



MEMORANDUM

Date: January 5, 2023

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
County Administrator

Re: **Proposed New World View Lease-Purchase Agreement**

Background

In a memorandum of [October 27, 2022](#), I advised the Board of Supervisors of the October 26, 2022 ruling by the Arizona Court of Appeals in favor of Goldwater Institute that concluded Pima County had not provided sufficient value consideration in its February 29, 2016 lease-purchase agreement with World View. The Goldwater Institute filed suit against Pima County in 2016 alleging violations of the Gift Clause and Arizona procurement statutes. The County prevailed in lower courts and two other appeals in the case.

The October 26, 2022 ruling by the Court of Appeals reversed a trial court decision in favor of Pima County that found the County had not violated the Gift Clause of the Arizona Constitution. As you are aware, the Gift Clause prohibits the "gifting" of public money by public entities to private individuals or private entities unless it is for a public purpose. The provision requires that the value to be received by the public is not "grossly disproportionate" to the consideration being paid by the public.

The Board met in Executive Session on November 1, 2022 for consideration of legal advice and direction regarding the ruling. An Executive Session item on this topic is also on the January 10, 2023 Board of Supervisors Regular Agenda. Under my direction, County staff has been working with representatives of the County Attorney's Office and World View on a new lease-purchase agreement to address the consideration issue cited by the Arizona Court of Appeals.

Discussion

Using the lease-purchase agreement with American Battery Factory, which was specifically designed to avoid conflicts with the Gift Clause while furthering economic development and job creation as a model. County staff and legal counsel are finalizing a new lease-purchase agreement between Pima County and World View for the Board's consideration on January 10, 2023. The finalized lease-purchase agreement will be provided to the Board no later than January 9, 2023. The primary points of the proposed new agreement include:

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- This is a new lease-purchase agreement, which terminates and replaces the 2016 agreement.
- New lease terms, rent payments and purchase option included in the new lease purchase agreement use market rate appraisals to ensure compliance with the Gift Clause and address the Arizona Court of Appeals ruling.
- The new lease-purchase agreement maintains a working Spaceport Operation Agreement between Pima County and World View.
- A right of first refusal for the adjacent 6-acres of Pima County-owned vacant land located west of the existing facility to accommodate future growth of World View's headquarters and manufacturing operation is included in the new agreement.
- The proposed agreement includes an initial lease term of five years with four renewal terms of five years each.
- And finally, the proposed agreement includes revised employment counts and salary ranges reflective of the current business strategy instituted under current World View CEO Ryan Hartman since he replaced the original company founders in 2019.

Conclusion

The above points constitute the primary contract provisions of a new lease-purchase agreement between Pima County and World View that will be on the January 10, 2023 Board Addendum. The finalized lease-purchase contract will be transmitted to the Board no later than January 9, 2023.

JKL/mp

c: Carmine DeBonis, Jr., Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer
Steve Holmes, Deputy County Administrator
Heath Vescovi-Chiordi, Director, Economic Development