

ATTACHMENT #1
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, B, 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. 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.

- B. Sick Leave. Manager shall accrue 96 hours of paid sick leave per year, with sick leave accruing on a pro-rata basis per pay period. To the extent permissible by state law, accrued sick leave may be used in the event of retirement as credit towards PERS service. The City’s policies and practices govern accrual rates, caps and limits, application, and usage. Any mandatory sick-leave 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 7th day of September 2023.

CITY OF INDIAN WELLS

CHRISTOPHER FREELAND

E-SIGNED by Donna J.H. Griffith
on 2023-09-11 14:36:45 PDT

E-SIGNED by Christopher Freeland
on 2023-09-11 13:19:56 PDT

By: Donna Griffith, Mayor

By: Christopher Freeland

ATTEST:

E-SIGNED by Angelica Avila
on 2023-09-11 14:37:39 PDT

Angelica Avila, City Clerk

APPROVED AS TO FORM:

E-SIGNED by Todd Leishman
on 2023-09-11 13:25:42 PDT

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

CITY OF INDIAN WELLS
FOURTH AMENDMENT TO
CITY MANAGER EMPLOYMENT AGREEMENT

This Fourth Amendment to City Manager Employment Agreement (this “Fourth Amendment”), effective November 3, 2022, is between the City of Indian Wells (the “City”) and Chris Freeland (the “Employee” or “Manager”).

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

The parties to this Fourth Amendment agree to the following changes:

1. Section 4 entitled “Term” is hereby amended to renew the Agreement and extend its term by an additional one year, to read now as follows:

“4. Term:

The term of this Agreement will commence on May 13, 2019, and shall continue until **December 31, 2029**, or the date of earlier termination in accordance with provisions in this Agreement. In the event that the City Council determines that the Manager is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the City Council at least one hundred and twenty (120) days in advance of the final year of this Agreement. Failure to provide timely written notice provided for in this Section shall result in the Agreement being extended on the same terms for additional periods of one (1) year on each occasion. This renewal clause and its notice provision shall apply to all subsequent terms under this Agreement.”

2. Section 7 entitled “Compensation and Annual Evaluation,” subsection A, is hereby amended to increase the Manager’s annual Base Salary by \$12,000.00, to read now as follows::

“7. Compensation and Annual Evaluation:

A. Effective July 1, 2022, Manager’s initial annual Base Salary shall be Two Hundred and Sixty-two Thousand Dollars (\$262,000.00). 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 subsection A to provide a one-time addition of 40 hours to the Manager's bank of accrued vacation time, to read as follows:

"8. Benefits:

A. Vacation. Manager will be provided an additional forty (40) hours of banked vacation time upon the commencement of this Fourth Amendment. Manager shall also be entitled to and accrue paid vacation consistent with the City Resolution and policies applicable to executive level employees with fifteen (15) years of service. Currently, employees with such seniority are provided twenty-five (25) vacation days per year. Accrual rates, caps and limits, application, and usage are governed by the City's policies and practices."

IN WITNESS WHEREOF, the parties have executed this Fourth Amendment as indicated below.

CITY OF INDIAN WELLS

CHRIS FREELAND

E-SIGNED by Dana Reed
on 2022-11-04 20:38:07 PDT

E-SIGNED by Christopher Freeland
on 2022-11-04 15:38:36 PDT

By: Dana Reed, Mayor

By: Chris Freeland

November 04, 2022
Date: _____

November 04, 2022
Date: _____

ATTEST:

E-SIGNED by Angelica Avila
on 2022-11-05 12:00:08 PDT

Angelica Avila, City Clerk

APPROVED AS TO FORM:

E-SIGNED by Todd Leishman
on 2022-11-04 15:54:35 PDT

Todd R. Leishman, City Attorney

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

This Third Amendment to the Employment Agreement – City Manager (this “Third Amendment”) between the City of Indian Wells (the “City”) and Chris Freeland (the “Employee” or “Manager”) is entered into this 16 day of December 2021.

Except as modified in this Third Amendment and the preceding First and Second Amendments, the Employment Agreement originally dated May 2, 2019 (“Agreement”) between the City and the Employee shall remain in full force and effect.

The parties to this Third Amendment agree to the following changes:

1. Section 4 entitled “Term” is hereby amended to renew the Agreement and extend its term by an additional one year and seven months as follows:

“4. Term:

The term of this Agreement will commence on May 13, 2019, and shall continue until **December 31, 2028**, or the date of earlier termination in accordance with provisions in this Agreement. In the event that the City Council determines that the Manager is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the City Council at least one hundred and twenty (120) days in advance of the final year of this Agreement. Failure to provide timely written notice provided for in this Section shall result in the Agreement being extended on the same terms for additional periods of one (1) year on each occasion. This renewal clause and its notice provision shall apply to all subsequent terms under this Agreement.”

2. Section 7 entitled “Compensation and Annual Evaluation” is hereby amended at subsection A to increase the Manager’s annual Base Salary by \$10,000.00:

“7. Compensation and Annual Evaluation:

A. Effective July 1, 2021, Manager’s initial annual Base Salary shall be Two Hundred and Fifty Thousand Dollars (\$250,000.00). 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 subsection A to provide a one-time addition of 120 hours to the Manager's accrued vacation time bank:

"8. Benefits:

A. Vacation. Manager will be provided one hundred twenty (120) hours of banked vacation time upon the commencement of this Third Amendment. Manager shall also be entitled to and accrue paid vacation consistent with the City Resolution and policies applicable to executive level employees with fifteen (15) years of service. Currently employees with such seniority are provided twenty-five (25) vacation days per year. Accrual rates, caps and limits, application, and usage are governed by the City's policies and practices."

The City and the Employee have duly executed this Third Amendment as of the date first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 16 day of December 2021.

CITY OF INDIAN WELLS

CHRIS FREELAND

E-SIGNED by Dana Reed
on 2021-12-17 08:03:14 PST

E-SIGNED by Christopher Freeland
on 2021-12-16 15:44:50 PST

By: Dana Reed, Mayor

By: Chris Freeland

ATTEST:

E-SIGNED by Angelica Avila
on 2021-12-17 08:05:02 PST

Angelica Avila, City Clerk

APPROVED AS TO FORM:

E-SIGNED by Todd Leishman
on 2021-12-17 05:50:19 PST

Todd R. Leishman, City Attorney

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

This Second Amendment to the Employment Agreement – City Manager (this “Second Amendment”) between the City of Indian Wells (the “City”) and Christopher J. Freeland (the “Employee” or “Manager”) is entered into this 17th day of December 2020.

Except as modified in this Second Amendment and the preceding First Amendment, the Employment Agreement originally dated May 2, 2019 (“Agreement”) between the City and the Employee shall remain in full force and effect.

The parties to this Second Amendment agree to the following changes:

1. Section 4 entitled “Term” is hereby amended to renew the Agreement and extend its terms an additional two years as follows:

“4. **Term:**

The term of this Agreement will commence on May 13, 2019, and shall continue until **May 13, 2027**, or the date of earlier termination in accordance with provisions in this Agreement. In the event that the City Council determines that the Manager is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the City Council at least one hundred and twenty (120) days in advance of the final year of this Agreement. Failure to provide timely written notice provided for in this Section shall result in the Agreement being extended on the same terms for additional periods of one (1) year on each occasion. This renewal clause and its notice provision shall apply to all subsequent terms under this Agreement.”

2. Section 7 entitled “Compensation and Annual Evaluation” is hereby amended at subsection B to indicate ineligibility for salary increase if there is no revenue generated from the March 2021 *BNP Paribas Open* tennis tournament:

“7. **Compensation and Annual Evaluation:**

...
B. The City, by the City Council, and Manager shall set mutually agreed-upon objectives for each year under this Agreement. The City Council shall evaluate the Manager’s performance at least once a year. Following the annual evaluation, the Council may consider whether increased compensation is warranted. For Manager’s evaluation period of May 2020 to May 2021, **the Parties agree that the 2021 BNP Paribas Open tennis tournament is a critical source of revenue for the City; as**

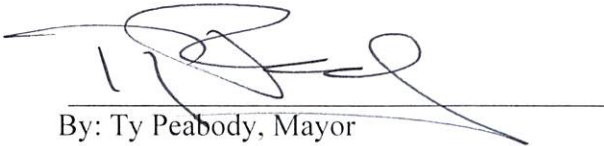
such, Manager is voluntarily waiving any additional salary increase relating to the 2020-2021 evaluation period if the 2021 BNP Paribas Open tennis tournament does not generate income to the City similar to past years, excepting the 2020 cancelled year. Any increase to salary will be memorialized in a written amendment to this Agreement.”

The City and the Employee have duly executed this Second Amendment as of the date first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 17th day of December 2020.

CITY OF INDIAN WELLS

CHRISTOPHER J. FREELAND



By: Ty Peabody, Mayor



By: Christopher J. Freeland

ATTEST:



Angelica Avila, Acting City Clerk

APPROVED AS TO FORM:



Jeffrey S. Ballinger, City Attorney

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

This First Amendment to the Employment Agreement – City Manager (this “First Amendment”) between the City of Indian Wells (the “City”) and Chris Freeland (the “Employee” or “Manager”) is entered into this 4th day of June, 2020.

Except as modified in this First Amendment, the Employment Agreement originally dated May 2, 2019 (“Agreement”) between the City and the Employee shall remain in full force and effect.

The parties to this First Amendment agree to the following changes:

1. Section 4 entitled “Term” is hereby amended to renew the Agreement and extend its terms an additional year as follows:

“4. **Term:**

The term of this Agreement will commence on May 13, 2019, and shall continue until **May 13, 2025**, or the date of earlier termination in accordance with provisions in this Agreement. In the event that the City Council determines that the Manager is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the City Council at least one hundred and twenty (120) days in advance of the final year of this Agreement. Failure to provide timely written notice provided for in this Section shall result in the Agreement being extended on the same terms for additional periods of one (1) year on each occasion. This renewal clause and its notice provision shall apply to all subsequent terms under this Agreement.”

2. Section 7 entitled “Compensation and Annual Evaluation” is hereby amended at subsection A to increase salary by an additional \$10,000 per year:

“7. **Compensation and Annual Evaluation:**

A. Manager’s annual Base Salary shall be **Two Hundred and Forty Thousand Dollars (\$240,000.00)**. 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 8 entitled “Benefits” is hereby amended at subsection D to increase deferred compensation by \$12,000 per year:

“8. **Benefits:**

...

D. **Deferred Compensation.** The City will adopt and establish a qualified deferred compensation plan pursuant to Section 401a of the Internal Revenue Code for the benefit of Manager and will annually contribute into the qualified 401a account, in the Manager’s name, the amount of **Nineteen Thousand and Five Hundred Dollars (\$19,500.00).** Such contributions will be made in January of each year of this Agreement in addition to the current 2.5% 401a benefit provided to all fulltime employees. The City shall be responsible for all expenses associated with the 401a account during the remaining term of this Agreement, including but not limited to administrative services fees and commissions.”

4. Section 8 entitled “Benefits” is hereby amended at subsection I to clarify that Employee is afforded the same level of leave cash out and retiree medical benefits afforded to other City employees:

“8. **Benefits:**

...

I. **All Other Benefits.** With the exception of such benefits as outlined specifically in this Section, the City shall provide the Manager with other benefits, including but not limited to health, disability, and retirement benefits, consistent with those benefits provided to the City’s other executive-level employees. **The provision of such benefits shall include, but are not limited to, the same level of entitlement to cash out leave accruals and Tier B employee retiree medical benefits.**”

5. Section 6 entitled “Termination of Employment and this Agreement; Severance” is hereby amended at subsection A, along with its referenced attachment, to clarify that Employee would be entitled to the continuation of health benefits:

“6. **Termination of Employment and this Agreement; Severance:**

A. If City terminates this Agreement (thereby terminating 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 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 (as attached to the First Amendment to Employment Agreement)**, City shall pay Manager a lump sum benefit equal to (1) payment equal to nine (9) months of Manager’s

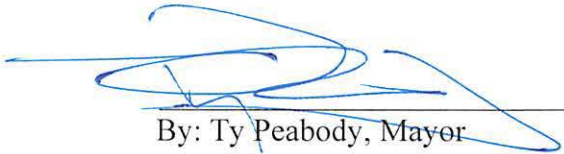
Base Salary; or (2) payment equal to the unexpired Term of this Agreement, as described in Section 4 above, **whichever amount is less**. In addition to the Severance pay, Manager shall receive continuation of health benefits, **as well as dental, vision, and life insurance benefits**, for nine (9) months or until he finds other employment that provides **such** benefits, whichever occurs first. (the foregoing salary and health benefits shall be referred to collectively as “Severance.”)”

The City and the Employee have duly executed this First Amendment as of the date first written above.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 4th day of June 2020.

CITY OF INDIAN WELLS

CHRISTOPHER J. FREELAND



By: Ty Peabody, Mayor



By: Christopher J. Freeland

ATTEST:



Ana Grandys, City Clerk

APPROVED AS TO FORM:



Jeffrey S. Ballinger, City Attorney



EMPLOYMENT AGREEMENT

CITY MANAGER

May 2, 2019

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF INDIAN WELLS
AND CHRIS FREELAND**

1. Employment:

This City Manager Employment Agreement (Agreement) is entered into by and between the CITY OF INDIAN WELLS (City) and CHRIS FREELAND(Manager). Under this Agreement, the City offers, and Manager accepts, employment as City Manager of City of Indian Wells. Manager, in his capacity as City Manager, is a contracted employee serving at the will and pleasure of the City Council, subject to termination pursuant to the terms of this Agreement, and with no right to any hearing or appeal, including any so-called *Skelly* conference, other than the rights expressly provided in this Agreement.

2. Duties:

Manager shall perform those duties and have those responsibilities that are commonly assigned to a city manager of a city in California, and as may be further set forth in the City's Charter or Municipal Code at sections 2.04.080 and 2.040.090. Manager represents that he has the requisite education, experience, skills and expertise to serve as city manager. Manager shall perform such other legally permissible and proper duties and functions consistent with the office of City Manager, as the City Council shall from time to time assign.

During the Term of this Agreement or any subsequent term, the City Council will not change any provisions in the City Council Policy Manual relating the duties and responsibilities of the city manager position without meeting and conferring with the Manager at least once in an attempt to agree on the changes proposed. After one meeting with the Manager over the proposed changes, the City Council is free to make its proposed changes regardless of whether it reached any agreement on those changes with the Manager. It is understood that all other provisions of the City Council Policy Manual can be changed by the City Council at its discretion.

3. Devotion to City Business:

Manager's position is full-time. Manager shall not engage in any business, educational, professional, charitable, or other activities that would conflict or materially interfere with performance of his Manager duties, except as may be specifically authorized by the City Council. City Council Authorization will not be unreasonably withheld. The Manager shall regulate his own work schedule provided he accommodates a normal business schedule and remains accessible, recognizing the Manager's need for flexibility. It is understood that the Manager shall be available 24 hours a day and 7 days a week and is required to meet all the needs of the City regardless of City operating hours or any regular or normal work schedule.

4. Term:

The term of this Agreement will commence on May 13, 2019, and shall continue until May 13, 2024, or the date of earlier termination in accordance with provisions in this Agreement. In the event that the City Council determines that the Manager is not to be reemployed upon expiration of this Agreement, he shall be given written notice thereof by the City Council at least one hundred and twenty (120) days in advance of the final year of this Agreement. Failure to provide timely written notice provided for in this Section shall result in the Agreement being extended on the same terms for additional periods of one (1) year on each occasion. This renewal clause and its notice provision shall apply to all subsequent terms under this Agreement.

5. City Council Commitments:

A. Except for the purpose of inquiry, the City Council and its members shall deal with all subordinate City employees, officers, contractors, and consultants solely through the Manager or the Manager's designee, and neither the City Council nor any member thereof shall give direction to any subordinate of the Manager, either publicly or privately.

B. No member of the City Council will order the appointment or removal of any person to any office or employment under the supervision and control of the Manager.

C. Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the Manager, as specified in the City Charter, the Municipal Code, this Agreement, or any other lawfully adopted and authorized document.

6. Termination of Employment and this Agreement; Severance:

A. If City terminates this Agreement (thereby terminating 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 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 nine (9) months of Manager's Base Salary; or (2) payment equal to the unexpired Term of this Agreement as described in Section 4 above. In addition to the Severance pay, Manager shall receive continuation of his health benefits for nine (9) months or until finds other employment that provides health benefits, whichever occurs first. (The foregoing salary and health benefits shall be referred to collectively as "Severance.")

B. If City terminates this Agreement (thereby terminating Manager's employment) with 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, Manager shall not be entitled to any additional compensation or payment, including Severance, but shall be

entitled only to accrued Base Salary and vacation pay, and any other accrued and unused benefit allowances according to their terms ("Accrued Salary and Benefits"). As used in this Agreement, Cause shall only mean any of the following:

1. Conviction of, or no contest plea to, a felony;
2. Conviction of, or not contest plea to, any illegal act involving moral turpitude or personal gain;
3. Continued abuse of non-prescription drugs or alcohol that materially affects the performance of the Manager's duties;
4. Any act constituting a knowing and intentional violation of the City's conflict of interest code;
5. Repeated and protracted unexcused absences from the City Manager's office and duties;
6. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4; or
7. Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body at a Brown Act-compliant meeting.

C. In no event may Manager be terminated within ninety (90) days before or after any municipal election for the selection or recall of one or more of the members of the City Council.

D. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment, including Severance.

E. In the event Manager is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, or mental incapacity for a period of three consecutive months beyond any provided sick leave, the City may terminate Manager's employment and this Agreement.

F. Manager may resign from his employment at any time, upon giving forty-five (45) days written notice to the City Council.

7. Compensation and Annual Evaluation:

A. Manager's initial annual Base Salary shall be Two Hundred and Thirty Thousand Dollars (\$230,000.00). 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.

B. The City, by the City Council, and Manager shall set mutually agreed-upon objectives for each year under this Agreement. The City Council shall evaluate the Manager's performance at least once a year. Following the annual evaluation, the Council may consider whether increased compensation is warranted. Any increase to salary will be memorialized in a written amendment to this Agreement.

C. The City Council and the Manager shall define such goals and performance objectives as they mutually determine are necessary for the proper operation of the City for the attainment of the City Council's policy objectives, and the City Council and the Manager shall further establish a relative priority among those goals and performance objectives. Such goals, objectives and priorities are subject to adjustment by the Parties at any time. Within six months of hire, the Council shall review and evaluate the Manager in accordance with the specific criteria developed jointly by the Council and Manager.

8. Benefits:

A. Vacation. Manager will be provided forty (40) hours of banked vacation time upon the commencement of this Agreement. Manager shall also be entitled to and accrue paid vacation consistent with the City Resolution and policies applicable to executive level employees with fifteen (15) years of service. Currently employees with such seniority are provided twenty five (25) vacation days per year. Accrual

rates, caps and limits, application, and usage are governed by the City's policies and practices.

B. Sick Leave. Manager shall accrue ninety six (96) hours of paid sick leave per year, with sick leave accruing on a pro rata basis per pay period. To the extent permissible by state law, accrued sick leave may be used in the event of retirement as a credit towards PERS service. Accrual rates, caps and limits, application, and usage are governed by the City's policies and practices.

C. Administrative Leave. Manager will be provided forty (40) hours of banked administrative leave upon the commencement of this Agreement. Manager shall also be entitled to and accrue administrative leave consistent with City policies and practices on an annual basis. Accrual rates, caps and limits, application, and usage are governed by the City's policies and practices.

D. Deferred Compensation. The City will adopt and establish a qualified deferred compensation plan pursuant to Section 457 of the Internal Revenue Code for the benefit of the Manager and will annually contribute into the qualified 457 account, the Manager's name, the amount of Seven Thousand and Five Hundred Dollars (\$7,500). Such contributions will be made in January of each year of this Agreement, except that the initial payment shall be prorated for the 2019 calendar year and made as soon as practicable. The City shall be responsible for all expenses associated with the 457 account during the remaining term of this Agreement, including but not limited to administrative services fees and commissions.

E. Automobile Allowance. The City shall pay Manager an automobile allowance in exchange for the Manager securing a personal vehicle to be used for City business or functions during, before, and after normal work hours. The automobile allowance shall be \$500 per month. Manager shall be responsible for the costs of operation, repair, maintenance, and liability, property damage and comprehensive insurance for such personal vehicle. By the Manager making the Manager's personal

automobile available for use, the Manager is not precluded from using City vehicles for City business during, before, and after the normal workday on occasion, when appropriate.

F. ICMA/ CCMF Dues and Other Professional Development. The City agrees to budget and pay the Manager's annual dues for membership in ICMA and CCMF. In addition, the City agrees, subject to the City's budget constraints and advance approval of Council, to pay expenses and allow City time for the following: (1) conference and meeting attendance and selected training opportunities, including, but not limited to, those associated with ICMA, CCMF, the League of California Cities, and other national, state, regional and/or local associations and organizations necessary and desirable for the good of the City and for the Manager's continued professional development; (2) professional dues and subscriptions on behalf of the Manager which are necessary for the Manager's continuation and full participation in national, state, regional or local associations and organizations, including civic clubs or organization, necessary and desirable for the good of the City and for the Manager's continued professional development; and (3) travel and subsistence expenses of the Manager to pursue official and other functions for the City, including, but not limited to, national, state, regional and/or local associations and organizations necessary and desirable for the good of the City and for the Manager's continued professional development.

G. Business Expenses. Within the City's budget constraints and subject to adopted City policies, the City shall pay for or provide the Manager reasonable reimbursement for all actual and necessary business expenses.

H. Relocation Reimbursement. As an incentive to relocating to a primary residence located within forty (40) miles of the City of Indian Wells City Hall, the City agrees to reimburse Manager up to Twelve Thousand Dollars (\$12,000) in moving expenses. For the purpose of this Agreement, "moving expenses" shall include travel and lodging for no more than two (2) trips for the purpose of searching for a personal residence; one or more moving van for personal and practice-related possessions;

packing of personal and practice-related possessions (including packaging materials); loading and unloading of personal and practice-related possessions; and relocation travel expenses for airfare or mileage.

I. All Other Benefits. With the exception of such benefits as outlined specifically in this Section, the City shall provide the Manager with other benefits, including but not limited to health, disability, and retirement benefits, consistent with those benefits provided to the City's other executive-level employees.

9. Abuse of Office or Position:

If Manager is convicted of a crime involving an abuse of his office or position, all of the following shall apply: (a) if Manager is provided with administrative leave pay pending an investigation, Manager shall be required to fully reimburse City such amounts paid; (b) if City pays for the criminal legal defense of Manager (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Manager shall be required to fully reimburse City such amounts paid; and (c) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Manager may receive from City shall be fully reimbursed to City or shall be void if not yet paid to Manager. For purposes of this Section, abuse of office or position means either: (x) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (y) a crime against public justice.

10. Enforcement of this Agreement:

The prevailing party in any action brought to enforce this Agreement or to resolve any dispute or controversy arising under its terms and conditions, shall be entitled to payment of his/her/its reasonable attorneys' fees and costs.

11. Communications Upon Manager's Separation:

In the event the City terminates the Manager for any reason or no reason, the City and the Manager agree that no member of the City Council, the City staff, nor the

Manager, shall make any written, oral or electronic statement to any member of the public, the press, or any city employee concerning the Manager's termination except in the form of a joint press release or statement, the content of which is mutually agreeable to the City and the Manager. The joint press release or statement shall not contain any text or information that is disparaging to either party. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

12. Indemnification:

Consistent with the California Government Code, City shall defend, hold harmless, and indemnify Manager using legal counsel of City's choosing, against expense or legal liability for acts or omissions by Manager occurring within the course and scope of Manager's employment under this Agreement. Legal representation, provided by City for Manager, shall extend until a final determination of the issues including any and all losses, damages, judgments, interest, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened. In the event there is a conflict of interest between City and Manager such that independent counsel is required for Manager, Manager may engage his/her own legal counsel, in which event City shall indemnify Manager, including direct payment of all such reasonable costs related thereto.

13. Notices:

Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery, mail, or email. Mailed notices shall be addressed to the parties as set forth below, but each party may change his/her/its address by written notice given in accordance with this Section. Notices delivered personally or by email will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

For the City:

Mayor and City Council
City of Indian Wells
44-950 Eldorado Dr.
Indian Wells, CA 92210
ATTN: Mayor

For the Manager:

Chris Freeland

With copy to:

Jeff Ballinger, City Attorney
Best Best & Krieger LLP
74-760 Highway 111, Suite 200
Indian Wells, CA 92210

14. Conflict with City Charter or Municipal Code:

The City personnel ordinances, resolutions, rules and policies shall apply to Manager in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the City Charter, or this Agreement and the Municipal Code, the City Charter or the Municipal Code shall prevail over this Agreement.

15. Entire Agreement:

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Manager by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

16. Modifications:

Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

17. Effect of Waiver:

The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

18. Partial Invalidity:

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

19. Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue shall be in Riverside County.

20. Assistance of Counsel:

Each Party to this Agreement warrants to the other Party that it has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain it.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the 2nd day of May, 2019.

CITY OF INDIAN WELLS:

CHRIS FREELAND:

By: 

Ted J. Mertens
Mayor

By: 

Chris Freeland

Attest:



Anna Grandys, City Clerk

Approved as to Form:



Jeffrey S. Ballinger, City Attorney

