

**JOB RETENTION AND ECONOMIC DEVELOPMENT ACTIVITIES
AGREEMENT WITH BECHTEL CORPORATION**

This Job Retention and Economic Development Activities Agreement With Bechtel Corporation (this "Agreement") is made and entered into this ___ day of _____ 2017, by and between the City of Glendale, an Arizona municipal corporation (the "City") and Bechtel Corporation, a Nevada corporation authorized to do business in Arizona ("the Company"). The Company and the City are sometimes referred to collectively as the "Parties" or individually as a "Party."

RECITALS

- A. WHEREAS, the Company is an international engineering, construction, and project management company. The Glendale, Arizona office operates Bechtel's Business Services divisions including accounting, finance, human resources, payroll, IT, and, management positions; and
- B. WHEREAS, the Company has been researching potential sites that will accommodate its immediate and long-term needs; and
- C. WHEREAS, the Company identified various sites that will accommodate its business needs, including its current 104,914-square foot facility that is located at Glendale Corporate Center, 5323 North 99th Avenue, Glendale, Arizona (the "Glendale Facility"); and
- D. WHEREAS, retention of the Company's operations in the Glendale Facility would involve investment of Five Hundred Thousand Dollars (\$500,000) in leasehold improvements, furniture, equipment, and other personal property to be located at the Glendale Facility; and
- E. WHEREAS, City recognizes that the retention and on-going operations of the Company within the City with its resulting investment and retention of at least 250 jobs will provide significant public benefit to the City and its citizens; and
- F. WHEREAS, the Company anticipates that over the course of ten (10) years, its operations will continue to provide at least 250 jobs representing an estimated annual payroll in excess of Twenty-one Million Dollars (\$21,000,000); and
- G. WHEREAS, the Parties recognize and agree that the Company's operations at the Glendale Facility will have significant economic impact on the City, including but not limited to: the quantity and quality of the jobs that will remain in the City as a result of the Company's operations; tax revenues generated by the Company's operations, its employees, vendors, service providers; and

H. WHEREAS, Applied Economics, an economic consulting firm based in Phoenix, Arizona, provided an economic modeling tool to the City and verified the economic and fiscal impact analysis of the Company's operation and location at the Glendale Facility; and

I. WHEREAS, the Applied Economics analysis estimates the direct economic benefit to the City over the next ten (10) years from the retention of the Company's operations in Glendale, along with its employees, will be approximately Two Million One Hundred Ninety One Thousand Dollars (\$2,191,000); and

J. WHEREAS, the Applied Economics analysis estimates an additional Seven Hundred Eighty One Thousand Dollars (\$781,427) in indirect revenues that would be generated by the Company through a recirculation of spending in the economy with other local businesses and employees; and

K. WHEREAS, a performance-based job retention and economic development activities program will assist in the generation of tax revenues, the retention of jobs, and will otherwise improve and enhance the economic welfare of the residents of Glendale by increasing the City's assessed property valuation as well as stimulating further economic development in the City. The job retention and economic development incentives agreed to by the City in this Agreement will serve legitimate economic development purposes as authorized by A.R.S. § 9-500.11 and is anticipated to raise more revenue than the amount of the incentive within the duration of the Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the following promises and mutual covenants and agreements, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, it is agreed by the Parties as follows:

1. Adoption of Recitals; Replacement of Previous Agreement. The accuracy of the above Recitals as of the date of this Agreement is confirmed and all of the above-mentioned Recitals are incorporated and made provisions of this Agreement with the same force and effect as if set forth in the agreement section of this Agreement. In addition, this Agreement cancels, replaces and supersedes that certain Job Retention and Economic Development Activities Agreement with Bechtel Corporation, dated May 24, 2011, executed by the Parties and labeled by the City as Contract C-7693 (the "Previous Agreement"). The Previous Agreement is null and void.

2. Effective Date and Term. The effective date of this Agreement shall be the date this Agreement is approved by the Glendale City Council. This Agreement shall continue for ten (10) years (one hundred twenty (120) months) (the "Term") from the completion of the new tenant improvements described in Exhibit A to this Agreement for the Glendale Facility (the "Commencement Date").

3. Definitions.

- a. "Company" means Bechtel Corporation, its successors and/or approved assignees.
- b. "Eligible Retained Employee" means a person employed by the Company on a full-time basis who earns an annual salary of at least Fifty Thousand Dollars (\$50,000) and is offered comprehensive health insurance through the Company with the Company paying at least fifty percent (50%) of the premium.
- c. "Full-time" means a minimum of thirty (30) hours per week.
- d. "Annual salary" includes all taxable compensation and excludes any non-taxable benefits.

4. Extension of Lease at the Glendale Facility. The Company shall execute a lease by May 31, 2017 for at least 71,000 square feet at the Glendale Facility, and within eighteen (18) months of the effective date of this Agreement, the Company shall invest a minimum of Five Hundred Thousand Dollars (\$500,000) to improve and equip the Glendale Facility. Evidence of the investment shall be documented using Exhibit A.

5. Business Operations. The Company acknowledges that in order to receive the full Job Retention Incentive available to the Company under this Agreement it must make the investment described in Paragraph 4, above, operate at the Glendale Facility continuously for the Term (beginning on the Commencement Date), must maintain a minimum of 250 full-time employees at the Glendale Facility during each month of the Term of this Agreement (beginning on the Commencement Date), and at least twenty percent (20%) of the Company's full-time employees must reside in Glendale.

6. Job Retention Incentive. Subject to the terms and conditions set forth herein, the City agrees to pay the Company One Thousand Seven Hundred Fifty Dollars (\$1,750) per each Eligible Retained Employee employed by the Company at the Glendale Facility on the third anniversary of the Commencement Date (the "Job Retention Incentive"). The maximum Job Retention Incentive the Company is eligible to receive is Four Hundred Thirty Seven Thousand Five Hundred Dollars (\$437,500). Payment shall be in the form of a check to the Company from the City.

- a. Eligibility. To earn the maximum Job Retention Incentive, the Company must demonstrate on the third, sixth and ninth anniversaries of the Commencement Date that it employs at least 250 full-time employees at the Glendale Facility and a minimum of twenty percent (20%) of the employees at the Glendale Facility must reside in Glendale.
- b. Reporting. Within thirty (30) days after the specified anniversaries of the Commencement Date, the Company shall provide documentation, in a form acceptable to the City as shown in Exhibit B, of the number of its Eligible Retained Employees that are employed at the Glendale Facility,

as well as documentation indicating the percentage of its Eligible Retained Employees that reside in Glendale. In the event of a dispute between the City and Company regarding the number of Eligible Retained Employees, or the percentage of Eligible Retained Employees residing in Glendale, the City's Economic Development Director shall be provided with the relevant documentation and make a final determination, which is not subject to the arbitration provisions in Section 20 below.

- c. **Payment.** The City will pay the applicable proportion of the Job Retention Incentive, if any, pursuant to this Agreement within 60 days after the third, sixth and ninth anniversaries of the Commencement Date.
- d. **Job Retention Incentive Payments.** If the Company demonstrates that it employs 250 or more full-time employees, with a minimum of twenty percent (20%) residing in Glendale, at the Glendale Facility on the third, sixth, and ninth anniversaries of the Term (beginning on the Commencement Date), the Company shall earn the maximum Job Retention Incentive paid by the City (\$145,833.33 per anniversary). If the total number of full-time Eligible Retained Employees employed at the Glendale Facility on the third, sixth or ninth anniversary of the Term is less than 250, but greater than or equal to 200, the Company will receive a proportion of the Job Retention Incentive paid by the City according to the following formula: The number of Eligible Retained Employees multiplied by \$1,750 divided by 3. For example, a payment would be calculated at \$116,666.66 if the Eligible Retained Employees is 200 on a given 3-year anniversary of the Commencement Date. In the event the Company employs fewer than 200 full-time Eligible Retained Employees on the third, sixth, or ninth anniversaries of the Term, Glendale will not make a Job Retention Incentive payment or payment of any kind to the Company for that particular anniversary period.

In addition, if the Company employs 250 or more full-time Eligible Retained Employees on the third, sixth, or ninth anniversaries of the term, but if the number of Glendale residents employed by Company falls below twenty percent of the Company's full-time Eligible Retained Employees, the Job Retention Incentive will be reduced by the equivalent percent. For example, if the proportion of Glendale residents falls from twenty percent to fifteen percent of the total Company employment, the Job Retention Incentive payment from the City would be reduced by twenty five percent. In the event the Company both fails to employ 250 or more full-time Eligible Retained Employees (but employs more than 200 such employees) at the Glendale Facility and fails to employ 20% or more Glendale residents among the Eligible Retained Employees on the third, sixth or ninth anniversary of the Term, the payment from the City is adjusted using whichever formula yields a larger reduction. For example, if the Company employs 200 Eligible Retained Employees and fifteen

percent of the Eligible Retained Employees are Glendale residents on the third anniversary of the Term, the City's payment to the Company is \$109,375 because the 25% reduction in Glendale employees reduces the City's payment more than the calculation of the payment for 200 employees.

As a further point of clarification, the formulas used to determine the proportional share of the Job Retention Incentive, if any, to be paid by the City will be calculated independently for each specified 3-year anniversary.

7. Expedited Plan Review Services. The City agrees that its plan review staff will provide expedited plan review and ombudsman services for the Company's improvements to the Glendale Facility in accordance with the City's P.A.S.S. program. Complete plan review shall be offered within ten (10) business days after submittal of all required documents and applications (if any).

8. Reduced Fees. City agrees to waive permit, plan review and any expedited plan review fees in connection with the Company's improvements to the Glendale Facility up to a maximum of Fifty Thousand Dollars (\$50,000), based upon the City's adopted fee schedule in effect when such fees would otherwise be owed. The Company is responsible to pay any permit, plan review and/or expedited plan review fees for improvements at the Glendale Facility in excess of Fifty Thousand Dollars (\$50,000).

9. Use of City of Glendale Facilities; Use of Bechtel Facilities. Subject to availability and adequate advance notice, the City will make available to the Company the City's suites at Gila River Arena and Camelback Ranch at Glendale to use on a total of four (4) occasions, one (1) occasion at each facility each year during the first two (2) years of the Term. Subject to at least one hundred eighty (180) days' advance notice Bechtel will use its best efforts to make available to the City the dedicated parking spaces Bechtel controls at the Glendale Facility (which the parties understand to be approximately three hundred fifty (350) parking spaces) for the City's use for public parking only on weekends for any Mega Event or Dual Event Glendale hosts during the lease period. The City will provide, at its sole cost and expense, all traffic management and safety personnel, insurance and signage necessary to operate such parking. Bechtel will use its best efforts to cause all agreements it has with third parties to reflect this obligation. A "Mega Event" is a Super Bowl, a Fiesta Bowl game, any other college bowl game (including a national championship game or playoff game), an NCAA Final Four basketball tournament game, a World Cup soccer game or a national political party convention or other similar event. A "Dual Event" exists any time on the same calendar date there is both (1) an event at University of Phoenix Stadium (or whatever name is used in the future for such stadium) that is reasonably expected to have an attendance in excess of 40,000, and (2) an event at the Gila River Arena (or whatever name is used in the future for such arena) that is reasonably expected to have an attendance in excess of 5,000.

10. Job Training Support. The City will provide nonfinancial support to the Company in any federal or state job training grant requests.

11. Community Support. The Company agrees to continue to invest in the Glendale community by participating in or sponsoring a minimum of three (3) charitable events, activities or programs annually that benefit the Glendale community. This includes sponsoring the Glendale Youth Sports Leagues and Glendale Police Department Annual Awards Dinner; partnerships with schools located in the City, such as Cactus High School FIRST Robotics Club, Junior Achievement, and Issac E. Imes Elementary School Book Drive; and active membership with the Glendale Chamber of Commerce; or other similar programs and activities at the Company's continued discretion throughout the lease term.

12. Incorporation of Exhibits. All exhibits attached hereto and referred to in this Agreement are incorporated herein by this reference and made a part of this Agreement.

13. Amendment of the Agreement. This Agreement may be amended or cancelled, in whole or in part, only by a written agreement or amendment fully executed by the Parties.

14. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties. Nothing contained in this Agreement shall be construed to make any non-party to this Agreement a third party beneficiary of this Agreement.

15. Assignment. The Company may not assign its rights and/or obligations under this Agreement without the prior written consent of the City, which consent shall not unreasonably be withheld.

16. Notices. Any notices required or permitted to be given pursuant to this Agreement may be delivered in person or mailed, certified mail, return receipt requested, to the following addresses:

To City: City of Glendale
Attn: City Manager
5850 West Glendale Avenue
Glendale, Arizona 85301

with a copy to: City of Glendale
Attn: City Attorney
5850 West Glendale Avenue
Glendale, Arizona 85301

To Company: Bechtel Corporation
Attn: Business Manager
5323 N. 99th Avenue
Glendale, AZ 85305

17. **Governing Law.** This Agreement shall be governed by the laws of the State of Arizona (without reference to conflict of law principles).

18. **Venue.** Any action arising from this Agreement, which includes by way of example, but not limitation, any action to enforce or interpret any provision of this Agreement, shall be commenced and maintained in a court of competent jurisdiction located within Maricopa County, Arizona, and the Parties hereby irrevocably waive any right to object to such venue.

19. **Conflicts.** Company acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other Party to this Agreement.

20. **Arbitration.**

- a. If the parties are unable to resolve any dispute by negotiation within thirty (30) days from providing the other Party a written notice of the dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the parties may agree, in writing, that the dispute will be decided by binding arbitration in accordance with Commercial Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
 - i. The Parties will exercise best efforts to select an arbitrator within five (5) business days after agreement for arbitration. If the Parties have not agreed upon an arbitrator within this period, the Parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The Parties will equally share the fees and costs incurred in the selection of the arbitrator.
 - ii. The arbitrator selected must be an attorney with at least ten (10) years' experience, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least ten (10) years.
- b. **Discovery.** The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten (10) days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.

- c. Hearing. The arbitration hearing will be held within ninety (90) days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the Parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- d. Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the Parties as the final judgment and may not independently alter or modify the awards sought by the Parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.
- e. Final Decision. The Arbitrator's decision should be rendered within fifteen (15) days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- f. Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing Party shall pay all of the prevailing party's out-of-pocket arbitration costs and expenses, including reasonable attorney's fees and costs.

21. Miscellaneous. This Agreement shall be interpreted, applied, and enforced according to the fair meaning of its terms and shall not be construed strictly in favor of or against either Party, as both Parties have been involved in the drafting of its provisions. This Agreement constitutes the entire agreement of the Parties concerning the matters contained herein and supersedes all prior negotiations, understandings, and agreements concerning such matters. No provision of this Agreement may be waived or modified except by an amendment signed by the Party against whom such modification or waiver is sought.

22. Severability. In the event that any phrase, clause, sentence paragraph, section, article or other portion of this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null, void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permissible by law.

23. Cooperation and Further Acts. The Parties shall act reasonably with respect to any and all matters which require either party to review, consent or approve any act or matter herein.

24. Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as follows:

CITY OF GLENDALE, ARIZONA,
an Arizona municipal corporation

Kevin Phelps
City Manager

ATTEST:

Julie Bowers, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael Bailey, City Attorney

BECHTEL CORPORATION, a Nevada Corporation

By: _____

Name: _____

Its: _____

Exhibit A

ECONOMIC DEVELOPMENT INCENTIVE

Name of Company: Bechtel Corporation

Address: 5323 North 99th Avenue, Glendale, Arizona 85305

I hereby certify, under penalty of perjury, that the information contained herein is true and accurate.

Signature: _____

Name: _____

Title: _____

Date: _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: _____

Seal:

Exhibit B

AFFIDAVIT OF COMPLIANCE

Pursuant to City of Glendale Development Agreement

I, _____, make the following statement under oath and under penalty of perjury: That I am the _____ of Bechtel Corporation (“Bechtel”); that I make this affidavit pursuant to the terms of the development agreement entered into between Bechtel, and the City of Glendale, Arizona (“City”), under Job Retention and Economic Development Activities Agreement With Bechtel Corporation dated as of _____ (“Agreement”); that I understand the obligation to submit this affidavit is required as described in paragraph 6 of the Agreement; and that Bechtel has _____ positions, each of which was an “Eligible Retained Employee” as defined under paragraph 3(B) of the Agreement and at least _____ percent of those employees reside in the City.

Signature: _____

Date: _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__ by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature: _____

Seal: