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November 12, 2014

Via: Email and Regular Mail

Mr. Keith Sawdon
Finance Director
City of Rochester Hills
1000 Rochester Hills Drive
Rochester Hills, MI 48309

Re: City of Rochester Hills Group Pension Plan
United States vs. Windsor

Dear Mr. Sawdon:

The IRS recently released Notice 2014-19, which explains how the Windsor decision and Rev. Rul. 2013-17 affect the application of the federal tax rules for qualified retirement plans in a series of Q&As.

As you will recall, the United States Supreme Court's Decision in *United States v. Windsor*, 570 U.S. 133 S. Ct. 2675 (2013), held that section 3 of the Defense of Marriage Act (DOMA) which prohibited recognition of same-sex spouses, was unconstitutional. As discussed, this ruling effectively changed the definition of marriage to include same-sex couples and required the Federal Government to recognize same-sex marriages that occurred in states where same-sex marriage was recognized and the individuals are domiciled in a state that recognizes such marriages.

Subsequent to that ruling, the IRS issued Guidance in Rev. Ruling 2013-17, which held that for Federal tax purposes, the IRS would recognize same-sex marriages that were entered into in a state whose laws authorize such marriage, even if the individuals were not domiciled there.

The holdings of Rev. Ruling 2013-17 apply for all Federal tax purposes, including those that apply to qualified retirement plans under Section 401(a). These holdings will apply prospectively as of September 16, 2013.

IRS Notice 2014-19 provides further guidance on the application of the decision in Windsor and the holdings of Rev. Rul. 2013-17, to qualified retirement plans. The pertinent guidance is as follows:

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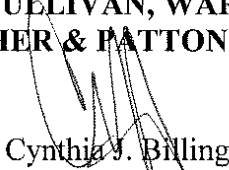
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1. The Notice specifies that any retirement plan qualification rule that applies because a Participant is married must be applied with respect to a participant who is married to an individual of the same sex. IRS Notice 2014-19, Q&A-1.
2. The Notice discusses two compliance dates:
 - a. June 26, 2013: The plan must comply with Windsor which means the plan must recognize same-sex marriages that were validly entered into in a state whose laws authorize such marriage and the individuals are domiciled in a state that recognizes such marriages. IRS Notice 2014-19, Q&A-19, Q&A-2.
 - b. September 16, 2013: The plan must comply with Rev. Rul. 2013-17 which means (i) that the Plan must recognize same-sex marriages that were validly entered into in a state whose laws authorize the marriage of two individuals of the same sex, even if the individuals are domiciled in a state that does not recognize the validity of same-sex marriages; and (ii) individuals who entered into a registered domestic partnership, civil union, or other similar formal relationship which is not denominated as marriage under state law are not treated as married. *Id.*
3. The Notice states that whether or not a plan must be amended to reflect the outcome of Windsor and the guidance in Rev. Rul. 2013-17 depends on the terms of the specific plan. For instance, if a plan's terms define a marital relationship by reference to Section 3 of DOMA or are otherwise inconsistent with the outcome of Windsor, then an amendment to the plan is required by December 31, 2014. On the other hand, if the plan's terms are not inconsistent then no amendment is required.

After review of the terms of the City of Rochester Hills Group Pension Plan, I recommend that an amendment be adopted to ensure that the language in the Plan does not conflict with the Windsor decision, Rev. Rul. 2013-17, and IRS Notice 2014-19, and to further document the Retirement System's compliance with the IRS directive.

Very truly yours,

**SULLIVAN, WARD
ASHER & PATTON, P.C.**


Cynthia J. Billings

CJB/lak
Attachment
W1541811.DOCX

PROPOSED AMENDMENT

Article I, Section 1.41 is hereby amended and restated as follows for compliance with the Windsor decision:

1.41 "Spouse" or "Surviving Spouse" means the spouse or surviving spouse of the participant, who has met all requirements of a valid marriage contract in the state of marriage of such parties. ~~provided that~~ A former spouse will be treated as the spouse or surviving spouse and a current spouse will not be treated as a spouse or surviving spouse to the extent provided under an eligible domestic relations order.