

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the “Agreement”) is entered into as of this 24th day of July, 2024, by and between **ERIC T. CARPENTER** (“Eric Carpenter”) and the **CITY OF MIAMI BEACH, FLORIDA** (the “City”) (each, a “Party” and collectively, the “Parties”).

WHEREAS, on July 24, 2024, the Mayor and City Commission appointed Eric Carpenter as City Manager of the City, effective immediately; and

WHEREAS, the City, acting by and through its City Commission, desires to employ Eric Carpenter as its City Manager on the terms and conditions set forth in this Agreement, and Eric Carpenter desires to be employed as City Manager on those same terms and conditions;

WHEREAS, on October 30, 2024, the Mayor and City Commission adopted Resolution No. 2024-_____, approving and authorizing the Mayor and City Clerk to execute this Agreement with Eric Carpenter, for a term of up to three (3) years, commencing retroactively on July 24, 2024, and expiring on July 24, 2027; and

NOW, THEREFORE, the Parties agree as follows:

1. Recitations. The Parties agree that the recitations above are true and correct and are incorporated as if fully set forth here.

2. Employment. The City agrees to employ Eric Carpenter as its City Manager and Eric Carpenter agrees to be so employed. Eric Carpenter will devote his full working time to his duties as City Manager and will not accept or perform any other employment, paid or unpaid, while he is employed as City Manager, except as expressly set forth herein or expressly agreed to by the City Commission by Resolution and modification of this Agreement, according to its terms. Notwithstanding the foregoing, nothing in this Agreement shall prohibit Eric Carpenter from occasional other work, such as teaching, writing, community activities, pro bono work, or civic or charitable activities as is appropriate to this position of City Manager, provided, however, that such work shall not interfere with Eric Carpenter’s duties as City Manager and shall not in any way reflect unfavorably on the City. Eric Carpenter shall at all times apply his best efforts to the performance of his duties as City Manager.

3. Employment At Will. Eric Carpenter is employed at will and serves at the pleasure of the City Commission. This Agreement and Eric Carpenter’s employment may be terminated by the City Commission at any time and for any reason or for no reason, subject only to the express Termination provisions of this Agreement.

4. Duties. Eric Carpenter will perform the duties of the office of City Manager as set forth in the Charter of the City of Miami Beach, Florida, and in the Code of the City of Miami Beach, Florida, and all such duties customary and appropriate to this position of City Manager and such other appropriate duties as may be assigned by the City Commission or its designee from time to time.

5. Effective Date. This Agreement shall become effective as of July 24, 2024 (the "Effective Date").

6. Term. Subject to the City Commission's annual review and evaluation of Eric Carpenter, as provided in Section 7(d) below, the Agreement shall have a term of up to three (3) years, commencing on July 24, 2024 (Commencement Date), and expiring at midnight, July 24, 2027, unless terminated earlier or renewed as set forth herein.

7. Compensation. Eric Carpenter shall receive compensation for performing the duties of City Manager as set forth in this Section 7. Nothing other than those items set forth in this Section 7 shall be considered or treated as compensation, wages, salary, earnings, or remuneration to Eric Carpenter for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Salary. The City shall pay Eric Carpenter a salary annualized at \$375,000, to be earned and to accrue bi-weekly. This salary shall likewise be paid bi-weekly according to the usual payroll practices of the City applicable to unclassified general employees. Eric Carpenter is a participant in the Section 457 deferred compensation plan (the Plan). Within fourteen (14) days following the execution of this Agreement, and thereafter on July 24th of each year during the Term of the Agreement, the City shall make a lump sum contribution on Eric Carpenter's behalf into (i) the Plan, in the amount of \$26,000, according to the terms of the Plan and applicable laws, with such contribution subject to an automatic annual increase to the maximum amount permitted by applicable law; and (ii) an IRA account selected by Eric Carpenter, in the amount of \$7,000 (or such lesser amount as may be required by applicable law); provided, however, that such IRA contribution shall also be subject to an automatic annual increase to the maximum amount permitted by applicable law. The City agrees to review the annual salary and/or other benefits of Eric Carpenter at the time of evaluation of performance as provided in Section 7.d. and make adjustments as the City may determine. An annual salary review of Eric Carpenter will be made every year within forty-five (45) days after July 24th of each year, or as soon as practicable thereafter, in accordance with the Agreement terms.

b. Insurance. During the City's open enrollment period taking place each year of the Term, Eric Carpenter may elect to join any City-offered group medical and group dental plan, and in such event, the City shall pay the full amount of premiums for the City-offered group medical and group dental plan selected by Eric Carpenter, for himself and his eligible dependents. The City will pay the full amount of premiums for the City-offered life insurance policy and supplemental life insurance policy for Eric Carpenter, and the City-offered insurance policies for short-term disability, long-term disability, and long-term care insurance for Eric Carpenter. Eric Carpenter may (or, if participation is mandatory, shall) participate in other City-offered insurance and benefits for which he is eligible on the terms applicable to unclassified general employees.

c. Leave. Eric Carpenter will be eligible to accrue, use, and convert leave hours to the extent and on the terms applicable to unclassified general employees.

d. Performance Evaluation and Incentive. Eric Carpenter's performance as City Manager shall be evaluated by the City Commission at least once annually, within forty-five (45) days prior to or following the anniversary of the Commencement Date, or at any other time the City Commission may determine. Eric Carpenter shall be responsible for notifying the City Commission that his annual performance review is due, and for placing the item on a City Commission meeting agenda within the time period specified herein. The annual performance evaluation of Eric Carpenter as City Manager shall occur without regard to whether any additional compensation or bonus incentive is sought pursuant to this Agreement.

i. The annual review and evaluation of Eric Carpenter shall be in accordance with the specific goals, priority objectives and initiatives the City Commission shall establish, in consultation with Eric Carpenter, as being necessary for the proper operation of the City and the achievement of the City Commission's policy objectives. The Parties anticipate that the performance priorities, goals and objectives for the City Manager shall be adopted by the City Commission as soon as possible, and not later than December 31, 2024, and memorialized as an amendment to this Agreement. Until such time as the City Commission and Eric Carpenter jointly establish such agreed-upon goals and priority objectives, Eric Carpenter's immediate priorities shall focus upon (i) the adoption of the City's FY2025 budget; (ii) the continuation of City's ongoing public safety efforts, including during Spring Break; (iii) City's permitting process improvement program; (iv) the City Manager's staffing and organizational plan, including filling of key vacancies; and (v) any such other priorities as the City Commission may establish from time to time.

ii. The City Commission's annual evaluation of Eric Carpenter's performance and progress toward the goals and objectives shall form the basis for the City Commission's determination of any salary increases or performance incentives that may be awarded to Eric Carpenter pursuant to this Agreement, or for the renewal or termination of this Agreement, as provided in Sections 9 and 10 of this Agreement, respectively. Based on the performance achieved by Eric Carpenter pursuant to the City Commission's annual review of Eric Carpenter pursuant to this Section 7, the City Commission may provide to Eric Carpenter a onetime Performance Incentive of up to 10 percent of the annualized salary amount set forth in Section 7.a. The Performance Incentive shall not be deemed a part of "base pay" or other earnings for purposes of pension.

8. Non-Compensation Expenses and Reimbursements. The City will pay for, reimburse, or otherwise provide for the items set forth in this Section 8. These items are paid for, reimbursed, or otherwise provided because they inure to the benefit of the City and do not constitute compensation, wages, salary, earnings, or remuneration to Eric Carpenter for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Vehicle. The City will pay to Eric Carpenter a vehicle allowance in the amount of \$9,600.00 annually, paid in proportionate bi-weekly installments to reimburse

him for the use of his personal vehicle for the benefit of the City. At his sole discretion he may forego the receipt of the vehicle allowance in exchange for use of a City owned and maintained vehicle with limited personal use within Miami-Dade and Broward Counties only.

b. Information and Communications Technology Expenses. The City will provide to Eric Carpenter adequate and reasonable information and communications hardware, software, and services to support him in the performance of his duties as City Manager.

c. Subscriptions, Memberships, and Fees. Eric Carpenter may include, as an expense item in the budget of the Office of the City Manager, an amount to be used to pay for such reasonable subscriptions, memberships, and fees and other similar costs, such as travel and lodging, as may be incurred for development and advancement related to, in support of, and inuring to the benefit of the City. No payment authorized hereunder may be made to an entity that illegally discriminates on the basis of any characteristics protected under the City's Human Rights Ordinance.

9. Renewal and Non-Renewal. The City Commission may renew or extend the original term of this Agreement by resolution for succeeding periods as specified by the City Commission on the same terms and conditions as then set forth in this Agreement or on such modified terms and conditions to which it may agree with Eric Carpenter. Should the City Commission not renew or extend the original or any succeeding term, this Agreement shall expire at the end of such original or succeeding term. Eric Carpenter's employment shall simultaneously end with the expiration of the original or succeeding term or period. Should the City not renew this Agreement, it will either give Eric Carpenter 90 days' notice of intent not to renew or, if no notice is given, the City shall, commencing upon the end of his employment, pay Eric Carpenter an amount equivalent to 12 weeks of the salary amount set forth in Section 7.a. (the "Separation Payments"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever. The Separation Payments will be paid lump sum. In addition to the Separation Payments, if at the time of such non-renewal, Eric Carpenter and his eligible dependents are participating in any City-offered group medical or group dental plan, the City shall pay Eric Carpenter the full amount of premiums for the City-offered group medical and group dental plan selected by Eric Carpenter, for himself and his eligible dependents, for a period of one (1) year following the expiration of this Agreement.

10. Termination by Eric Carpenter.

a. With Notice. Should Eric Carpenter terminate this Agreement by giving notice not less than 90 days prior to termination, the City shall pay him in like manner as if the Agreement were not renewed pursuant to Section 9 of this Agreement.

b. Without Notice. Should Eric Carpenter terminate this Agreement by giving notice less than 90 days prior to termination, the City shall pay him any payments due for work performed through the date of termination and other payments due, if any, upon

termination on the same terms and conditions applicable to unclassified general employees, and shall thereafter have no further liability to him whatsoever.

11. Termination by the City. The City Commission may terminate this Agreement and, thereby, Eric Carpenter' employment, at any time, with or without notice, and for any reason or for no reason.

a. Without Cause. Should the City terminate this Agreement without Cause, as defined in Section 11.b., it shall pay Eric Carpenter an amount equivalent to 20 weeks of the salary amount set forth in Section 7.a., provided, however, that if at the time of such termination, Eric Carpenter and his eligible dependents are participating in any City-offered group medical and group dental plan, the City shall also pay the full amount of premiums for the City-offered group medical and group dental plan selected by Eric Carpenter, for himself and his eligible dependents, for a period of one-year following the date of termination of this Agreement (the "Severance Payment"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees, and thereafter City shall have no further liability to him whatsoever. Should Florida law be changed to permit a Severance Payment greater than that permitted under law at the time of the execution of this Agreement, the City Commission will review the amount of the Severance Payment set forth in this Agreement and consider making any adjustments thereto, at its sole discretion. In the event the City at any time during the term of this Agreement reduces the salary or other financial benefits of Eric Carpenter in a greater percentage than an applicable across the board reduction for all employees of the City or in the event the City refuses after written notice to comply with any other provision of this Agreement benefiting Eric Carpenter, or if a majority of the members of the City Commission in a public meeting requests that Eric Carpenter resign, then Eric Carpenter may, at his option, be deemed to be terminated as of the date of such reduction or such refusal to comply within the meaning and context of this Section 11.a.

b. With Cause. Should the City terminate this Agreement with Cause, as herein defined, it shall pay Eric Carpenter any payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees, and the City shall thereafter have no further liability to him whatsoever, including no obligation to pay the Severance Payment as defined in Section 11.a. Cause is defined as one or more of the following: any material breach of this Agreement, provided, however, that the City Manager's progress or achievement of the goals and objectives as may be established by the City Commission (and memorialized in an amendment to this Agreement) shall be excluded from the definition of "Cause" and shall not form the basis for the termination of Eric Carpenter with Cause; conviction of any felony; admission of conduct that would constitute any felony; conduct that would constitute a violation of any applicable code of ethics or professional conduct; conduct that would constitute malfeasance or misfeasance in office as those terms are interpreted under Section 112.3187, Florida Statutes; or other similar conduct that the City Commission reasonably determines merits termination.

12. Pension. Eric Carpenter shall continue to be a member of the Miami Beach Employees Retirement Plan as a condition of his employment pursuant to the governing ordinance of the plan (which plan, at the time of the effective date of this Agreement, includes an accrual factor of 4 percent for his period of service in the position of City Manager). Based upon the more than ten years of service as a City executive and the short duration of the contractual relationship as City Manager, Eric Carpenter shall be included as one of the more than 400 current employees that are members of Tier B of the Miami Beach Employee Retirement Program. Within 90 days after the execution of this agreement, a corresponding amendment to the pension ordinance that grants Eric Carpenter the same pension terms and benefits that apply to members of Tier B, except as otherwise specifically provided for Charter Officers or for the City Manager (the "Pension Ordinance Amendment") shall be ratified by the Commission.

13. Bonds. The City shall bear the full expense of any fidelity or other bond required of Eric Carpenter in his capacity as City Manager under any statute, ordinance, or regulation.

14. Indemnification. The City shall indemnify and defend Eric Carpenter or, at its option, provide a defense to Eric Carpenter against claims arising out of and in the course and scope of his employment or function, consistent with and to the extent of Florida law under Chapter 111, Florida Statutes, and a public official's right to a defense against claims arising from their performance of their public duties performed while serving a public purpose under the common law of Florida.

15. Notice. Any notice hereunder shall be effective if made by delivery, postage paid, to the United States Postal Service or by a manner valid for personal service under the Florida Rules of Civil Procedure or by public statement on the record during a meeting of the City Commission in the presence of the party to whom notice is to be given. Notice, for purposes of this Agreement, is to be given to:

City: Mayor Steven Meiner (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

and

City Attorney Ricardo Dopico (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Eric Carpenter: Eric T. Carpenter (or heirs)
[Address on file with Human Resources and confidential and exempt from disclosure under Florida law]

16. No Assignment or Delegation; No Third-Party Beneficiaries. The services provided by Eric Carpenter are considered unique and personal to him. Accordingly, Eric Carpenter may not delegate or assign any duty, obligation, or benefit attaching or accruing hereunder. This Agreement is entered into and intended for the benefit solely of the City and Eric Carpenter and not for the benefit of any other person or entity.

17. Entire Agreement, Severability, Modification, Waiver. The provisions of this Agreement constitute the entire agreement between the Parties on its subject matter and this Agreement supersedes any other agreement, understanding, representation, or promise whatsoever. Eric Carpenter agrees that he has relied solely upon the express language of this Agreement in determining whether to enter into this Agreement and not upon any other understanding or communication of any kind, whether written or oral. Should a court or arbitrator of competent jurisdiction determine that any provision or portion thereof of this Agreement is illegal, invalid, or unenforceable, the remaining provisions or portions thereof shall remain in full force and effect. This Agreement may be modified only by a writing signed by both Parties and approved by the City Commission by Resolution. Waiver of any right or of any breach of this Agreement by either party in any instance or instances shall not constitute or be construed as a waiver in any other instance.

18. Construction, Governing Law, Headings. This Agreement shall be construed according to its express language and not strictly for or against either Party, regardless of authorship. This Agreement shall be governed by and according to the laws of the State of Florida. Section headings are for convenience only and shall have no legal effect.

19. Arbitration. The Parties agree that any claim or dispute arising from this Agreement, its interpretation, its renewal, or its breach shall be settled in final and binding arbitration by a single arbitrator under the Arbitration Policies and Procedures of the Federal Mediation and Conciliation Service. A panel of arbitrators may be requested by either Party and the Parties will select an arbitrator by alternative strikes. The first Party to strike will be determined by agreement or coin flip. Each Party may one time reject a proposed panel of arbitrators and request another. The party requesting any panel shall bear the expense of the request. The Parties shall bear equally the expense of the arbitrator and the location of the arbitration hearing. The Parties shall each bear their own litigation costs, including attorney's fees, court reporter fees, and witness fees, if any. The arbitrator shall apply a preponderance of the evidence standard of proof. The party asserting a claim or affirmative defense shall have the burden of persuasion as to that claim or affirmative defense. The arbitrator shall not have authority to make any award of attorney's fees or the costs of the arbitration. The arbitrator shall confine himself or herself strictly to the language of this Agreement and shall have no authority to add to, subtract from, or modify any term or provision of this Agreement. The arbitrator shall have no authority to construe any law, regulation, rule, principle of law, decision, or provision or provisions of this Agreement or to make any award that would result in or obligate the City, directly or indirectly, to incur any debt, cost, expense, or liability in excess of the amount initially budgeted, approved, and appropriated for the funding of this Agreement. Any such purported construction or award will be null and void. The arbitrator's award shall be subject to enforcement or vacation by the Circuit Court according to law. Moreover, and without waiving the preceding limitation, in no case shall the City be liable for any punitive, consequential, indirect, or incidental damages whatsoever.

20. Counterparts, Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument. Execution and delivery of this Agreement by electronic exchange bearing the copies of a Party's signature shall constitute a valid and binding execution and delivery of this Agreement by such Party. Such electronic copies shall constitute enforceable original documents.

WHEREFORE, the Parties, after full consideration, including consultation with independent counsel, do knowingly, voluntarily, and intending to be legally bound, hereby enter into this Agreement duly executed on the dates written below.

Attest: **FOR CITY OF MIAMI BEACH, FLORIDA:**

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

_____ day of _____, 2024.

FOR CITY MANAGER ERIC T. CARPENTER:

Witness Signature

Eric T. Carpenter

_____ day of _____, 2024.

Print Name

Witness Signature

Print Name

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Nick Kalle
City Attorney

10/22/24
Date