RESOLUTION NUMBER 2012-36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, FLORIDA AUTHORIZING THE PERMANENT AND PROMINENT DISPLAY OF THE NATIONAL AND STATE OF FLORIDA MOTTO "IN GOD WE TRUST" IN THE CITY COMMISSION CHAMBERS; FURTHER AUTHORIZING THE FUTURE INCORPORATION OF SAID MOTTO INTO THE OFFICIAL CITY SEAL OF WINTER SPRINGS SUBJECT TO A GRADUAL IMPLEMENTATION SCHEDULE PREPARED BY THE CITY MANAGER AND SUBSEQUENT BUDGET AND APPROPRIATION DECISIONS MADE BY THE CITY COMMISSION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, "In God We Trust" was adopted as the official national motto of the United States in 1956, 31 U.S.C. § 186, and is also the motto of the State of Florida, § 15.0301, Fla. Stat.; and

WHEREAS, "In God We Trust" is also on the Official Seal of the State of Florida; and

WHEREAS, "In God We Trust" is required to be on all U.S. coins and currency of the United States. Pub. L. 84–140, adopted July 11, 1954; 36 U.S.C. § 302; and

WHEREAS, the use of the phrase "In God We Trust" on U.S. currency pre-dates the 1954 statutory requirement when Congress first authorized the National Mint to include "In God We Trust" on coins in 1865, and made its inclusion mandatory on gold and silver coins in 1908; and

WHEREAS, the motto "In God We Trust" is inscribed above the Speaker's chair in the U.S. House of Representatives, and also above the main door of the U.S. Senate Chamber; and

WHEREAS, in Aronow v. United States, 432 F. 2d 242 (9th Cir. 1970), the use of the motto "In God We Trust" on coins and currency was the first challenged, and the 9th Circuit Court of Appeals held that the use of the phrase on coins and currency did not violate the Establishment Clause. The court reasoned:

> It is quite obvious 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.
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> While "ceremonial" and "patriotic" may not be particularly apt words to describe the category of the national motto, it is excluded from

First Amendment significance because the motto has no theological or ritualistic impact. As stated by the Congressional report, it has "spiritual and psychological value" and "inspirational quality;" and

WHEREAS, in Newdow v. Lefevre, 598 F.3d 638 (9th Cir. 2010), the Ninth Circuit Court of Appeals again upheld the use of the motto on the nation's coins and currency. Based on Aronow, the court held that statutes requiring placement of the motto did not violate the Establishment Clause of the First Amendment, and the motto did not represent a purely religious dogma or constitute a government endorsement of religion, in violation of the Religious Freedom Restoration Act (RFRA); and

WHEREAS, in Lambeth v. Davison County, North Carolina, 407 F.3d 266 (4th Cir. 2005), the Fourth Circuit Court of Appeals, upheld the county board's decision to authorize the inscription of "In God We Trust" on the façade of a county government center building. The court reasoned that in this situation, the reasonable observer must be deemed aware of the patriotic uses of the national motto, both historical and present, of the phrase "In God We Trust." Furthermore, a reasonable observer contemplating the inscription of the phrase on the government center would recognize it as incorporating familiar words, a phrase with religious overtones to be sure, but also one long used, with all its accompanying secular and patriotic connotations as our national motto and currency inscription. Therefore, the use of the phrase "In God We Trust" on the government center building did not violate the Establishment Clause; and

WHEREAS, in Gaylor v. U.S., 74 F.3d 214 (10th Cir. 1996), the Tenth Circuit Court of Appeals similarly held statutes establishing "In God We Trust" as the national motto and providing for its reproduction on U.S. currency did not violate the Establishment Clause. See also O'Hair v. Blumenthal, 588 F.2d 1144 (5th Cir. 1979) (affirming lower court decision holding that the adoption of the national motto "In God We Trust" and the use of it on coin and currency are constitutional); and

WHEREAS, in Schmidt v. Cline, 127 F.Supp. 2d 1169 (U.S. D. KS 2000), a claimant challenged the elected County Treasurer's decision to display posters in the treasurer's office bearing the words "In God We Trust." Relying on Gaylor v. U.S., the Court emphasized that the 10th Circuit held that the national motto has a secular purpose, symbolizes the historical role of religion in our society, foster's patriotism, and expresses confidence in the future; that its primary effect is not to advance religion; and that it "does not create an intimate relationship of the type that suggests unconstitutional entanglement of church and state;" and

WHEREAS, in Myers v. Loudoun County School Board, 251 F.Supp. 2d 1262 (ED Va. 2003), a school board's implementation of a state statute requiring schools to post the national motto in every public school building was upheld as constitutional; and

WHEREAS, the United States Supreme Court, in dicta, has strongly indicated on several occasions that the governmental use of the motto "In God We Trust," does not, at least in certain contexts, contravene the mandate of the establishment clause. See County of Allegheny v. ACLU, 492 U.S. 573 (1989) ([O]ur previous opinions have considered in dicta the["In God We Trust"] motto ..., characterizing [it] as consistent with the proposition that government may no

communicate an endorsement of religious belief."); Lynch v. Donnelly, 465 U.S. 668 (1984) (O'Conner, J., concurring) ("[G]overnment's display of the crèche in this particular physical setting is no more an endorsement of religion than such governmental 'acknowledgments' of religion as ... [the] printing of 'In God We Trust' on coins...."); and

WHEREAS, the City Commission recognizes that many cities have chosen to prominently display the national motto on and within government buildings, and that on February 20, 2002, the city of Bakersfield, California became the first city in recent years to vote to display the national motto, "In God We Trust," at city hall; and

WHEREAS, in November of 2011, the U.S. House of Representatives passed a nonbinding resolution by a vote of 396 to 9 reaffirming "In God We Trust" as the official national motto of the United States. Representative Randy Forbes (R.-Va.) sponsored the measure to reverse what he called "a disturbing pattern of inaccuracy in omissions regarding the motto;" and

WHEREAS, the City Commission recognizes that the U.S. House Resolution not only reaffirms the official motto of the United States, but also supports and encourages the public display of the national motto in all public buildings, public schools, and other government institutions; and

WHEREAS, the City Commission desires to support the U.S. House Resolution by adopting this Resolution to authorize the permanent and prominent display of the national and State of Florida motto "In God We Trust" in the City Commission Chambers, and to further authorize the future incorporation of said motto into the official City seal of Winter Springs subject to a gradual implementation schedule prepared by the City Manager and subsequent budget and appropriation decisions made by the City Commission; and

WHEREAS, the City Commission is relying upon the aforementioned legal authority for purposes of adopting this Resolution; and

WHEREAS, the City Commission hereby finds that this Resolution is in the best interests of the public health, safety and welfare of the citizens of Winter Springs.

NOW, THEREFORE, BE IT RESOLVED that the City Commission of the City of Winter Springs, Florida as follows:

Section 1. Intent and Purpose. This Resolution is intended to have secular, non-religious purpose. The intent and purpose of this Resolution is to recognize that the national and State of Florida motto, "In God We Trust," symbolizes the historical role of religion in our society, foster's patriotism, and expresses confidence in the future. Further, as recognized by the courts, the primary effect of this Resolution (display of the motto) is not to advance religion; and that this Resolution is not intended to promote or support an unconstitutional entanglement of church and state. In addition, this Resolution is intended to support the request made by the U.S. House of Representatives in H. Con. Res. 274 adopted during the 111th Congress 2d Session to publicly display the national motto in public buildings.

Section 2. Public Display of "In God We Trust" In Commission Chambers. The City Commission hereby determines that the historic and patriotic words of our national and State of Florida motto, "In God We Trust," shall be permanently and prominently displayed in the City Commission Chambers behind the dais above the official City Seal. The lettering for the motto shall be in the same form as the lettering used in the City Hall atrium (Community Development, Human Resources, etc.) at the east and west customer counters.

Section 3. Incorporation into the Official City Seal. The City Commission hereby determines that the historic and patriotic words of our national and State of Florida motto, "In God We Trust," shall be incorporated into the official City Seal. The City Manager is hereby directed to present a modified City Seal for the City Commission's consideration as soon practicable. Upon approval of the modified official City Seal by the City Commission by ordinance pursuant to section 165.043, Florida Statutes, the new City Seal shall be gradually introduced wherever the display of the City Seal is appropriate in accordance with an implementation schedule approved by the City Manager and subject to future budget and appropriations approved by the City Commission to the extent necessary.

Section 4. Effective Date. This Resolution shall take effect on September 24, 2012.

ADOPTED by the City Commission of the City of Winter Springs, Florida, in a Regular Meeting duly assembled on the 24th day of September, 2012.

In witness whereof, I have hereunto set my hand and caused this seal to be affixed.

CHARLES LACEY, Mayor

ATTEST:

ANDREA LORENZO-LUACES, City Clerk

Approved as to legal form and sufficiency for the City of Winter Springs, Florida only:

ANTHONY A. GARGANESE, City Attorney