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April 16, 2019

Via Email and U.S. Mail jaguirre@cityofdelano.org

Mr. Joe E. Aguirre
Mayor, City of Delano
1015 Eleventh Ave
Delano, CA 93216

Re: National Motto

Dear Mayor Aguirre:

We were recently informed about the city council's decision to add our National Motto, In God We Trust, to police vehicles. We want to express our unwavering support for this decision, and others related to the public display of our National Motto.

I have the honor of serving as the Executive Director of the Congressional Prayer Caucus Foundation which serves nearly 100 members of Congress who are part of the official U.S. Congressional Prayer Caucus. (The Congressional Advisory Team is listed on the left).

In addition, the Foundation serves a network of Legislative Prayer Caucuses in 34 states, which includes over 1,000 state senators and representatives. These leaders are working together to preserve the integrity of our founding principles and to protect religious freedom.

In the case of pushback from atheist groups, we hope you will remind them of the irrefutable support for our Motto. The National Motto "In God We Trust" was created by Act of Congress in 1956. Before it officially became our National Motto, the phrase "In God We Trust" was placed on our nation's coins as early as 1864. Congress affirmed the National Motto in 2002, and in 2011 Congress overwhelmingly passed a

Resolution reaffirming the National Motto and encouraging the public display of this motto in all public buildings and public schools.

The Congressional Prayer Caucus Foundation has joined Congress in encouraging the display of the National Motto by helping advance The National Motto, “In God We Trust,” Display Acts in legislatures nationwide. We firmly believe that this little gesture of displaying the National Motto and our flags in schools and public buildings will in some small way spark a curiosity about the Motto and, again in some small way, an appreciation for our nation.

Regarding the constitutionality of the National Motto, more than 40 years ago, Madalyn Murray O’Hair, the founder of American Atheists, brought suit claiming that the National Motto and its use on U.S. coins and currency violated the First Amendment to the Constitution. The federal district court dismissed Ms. O’Hair’s complaint, the appellate court affirmed, and the Supreme Court denied review. *O’Hair v. Blumenthal*, 462 F. Supp. 19 (W.D. Tex. 1978), *affd.* 588 F. 2d 1144 (5th Cir. 1979), *cert. denied*, 442 U.S. 930 (1979). In dismissing the complaint, the trial court quoted approvingly from a previous circuit court decision (*Aronow v. United States*, 432 F.2d 242, 243 (9th Cir. 1970)) that held that the “national motto and the slogan on coinage and currency ‘In God We Trust’ has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.” 462 F. Supp. at 19-20.

The court in *O’Hair* also relied upon the U.S. Supreme Court case of *School District of Abington Township v. Schempp*, 374 U.S. 203 (1963), which considered compulsory reading of the Bible in public schools (something that the Court prohibited). In this opinion involving public schools, Justice Brennan, in a concurring opinion, stated that the National Motto, “In God We Trust,” was “interwoven . . . so deeply into the fabric of our civil polity that its present use may well not present that type of involvement which the First Amendment prohibits.” *Id.* at 303.

More recently, in *Gaylor v. United States*, 74 F.3d 214 (10th Cir. 1992), *cert. den.*, 517 U.S. 1211 (1996), the Freedom From Religion Foundation (“FFRF”) and several of its employees again challenged the constitutionality of the National Motto, and this lawsuit suffered the same fate as the others. In its decision, the Tenth Circuit Court of Appeals considered FFRF’s claim using two different tests, the *Lemon* test and the “endorsement test.” With respect to the *Lemon* test, the Tenth Circuit stated as follows:

The *Lemon* test requires that, in order to be valid under Establishment Clause, a statute must (1) have a secular legislative purpose, (2) have a primary effect that neither advances nor inhibits religion, and (3) avoid excessive government entanglement with religion. [*Lemon v. Kurtzman*], 403 U.S. 602, 612–13, 91 S.Ct. at 2110–11. The statutes

establishing the national motto and directing its reproduction on U.S. currency clearly have a secular purpose. County of Allegheny v. American Civil Liberties Union, 492 U.S. 573, 625, 109 S.Ct. 3086, 3117, 106 L.Ed.2d 472 (1989) (O'Connor, J., concurring); Lynch v. Donnelly, 465 U.S. 668, 692–93, 104 S.Ct. 1355, 1369–70, 79 L.Ed.2d 604 (1984) (O'Connor, J., concurring); *id.* at 716–17, 104 S.Ct. at 1381–82 (Brennan, J., dissenting). The motto symbolizes the historical role of religion in our society, Lynch, 465 U.S. at 676, 104 S.Ct. at 1360, formalizes our medium of exchange, see O'Hair v. Blumenthal, 462 F.Supp. 19, 20 (W.D.Tex.), *aff'd sub nom. O'Hair v. Murray*, 588 F.2d 1144 (5th Cir.1978) (per curiam), and *cert. denied*, 442 U.S. 930, 99 S.Ct. 2862, 61 L.Ed.2d 298 (1979), fosters patriotism, see Aronow v. United States, 432 F.2d 242, 243 (9th Cir.1970), and expresses confidence in the future, Lynch, 465 U.S. at 692–93, 104 S.Ct. at 1369–70 (O'Connor, J., concurring). The motto's primary effect is not to advance religion; instead, it is a form of “ceremonial deism” which through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief. Allegheny, 492 U.S. at 625, 109 S.Ct. at 3117 (O'Connor, J., concurring); Lynch, 465 U.S. at 693, 104 S.Ct. at 1370 (O'Connor, J., concurring); *id.* at 716, 104 S.Ct. at 1381 (Brennan, J., dissenting). Finally, the motto does not create an intimate relationship of the type that suggests unconstitutional entanglement of church and state. O'Hair, 462 F.Supp. at 20. Thus the statutes establishing the motto and requiring its reproduction on U.S. currency easily meet the requirements of the *Lemon* test. 73 F. 3d at 216.

The Tenth Circuit also considered whether the National Motto violated the “endorsement test,” which considers whether a “reasonable observer would view the government’s practice as an endorsement. *Id.* at 217. The court noted that the “endorsement test” does not consider the views of particular individuals or isolated people who may be discomforted by seeing symbols of faith which these individuals find offensive. Rather, the “reasonable observer” test is a collective person who is aware of the history and context of the community in which the religious display appears. *Id.* Using this standard, the Tenth Circuit concluded: “[W]e find that a reasonable observer, aware of the purpose, context, and history of the phrase “In God We Trust,” would not consider its use or its reproduction on U.S. currency to be an endorsement of religion.” *Id.* In short, each time someone has challenged the constitutionality of the Motto, the Motto has won.

A member of our legal team would be honored to speak with you on this subject if you or others so desire. The CPCF Legal Team and the attorneys in the National Legal Foundation (<http://www.nlf.net/>) are willing to help defend the City, at no cost, if the City is challenged for displaying the National Motto.

In conclusion, thank you for your continued service on behalf of the citizens of Delano. We stand shoulder to shoulder with you.

Sincerely,

A handwritten signature in black ink that reads "Lea Carawan". The signature is written in a cursive, flowing style.

Lea Carawan
Executive Director
Congressional Prayer Caucus Foundation