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## MEMORANDUM

To: City of Dania Beach Police & Firefighters' Retirement System

From: Robert A. Sugarman

Date: February 3, 2011

Re: IRS Compliance Ordinance Amendment

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The Internal Revenue Service enforces the compliance of pension plans with the qualification requirements of Section 401 of the Internal Revenue Code. The benefits of satisfying the qualification requirements are manifold: the income of the plan are not subject to taxation; the employee does not pay income tax on his/her interest in the plan until such time as the employee begins to receive benefits thereunder. Governmental plans are subject to many of the qualification requirements under Section 401(a).

The IRS has implemented 5-year cycles for its compliance monitoring. Every five years, governmental plans are permitted to submit an application for a favorable determination letter, i.e., a letter from the Internal Revenue Service stating that the plan meets all of the qualification requirements. In processing each application, the IRS will ensure that the plan has complied with all qualification requirements that have entered into effect during the relevant 5-year period.

Regardless of whether a plan applies for a favorable determination letter, it must, if it intends to benefit from the advantages of qualification under 401(a) of the Code, make all amendments to its plan document that are required from time-to-time by changes in to the law.

The proposed amendment to the Code of Ordinances of the City of Dania Beach is intended to ensure that the pension plan remain in compliance with all current qualification requirements, including the limitation of pension amounts under Section 415 of the Code; required distribution rules under Section 401(a)(9); the expansion of choices for the rolling-over of pension distributions, and other qualification requirements. These are technical amendments that will not increase or decreases the benefits payable by the plan.

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We look forward to responding to any additional questions that you might have regarding the proposed IRS Compliance ordinance amendment.

Yours truly,

A handwritten signature in black ink, appearing to read "Robert A. Sugarman". The signature is written in a cursive style with a large, stylized initial "R".

ROBERT A. SUGARMAN  
Board Certified Labor & Employment Lawyer

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