

C7 AQ A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND CITY MANAGER ERIC T. CARPENTER.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Nick Kallergis, Chief Deputy City Attorney

DATE: November 20, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND CITY MANAGER ERIC T. CARPENTER.

BACKGROUND/HISTORY

On July 24, 2024, the Mayor and City Commission appointed Eric T. Carpenter as City Manager of the City of Miami Beach, effective immediately.

On October 30, 2024, the City Commission adopted Resolution No. 2024-33341, approving 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 (the "Agreement"). On October 30th, the City Commission also adopted on First Reading an Ordinance amending the Miami Beach Employees' Retirement Plan ("Pension Plan") to ratify a term of the Agreement relating to Mr. Carpenter's pension benefit.

ANALYSIS

The attached Resolution approves Amendment No. 1 to the City Manager's Employment Agreement, as proposed by the City Manager, to provide that the City Manager may, subject to satisfying certain requirements, purchase enhanced pension benefits as a member of Tier B of the Pension Plan. This additional employee contribution is intended to offset the increased cost to the City of providing the enhanced benefits, as estimated in the October 18, 2024 actuarial analysis report.¹

¹ The October 18, 2024 actuarial analysis report is attached to the companion Ordinance amending the Pension Plan.

As originally approved by the City Commission, the Agreement provides that Mr. Carpenter shall be included as one of the more than 400 current employees that are members of Tier B of the Pension Plan.

This Amendment is consistent with the companion Ordinance amending the Pension Plan, as revised for Second Reading/Public Hearing on November 20, 2024.

FISCAL IMPACT STATEMENT

N/A

Does this Ordinance require a Business Impact Estimate? (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

CONCLUSION

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)

Co-sponsor(s)

Condensed Title

Amendment No. 1 to Employment Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND CITY MANAGER ERIC T. CARPENTER.

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

WHEREAS, on October 30, 2024, the Mayor and City Commission adopted Resolution No. 2024-33341, approving and authorizing the Mayor and City Clerk to execute the Employment 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 (the "Agreement"); and

WHEREAS, this Resolution approves Amendment No. 1 to the Agreement, amending Section 12 of the Agreement, entitled "Pension," to provide that Eric Carpenter may, subject to satisfying certain requirements, elect to purchase enhanced pension benefits as a member of Tier B of the Miami Beach Employees' Retirement Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the City Commission hereby approves and authorizes the Mayor and City Clerk to execute Amendment No. 1 to the Employment Agreement between the City of Miami Beach and City Manager Eric T. Carpenter.

PASSED AND ADOPTED this _____ day of _____ 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION


City Attorney NK

11/13/24
Date

**AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH, FLORIDA
AND
ERIC T. CARPENTER**

This **Amendment No. 1** ("Amendment") to the Employment Agreement, dated July 24, 2024 ("Agreement"), by and between **ERIC T. CARPENTER** ("Eric Carpenter") and the **CITY OF MIAMI BEACH, FLORIDA** (the "City"), (each, a "Party" and collectively, the "Parties") is hereby entered into this ____ day of _____, 20____.

RECITALS

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

WHEREAS, on October 30, 2024, the Mayor and City Commission adopted Resolution No. 2024-33341, approving and authorizing the Mayor and City Clerk to execute the 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

WHEREAS, on November 20, 2024, the Mayor and City Commission adopted Resolution No. 2024-_____, approving and authorizing the Mayor and City Clerk to execute this Amendment, to authorize Eric Carpenter to elect to purchase enhanced pension benefits; and

WHEREAS, on November 20, 2024, the Mayor and City Commission also adopted Ordinance No. 2024-_____, approving a corresponding amendment to the Miami Beach Employees Retirement Plan (the "Plan"); and

WHEREAS, this Amendment amends Section 12 of the Agreement, entitled "Pension," to provide that Eric Carpenter may, subject to satisfying certain requirements, elect to purchase enhanced pension benefits as a member of Tier B of the Plan.

NOW THEREFORE, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Eric Carpenter hereby agree to amend the Agreement as follows:

1. ABOVE RECITALS.

The above recitals are true and correct and are incorporated as part of this Amendment.

2. MODIFICATIONS.

The Agreement is hereby amended (deleted items ~~struck through~~ and inserted items underlined) as follows:

(a) Section 12 of the Agreement is hereby amended to read as follows:

12. Pension. Eric Carpenter shall continue to be a member of the Miami Beach Employees Retirement Plan (the "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 may elect to be included as one of the more than 400 current employees that are members of Tier B of the Plan Miami Beach Employee Retirement Program. Within 90 days after the execution of this Amendment, a corresponding amendment to the pension ordinance that grants Eric Carpenter the right to elect to purchase 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. The Pension Ordinance Amendment shall prescribe the terms (including the date of the election, and the amount of the additional employee contribution required) on which Eric Carpenter may purchase Tier B benefits. As part of this election, Eric Carpenter agrees to forego, as more specifically provided in the Pension Ordinance Amendment, the City's contributions to his 457 deferred compensation plan and IRA as provided in Section 7.a of this Agreement, in which case (i) the City will contribute an additional amount to the pension plan that is equivalent to the City's contributions to Eric Carpenter's 457 deferred compensation plan and IRA under Section 7.a of this Agreement (and these additional contributions shall be treated as additional employee contributions) and (ii) Eric Carpenter's annual employee contribution to the Plan shall increase by the difference between the increased annual City contribution for the enhanced retirement benefits for Tier B as reflected in the October 18, 2024 actuarial analysis, and the City's annual contributions to Eric Carpenter's 457 deferred compensation plan and IRA as provided in Section 7.a of this Agreement. The increased City and employee contributions shall continue until he is no longer employed as City Manager, or until the total increased contributions equal the increase in the actuarial accrued liability of the Plan for the enhanced retirement benefits for Tier B as reflected in the October 18, 2024 actuarial analysis, whichever occurs first.

3. RATIFICATION.

Except as amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

WHEREFORE, the Parties, after full consideration, including consultation with independent counsel, do knowingly, voluntarily, and intending to be legally bound, hereby enter into this Amendment 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 AND LANGUAGE
& FOR EXECUTION

Nick Allegro
City Attorney *NK*

11/13/24
Date