the City to the extent necessary to conform to Section 415 of the Internal Revenue Code.

(4) Retirement Before or After Assumed Retirement Date – If a Participant reaches a Termination Date on a date other than the Participant's Assumed Retirement Date, the credit for service purchased by the Participant will be adjusted so that the amount of credit purchased equals the amount that would have been purchased (based on the Participant's actual contributions) if the actual Termination Date had been used (rather than the Assumed Retirement Date) for purposes of calculating the cost of the service. If the adjustment reduces the amount of credit purchased, the Participant may pay over to the plan, in one lump sum, an amount necessary to purchase the credit for the service which would have been awarded if the Participant terminated employment on the Assumed Retirement Date, provided such payment does not constitute a violation of Section 415 of the Internal Revenue Code. If the adjustment increases the amount of credit purchased over the credit which would have been awarded if the Participant terminated employment on the Assumed Retirement Date, the excess will be used to provide an additional monthly benefit to the Participant.

(5) Return of Payments After Five or More Years of Service for City – If a Participant reaches a Termination Date prior to his or her Normal Retirement Date, but after completing five Years of Eligibility Service for the City as a Covered Individual, without regard to service purchased or received or account of Military Service, the Participant, or the Participant's Beneficiary, may elect, prior to the Participant's or the Participant's Beneficiary's Benefit Commencement Date, to receive a return of the payments made pursuant to this Section 3.6, plus interest at the rate determined under subsection 3.6(a)(1) hereof, in the form of either (1) a lump sum payment, or (2) a monthly benefit equivalent to the lump sum payment, with the equivalence to be determined pursuant to the factors utilized pursuant to subsection 3.6(a)(1) hereof. Notwithstanding the foregoing, the Participant's election with respect to receipt of a return of payments may be modified to the extent necessary to conform to Section 415 of the Internal Revenue Code.

(6) Return of Payment Prior to Five Years of Service for City – If a Participant reaches a Termination Date prior to the date the Participant completes five Years of Eligibility Service for the City as a Covered Individual, without regard to service purchased or received on account of Military Service, the Participant, or the Participant’s Beneficiary, will receive, as soon as practical following the Participant’s Termination Date, a return of the payments made pursuant to this Section 3.6(a), plus interest at the rate determined under subsection 3.6(a)(1) hereof, in the form of a lump sum payment. Notwithstanding the foregoing, the Participant’s receipt of a return of payments may be modified to the extent necessary to conform to Section 415 of the Internal Revenue Code. Notwithstanding the foregoing, to the extent the distribution exceeds \$1,000; the distribution will be made only upon the affirmative election of the Participant or the Participant’s Beneficiary.


SECOND CHANGE

Section 5.8 shall be amended by the addition of the following Section 5.8(g):

(g) Spouse Definition

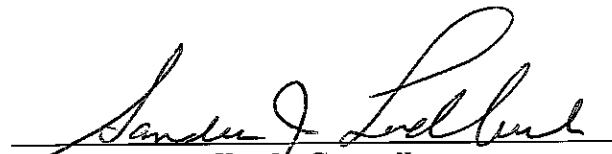
For purposes of this Section 5.8 and Sections 5.9, 6.3, and 7.1, the term “spouse” means the person to whom a participant is legally married and includes an individual of the same sex as the participant who is married to the participant, if the individuals are lawfully married under state law, even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages. The term “spouse” does not include an individual (whether of the opposite sex or the same sex) who has entered into a registered domestic partnership, civil union or similar formal relationship recognized under state law that is not denominated as marriage under the laws of that state. For purposes of this definition, the term “state” means any domestic or foreign jurisdiction having legal authority to sanction marriages.

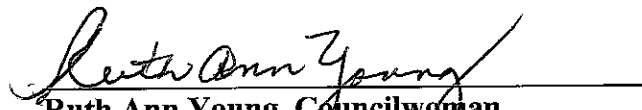
COUNCIL OF THE CITY OF ABERDEEN


Michael E. Bennett, Mayor


Ruth Ann Elliott, Councilwoman

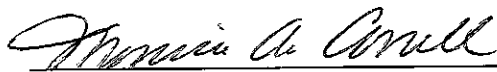
Bruce E. Garner, Councilman


Sandra J. Landbeck, Councilwoman


Ruth Ann Young, Councilwoman

ATTEST:

SEAL:


Monica A. Correll, City Clerk

Date: September 29, 2014