



MEMORANDUM

Date: October 21, 2019

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

From: C.H. Huckelberry 
County Administrator

Re: **Goldwater Opinion**

Today the Arizona Court of Appeals dismissed an appeal by the Goldwater Institute, on behalf of three taxpayers, challenging the procurement of services to design and build World View's headquarters and manufacturing facility and adjacent public launch pad. The court ruled that the appeal was moot because the challenged contracts have been fully performed and the Goldwater Institute did not seek any injunctive relief to stop that performance, despite ample opportunity during the course of this lengthy lawsuit. A copy of the published decision is attached.

Although the court concluded, largely based on its interpretation of existing case law, that taxpayers had standing to challenge the awards, the Court did not reach the issue of whether the taxpayers' challenge in this case had any substantive merit, because it dismissed the appeal. This means (absent further review by the Arizona Supreme Court) that the trial court's ruling—which upheld the procurements—stands, although that ruling does not set a precedent for future cases.

It is important to remember that the County selected highly qualified consultants, who delivered a quality product on time and under budget. During the three-and-a-half years that the Goldwater Institute has spent challenging this project, the project has been completed and World View has moved in, paid the County nearly \$1.9 million in rent, and maintained a payroll exceeding that required under its agreement with the County.

Now the Court of Appeals has, for a second time, issued a ruling that favors the County. Previously, the court had ruled that the County properly used its economic-development authority to enter into the agreements with World View without complying with normal leasing procedures. Meanwhile, the County is preparing to file a motion for summary judgment in the Superior Court regarding the final issue in the case, the Goldwater Institute's challenge under the Arizona Constitution's Gift Clause. Based on the case law and evidence produced in the case, we believe we will prevail on that issue as well.

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I will discuss with the Pima County Attorney's Office the next steps, if any, with respect to this Court of Appeals decision. Any recommendation necessitating a Board of Supervisors decision will be scheduled for a later date.

CHH/mp

c: Jan Leshar, Chief Deputy County Administrator
Andrew Flagg, Chief Civil Deputy County Attorney