

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Nick Kallergis, Chief Deputy City Attorney

DATE: October 30, 2024 First Reading

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING AND RESTATING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, BY CREATING A NEW SECTION 15, "APPLICATION TO CITY MANAGER AND CITY ATTORNEY APPOINTED IN 2024"; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

### **BACKGROUND/HISTORY**

The attached Ordinance, which is sponsored by Commissioner Joseph Magazine, has been placed on the October 30, 2024 City Commission meeting agenda for First Reading. A summary of the proposed Ordinance is set forth below.

This proposed Ordinance amends the Miami Beach Employees' Retirement Plan (the "Pension Plan") as it relates to the City Manager and City Attorney.

On July 24, 2024, the City Commission adopted Resolution No. 2024-33223, appointing Eric T. Carpenter as City Manager for the City of Miami Beach, effective immediately.

A separate item has been placed on the October 30, 2024 City Commission meeting agenda to approve Mr. Carpenter's Employment Agreement for a term of up to three (3) years, commencing retroactively on July 24, 2024, and expiring on July 24, 2027. This Ordinance has been drafted to ratify a term in Mr. Carpenter's proposed Employment Agreement as to his pension benefit. Specifically, Mr. Carpenter is proposing that he shall be included as one of the more than 400 current employees that are members of Tier B of the Pension Plan.<sup>1</sup> Mr. Carpenter makes this request "based upon the more than ten years of service as a City executive and the short duration of the contractual relationship as City Manager."<sup>2</sup>

If the City Commission approves Mr. Carpenter's Employment Agreement including the pension provision as proposed, the City is required under the City Attorney's Employment Agreement to extend the same pension terms to the City Attorney. Accordingly, this Ordinance has been drafted to apply to both the City Manager and the City Attorney.

On May 15, 2024, the City Commission adopted Resolution No. 2024-33058, approving the Employment Agreement with Ricardo J. Dopico, for a term of up to four (4) years, commencing retroactively on April 3, 2024, and expiring on April 2, 2028. Section 12 of Mr. Dopico's Employment Agreement provides, in pertinent part, that "If any other charter officer is granted

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<sup>1</sup> Based on his date of hire, Mr. Carpenter is currently a member of Tier C of the Pension Plan.

<sup>2</sup> See Mr. Carpenter's proposed Employment Agreement, at Section 12.

more favorable pension terms than those accorded to Dopico, Dopico shall be entitled to such more favorable pension terms.”

Based on his date of hire, Mr. Dopico is currently a member of Tier C of the Pension Plan. As described in the chart below, the terms of Tier B are more favorable than the terms of Tier C as to retirement age, the benefit accrual rate (for years of service other than as a Charter Officer), the form of benefit, and cost-of-living adjustments. Accordingly, if the City Commission extends the terms of Tier B to Mr. Carpenter, then Mr. Dopico will likewise be entitled, under his Employment Agreement, to the terms of Tier B.

The below chart provides detailed benefit information of each Tier of the Pension Plan:

<b>Tier B</b>	<b>Tier C</b>
<ul style="list-style-type: none"> <li>• Age 55 with 5 years of Creditable Service</li> <li>• 3% Multiplier</li> <li>• Annual Cost of Living 2.5%</li> <li>• 50% Spouse/Domestic Partner Survivor benefit</li> </ul>	<ul style="list-style-type: none"> <li>• The earlier of age 55 with 30 years of Creditable Service or Age 62 with 5 years of Creditable Service</li> <li>• 2.5% Multiplier</li> <li>• Annual Cost of Living 1.5%</li> <li>• Life Annuity with optional Survivor Benefits</li> </ul>

In addition to the above, for years of service as City Manager, City Attorney, City Clerk, or as an Elected Official, the Pension Plan establishes a 4% multiplier, and earnings shall include total W-2 compensation. For all Charter Officers and Elected Officials, the Pension Plan also provides for a 4-year vesting period; that the member’s "Final Average Monthly Earnings" calculation shall be based on the highest 5-year average annual earnings, or if the member has less than 5 years of service, the average for the member's period of service.

The below chart provides the eligibility dates for each Pension Plan Tier:

<b>Classification</b>	<b>Group</b>	<b>Tier A</b>	<b>Tier B</b>	<b>Tier C</b>
Classified	AFSCME	Hired before 4/30/1993	Hired on or after 4/30/1993 and before 9/30/2010	Hired on or after 9/30/2010
	GSA or “Other”	Hired before 8/1/1993	Hired on or after 8/1/1993 and before 9/30/2010	Hired on or after 9/30/2010
	CWA	Hired before 2/21/1994	Hired on or after 2/21/1994 and before 10/27/2010	Hired on or after 10/27/2010
Unclassified	N/A	Hired before 10/18/1992	Hired on or after 10/18/1992 and before 9/30/2010	Hired on or after 9/30/2010

## **ANALYSIS**

The Human Resources Department and the City Attorney's Office have engaged the City's outside pension counsel to assist with the drafting of the proposed Ordinance, which is attached as an exhibit to this Memorandum.

The proposed Ordinance provides that, for a City Manager appointed on July 24, 2024, and for a City Attorney appointed on April 3, 2024, the provisions of the Pension Plan that apply to members of Tier B shall apply, except as otherwise specifically provided for Charter Officers, the City

Manager, and City Attorney. This means that for years as service as City Manager or City Attorney, respectively, the accrual factor shall be 4%. For all other years of service, the Tier B accrual factor of 3% shall apply.

Due to limitations in State law, changes to pension benefits can only apply to eligible employees and officers who are employed or hold office at the time the Ordinance amendment is adopted. See Section 215.425, Florida Statutes.

### **FISCAL IMPACT STATEMENT**

Pursuant to Section 112.63 of the Florida Statutes, a statement of the actuarial impact of the proposed change upon the local retirement system shall be provided prior to the final adoption of the proposed Ordinance. Separate actuarial analysis reports have been prepared to estimate the impact of this change to the Unfunded Actuarial Accrued Liability (UAAL) and the City's Annual Contribution as to the City Manager (Exhibit "A") and City Attorney (Exhibit "B"), respectively.

**Does this Ordinance require a Business Impact Estimate?** No  
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **FINANCIAL INFORMATION**

See above Fiscal Impact Statement.

### **CONCLUSION**

If, on October 30, 2024, the City Commission approves Mr. Carpenter's Employment Agreement as proposed, the Office of the City Attorney recommends that the City Commission adopt this Ordinance on First Reading, and schedule a Second Reading/Public Hearing on November 20, 2024.

### **Applicable Area**

Citywide

**Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

### **Department**

City Attorney

### **Sponsor(s)**

Commissioner Joseph Magazine

**Co-sponsor(s)**

**Condensed Title**

1st Rdg, Amend MBERP Ordinance. (Magazine) CA