

**CITY OF INDIAN WELLS
FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT**

This Fifth Amendment amends the Employment Agreement – City Manager (this “Fifth Amendment”) between the City of Indian Wells (the “City”) and Chris Freeland (the “Employee” or “Manager”).

Except as modified in this Fifth Amendment and the preceding First, Second, Third, and Fourth amendments, the Employment Agreement dated May 2, 2019 (“Agreement”) between the City and the Employee remains in full force and effect.

For mutual consideration, hereby acknowledged, the parties to this Fifth Amendment agree to the following changes:

1. Section 6, entitled “Termination of Employment and this Agreement; Severance,” is hereby amended at Subsection A to increase severance of both salary and benefits from nine months to 12 months, reading as follows:

“6. Termination of Employment and This Agreement; Severance:

A. If the City terminates this Agreement (thereby terminating the Manager’s employment) without cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, and if the Manager signs, delivers to the City Council, and does not revoke, the General Release Agreement (“Release Agreement”) in the form attached hereto as Exhibit A, City shall pay Manager a lump sum benefit equal to (1) payment equal to 12 months of Manager’s Base Salary; or (2) payment equal to the unexpired Term of this Agreement as described in Section 4 above, whichever is less. In addition to Severance pay, the Manager shall receive continuation of his health benefits, as well as dental, vision, and life insurance benefits, for 12 months or until he finds other employment that provides health benefits, whichever occurs first. (The foregoing salary and health benefits shall be referred to collectively as “Severance.”)

2. Section 7, entitled “Compensation and Annual Evaluation,” is hereby amended at subsection A to increase the Manager’s annual Base Salary by \$23,000.00, reading as follows:

“7. Compensation and Annual Evaluation:

A. Effective July 1, 2023, the Manager’s annual Base Salary shall be \$285,000.00. Said amount shall be payable in monthly or bi-weekly

installments at the same time and in the same manner as other employees of the City are paid. Increases in Manager's Base Salary may be effective at any time in the sole discretion of the City Council."

3. Section 3 entitled "Benefits" is hereby amended at subsections A and C to provide a one-time addition of 120 hours to the Manager's accrued vacation-time bank and require all cash-outs be deposited into a 401a plan. There is no change for subsection B. For each year, the amount contributed to the City's 401(a) Plan, in total, shall not exceed the IRS Annual Additions limit [Section 415(c)(1)(a)], as adjusted annually by the IRS for the cost of living (\$66,000 for 2023). Any excess above the annual limit will be disbursed to the Employee and not deposited into the Plan.

"8. Benefits:

- A. Vacation. In addition to vacation-related benefits under the Agreement and prior amendments, Manager will be provided 120 hours of additional banked vacation time on September 7, 2023. Manager shall also be entitled to and accrue paid vacation consistent with the City Resolution and policies applicable to executive-level employees with 15 years of service. Employees with that level of seniority are provided 25 vacation days per year. The City's policies and practices govern accrual rates, caps and limits, application, and usage. Any mandatory vacation cash-outs shall be deposited into the City's 401a plan.

- C. Administrative Leave. Manager shall be entitled to and accrue administrative leave consistent with City policies and practices on an annual basis. The City's policies and practices govern accrual rates, caps and limits, application, and usage. Any mandatory administrative-leave cash-outs shall be deposited into the City's 401a plan."

(Signatures on following page)

IN WITNESS WHEREOF, the parties have executed this Agreement on the ____ day of September 2023.

CITY OF INDIAN WELLS

CHRIS FREELAND

By: Donna Griffith, Mayor

By: Chris Freeland

ATTEST:

Angelica Avila, City Clerk

APPROVED AS TO FORM:

Todd R. Leishman, for
Best Best & Krieger, LLP
City Attorney