MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 112
TUESDAY, APRIL 23, 2019
9:00 A.M.

Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on April 19, 2019.

Commissioners present: Jennifer Brinkman, Chair; Roma Amundson, Vice Chair; Sean Flowerday, Deb Schorr and Rick Vest

Others present: Kerry Eagan, Chief Administrative Officer; David Derbin, Deputy County Attorney; Dan Nolte, County Clerk; Cori Beattie, Deputy County Clerk; and Monét McCullen, County Clerk's Office

The meeting was called to order at 9:01 a.m., the Pledge of Allegiance was recited and the location of the Nebraska Open Meetings Act was announced.

1) MINUTES:

A. Approval of the minutes of the Board of Commissioners meeting held on Tuesday, April 16, 2019.

MOTION: Schorr moved and Vest seconded to approve the minutes. Schorr, Flowerday, Vest and Brinkman voted yes. Amundson abstained. Motion carried 4-0 with one abstention.

2) CLAIMS:

A. Approval of all claims processed through April 23, 2019.

MOTION: Amundson moved and Schorr seconded to approve the claims. Vest, Schorr, Flowerday, Amundson and Brinkman voted yes. Motion carried 5-0.

3) CONSENT ITEMS: These are routine business items that are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. Amendments to the following County contracts:

1. C-18-0501 with Bob and Don's Plumbing for Annual Service – Backflow Preventers (Excludes Fire BP's). (Quote No. 5886. The amendment adds an additional location with an expenditure of $2,300 for the remainder of the current term. Revised contract total for the County is not to exceed $11,500.) (C-19-0316)

2. **C-17-0329 with Office Depot Inc., using the City of Tamarac Contract No. 13-23R, for Office Supplies. (The amendment renews the contract from April 18, 2019 through October 17, 2019. The estimated cost to the County is not to exceed $110,000.) (C-19-0318)**
3. **C-18-0194 with Ryders Public Safety for Annual Supply - Carrier Vest System. (Quote No. 5832. The amendment renews the contract from April 24, 2019 through April 23, 2020. The cost to the County is not to exceed $12,000.) (C-19-0319)**

B. Change Order #2 to County Contract C-18-0405 with M.E. Collins Contracting Company, Inc. (For an extension in the completion date from May 1, 2019 to July 1, 2019, and an extension of the Form 17 expiration date.) (C-19-0330)

C. Utility Permits for the following:

1. **No. 1788 allowing T.J. Osborn Construction to store spoils on South 120th Street north of "A" Street for approximately 800 feet. There is no cost to the County. (C-19-0320)**
2. **No. 1791 allowing Charter/Spectrum Communications to install fiber optic cable under Southwest 12th Street. There is no cost to the County. (C-19-0323)**

D. Right-of-way contracts with the following:

1. **Thomas G. Schleich Generational Skipping Irrevocable Trust, South 148th Street and Yankee Hill Road, in the amount of $595. (C-19-0324)**
2. **Michael A. and Mark D. Leavitt, Co-Trustees, South 176th Street and Pioneers Boulevard, in the amount of $370. (C-19-0325)**

E. Setting a public hearing on Tuesday, April 30, 2019 at 9:00 a.m., in Room 112 of the County-City Building, (555 S. 10th Street, Lincoln, Nebraska) regarding amendments to Article 2 of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards (LLCAPCPRS).

MOTION: Schorr moved and Vest seconded to approve the consent items. Amundson, Vest, Schorr, Flowerday and Brinkman voted yes. Motion carried 5-0.

4) <u>SPECIAL PRESENTATION</u>:

A. Lancaster County Visitors Improvement Fund Grant of $100,000 to Friends of Lied – Lied Center for Performing Arts for stage rigging and light system upgrade – Bill Stephan, Lied Center Executive Director and Chief Artistic Officer. (See correlating item 6A)

Jeff Maul, Convention & Visitors Bureau Vice President-Executive Director, stated the Visitors Promotion Committee (VPC) recommended approval of the grant on February 20, 2019.

Lynne Ireland, Visitors Promotion Committee Chair, said the Lied Center has requested funding to improve their current lighting system. The VPC has recommended a grant of $100,000 contingent on the Lied Center raising the additional $75,000 needed for the entire project.

Bill Stephan, Lied Center Executive Director and Chief Artistic Officer, discussed the current and new lighting and the future shows coming to the Lied Center (Exhibit A).

B. Lancaster County Visitors Improvement Fund Grant of $50,000 to the Lincoln Parks Foundation for the Pickleball Expansion Project – Gale Breed, Lincoln Pickleball Association; Lynne Ireland, Lancaster County Visitors Promotion Committee Chair; Jeff Maul, Convention and Visitors Bureau Executive Director. (See correlating item 6B)

Ireland explained this funding would be for the expansion of pickleball courts at Peterson Park. The VPC recommended funding of $50,000. It was noted the entire project is estimated to cost $230,000.

Gale Breed, Lincoln Pickleball Association, said the additional four courts will allow the Pickleball Association to host national and regional tournaments that will bring more tourists to Nebraska.

Schorr asked if there were any parking concerns with the expansion of the courts. Breed explained the courts will be on the east end of Peterson Park closer to the larger parking lots. There will be some restriction on pickleball parking during the fall due to football practice.

C. Commissioners' Award of Excellence for March, 2019, awarded to Ashlee Wikoff, County Engineering Department and Cindy Dittmer, County/City Property Management, in the category of Productivity.

The Clerk read the nomination into the record.

Amundson and Vest presented the awards to the winners and thanked them for their dedication to the new P-Card program.

Wikoff and Dittmer thanked Bob Walla and Chris Lollar from the Purchasing Department for their nomination.

Bob Walla, Purchasing Agent, said he and Mr. Lollar felt it was appropriate to nominate Ms. Wikoff and Ms. Dittmer as they have done a good job from the beginning of the program. They both continue to look for ways to use the P-Card and to save money.

5) <u>PUBLIC HEARING</u>:

A. Increasing appropriations for the Workers' Compensation Loss Fund, Fleet Management Fund and County-Wide Sinking Fund. (See correlating item 6C)

The Chair opened the public hearing.

Dennis Meyer, County Budget and Fiscal Officer, was administered the oath and said appropriations need to be increased for three County funds. He said $300,000 will be transferred from the General Fund to the Workers' Compensation Loss Fund. The other two funds are newly established. The Fleet Management Fund will begin with $125,000 which includes $75,000 from Keno funds and revenues from participating departments. The County-Wide Sinking Fund will consist of the remaining $425,000 in Keno Funds.

Brinkman asked what the Worker's Compensation Loss Fund balance will be following the transfer. Meyer estimated it will be around $400,000.

No one appeared in opposition or in the neutral position.

The Chair closed the public hearing.

B. Manager application for Michael McClelland in connection with a Class B liquor license for Branched Oak Marina, 10001 West Davey Road, Raymond, Nebraska. (Public hearing to be held open for one week.)

The Chair opened the public hearing.

No one appeared in opposition, support or in the neutral position.

The Chair announced that the public hearing will remain open for one week.

6) <u>NEW BUSINESS</u>:

A. Lancaster County Visitors Improvement Fund Grant of $100,000 with Lancaster County as the Sponsor and Friends of Lied – Lied Center for Performing Arts as the Grantee for stage rigging and light system upgrades. The grant term is July 1, 2019 through August 31, 2019. (C-19-0328)

MOTION: Schorr moved and Amundson seconded to approve the grant. Flowerday, Amundson, Vest, Schorr and Brinkman voted yes. Motion carried 5-0.

B. Lancaster County Visitors Improvement Fund Grant of $50,000 with Lancaster County as the Sponsor and the Lincoln Parks Foundation as the Grantee for the construction of four pickleball courts at Peterson Park. The grant term is October 1, 2019 through April 1, 2020. (C-19-0326)

MOTION: Amundson moved and Flowerday seconded to approve the grant. Schorr, Flowerday, Amundson, Vest and Brinkman voted yes. Motion carried 5-0.

C. Resolution in the matter of supplementing appropriations for the previously adopted budget for the Workers' Compensation Loss Fund, in the amount of $300,000, and establishing the Fleet Management Fund, in the amount of $125,000, and the County-Wide Sinking Fund, in the amount of $425,000. (R-19-0031)

MOTION: Schorr moved and Flowerday seconded to approve the resolution. Vest, Schorr, Flowerday, Amundson and Brinkman voted yes. Motion carried 5-0.

D. Resolution in the matter of adopting procedures and standards for administrating liquor license applications, including renewals and special designated licenses (SDLs), in Lancaster County, Nebraska. (R-19-0032)

MOTION: Amundson moved and Vest seconded to approve the resolution. Amundson, Vest, Schorr, Flowerday and Brinkman voted yes. Motion carried 5-0.

E. Resolution in the matter of supporting the Lincoln Unites event on May 10, 2019. (R-19-0033)

MOTION: Amundson moved and Schorr seconded to approve the resolution.

The Clerk read the resolution into the record.

Christa Yoakum, provided a brief overview of the New Americans Task Force and the organizations involved including the Lincoln Asian Cultural and Community Center, Lincoln Literacy, various law agencies and the Yezidi Community. She also discussed the Lincoln Unites event.

ROLL CALL: Flowerday, Amundson, Vest, Schorr and Brinkman voted yes. Motion carried 5-0.

F. Request for an exceptional circumstances award under Personnel Rule 17.9(b) for Christina Collins, General Assistance Representative, for a one-time cash award of $500.

Sara Hoyle, Human Services Director, said Ms. Collins volunteered to assist while another employee was on maternity leave along with still performing her regular duties. She welcomed everyone with kindness, compassion and professionalism.

Amundson and Schorr thanked Ms. Collins for her willingness to help.

MOTION: Vest moved and Flowerday seconded to approve the exceptional circumstances award. Schorr, Flowerday, Amundson, Vest and Brinkman voted yes. Motion carried 5-0.

G. Special designated license applications from Seven Diamonds, LLC for events at Hillside Events Center, 12400 West Denton Road, Denton, Nebraska, on May 11 and May 25, 2019.

Matt Rogge, Talon Room Owner, said the May 11th event is a wine tasting and the May 25th event is a wedding.

Schorr asked Mr. Rogge if he has catered events at the Hillside Events Center. Rogge said he has had multiple events at that location.

MOTION: Amundson moved and Schorr seconded to approve the special designated license applications. Vest, Schorr, Flowerday, Amundson and Brinkman voted yes. Motion carried 5-0.

H. Special designated license applications from Deer Springs Winery for events at 16255 Adams Street, Lincoln, Nebraska, on June 1, June 15, July 6, July 20, August 3 and August 24, 2019.

MOTION: Schorr moved and Vest seconded to approve the special designated license applications. Amundson, Vest, Schorr, Flowerday and Brinkman voted yes. Motion carried 5-0.

I. Settlement between Ashley Chism and Lancaster County in the amount of $100,000 regarding the Nebraska Workers' Compensation Court Case captioned Ashley Chism v. Lancaster County. (C-19-0327)

MOTION: Schorr moved and Flowerday seconded to approve the settlement agreement. Flowerday, Amundson, Vest, Schorr and Brinkman voted yes. Motion carried 5-0.

J. Eleventh amendment to Disproportionate Share Hospital (DSH) intergovernmental transfer agreement with the Nebraska Department of Health and Human Services found at County Contract C-08-0151. The amendment renews the agreement for an additional year from July 1 2019 through June 30, 2020. (C-19-0329)

MOTION: Schorr moved and Amundson seconded to approve the eleventh amendment. Schorr, Flowerday, Amundson, Vest and Brinkman voted yes. Motion carried 5-0.

K. Recommendation from the County Engineer to award and execute a lease for five months for an excavator to Murphy Tractor and Equipment Company. The total amount of the lease is $34,500. (C-19-0321)

LeRoy "Bud" Geistlinger, Assistant Highway Superintendent, said this lease will be used for upcoming projects.

MOTION: Amundson moved and Schorr seconded to approve the recommendation. Vest, Schorr, Flowerday, Amundson and Brinkman voted yes. Motion carried 5-0.

L. Contract with Vigilnet America LLC using the Washington County, Oregon Contract No. BCC 18-1203 to provide Electronic Offender Monitoring Services (MOU053). The term of the contract is upon execution through September 30, 2021. The pricing will be pursuant to the Washington County, Oregon Contract. The cost to the County is not to exceed $30,000. (C-19-0317)

MOTION: Schorr moved and Amundson seconded to approve the contract. Amundson Vest, Schorr, Flowerday and Brinkman voted yes. Motion carried 5-0.

M. Executive Session (Legal Advice) – David Derbin, Deputy County Attorney.

Item held to the end of the agenda.

7) **<u>PUBLIC COMMENT</u>: Those wishing to speak on items relating to County business not on the agenda may do so at this time.**

Barb Otto, Holt County resident, said she is working with a committee to promote the placement of "In God We Trust" signs in Nebraska courthouses. She indicated she has visited 92 counties to date (Exhibit B).

8) **<u>ANNOUNCEMENTS</u>:**

A. **The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, April 25, 2019 at 8:30 a.m., in the Bill Luxford Studio (Room 113) of the County-City Building (555 S. 10th Street, Lincoln).**

B. **The Lancaster County Board of Commissioners will hold its next regular meeting on Tuesday, April 30, 2019 at 9:00 a.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln).**

C. **The Lancaster County Board of Commissioners will hold a public hearing on Tuesday, April 30, 2019 at 9:00 a.m. in Room 112 of the County-City Building (555 S 10th Street, Lincoln) regarding a manager application for Michael McClelland in connection with a Class B liquor license for Branched Oak Marina, 10001 West Davey Road, Raymond, Nebraska.**

D. **County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.**

E. **The Lancaster County Board of Commissioners meeting is broadcast live on LNKTV City. For the rebroadcast schedule visit lincoln.ne.gov (keyword: LNKTV). Meetings are also streamed live on LNKTV and can be viewed on YouTube (LNKTVcity).**

RETURNING TO ITEM 6M

MOTION: Schorr moved and Vest seconded to enter into Executive Session for the purpose of legal advice and to protect the public interest at 9:41 a.m. Flowerday, Amundson, Vest, Schorr and Brinkman voted yes. Motion carried 5-0.

David Derbin, Deputy County Attorney, asked the Chair to restate on the record the reason for going into Executive Session.

The Chair restated the Executive Session was being entered into for the purpose of legal advice and to protect the public interest.

Commissioner Vest exited the meeting.

MOTION: Schorr moved and Amundson seconded to exit Executive Session at 10:24 a.m. Schorr, Flowerday, Amundson and Brinkman voted yes. Vest was absent. Motion carried 4-0.

9) ADJOURNMENT

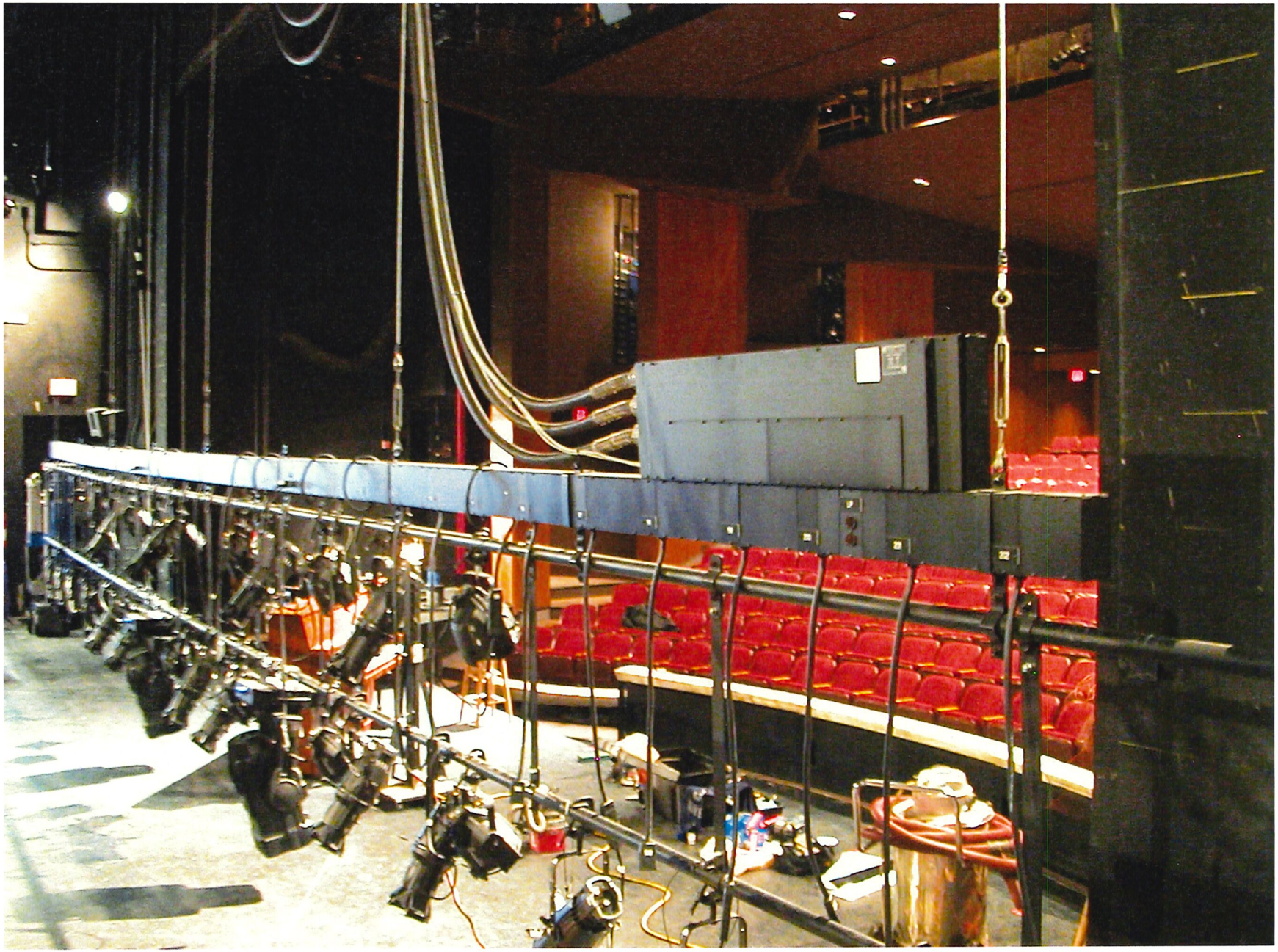
MOTION: Schorr moved and Amundson seconded to adjourn the Lancaster County Board of Commissioners meeting at 10:25 a.m. Schorr, Flowerday, Amundson and Brinkman voted yes. Vest was absent. Motion carried 4-0.

Dan Nolte
Lancaster County Clerk

EXHIBIT

A

Current "Light Bridge"

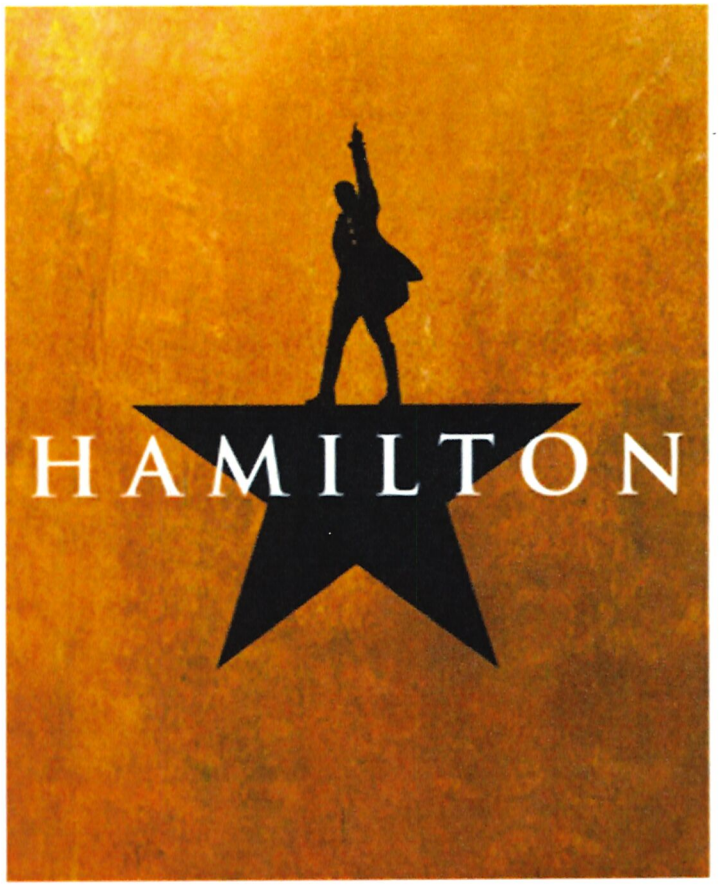


Example of proposed electrified linesets

Example of proposed fly lines

THE
PHANTOM
OF THE OPERA
THE SPECTACULAR NEW PRODUCTION

Disney PRESENTS
THE LION KING
THE AWARD-WINNING BEST MUSICAL


HAMILTON

tabbies

EXHIBIT

B

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PACIFIC JUSTICE
INSTITUTE

EDWIN MEESE, III, ESQ.
Former Attorney General
Advisory Board Chairman

BRAD W. DACUS, ESQ.
President

KEVIN T. SNIDER, ESQ.
Chief Counsel

Jacquie Sullivan
Founder/President
In God We Trust -- America, Inc.
Bakersfield, California

Re: "In God We Trust" Displays

Dear Ms. Sullivan,

It has come to our attention that your organization is promoting displays throughout the nation commemorating the national motto, "In God We Trust." We are writing to offer our perspective on this important issue, and also to offer our representation at no charge should any government entities which approve the displays encounter any legal opposition.

By way of introduction, Pacific Justice Institute is a nonprofit organization which specializes in defending religious liberty, including our nation's religious heritage. PJI is currently an intervener/defendant which, alongside the U.S. Department of Justice, is providing the legal defense in *Newdow v. Lefevre*, a lawsuit challenging the inclusion of the national motto on our nation's currency.

As you may have heard, the federal Ninth Circuit Court of Appeals unanimously agreed with our position that the motto is constitutional. In its decision filed March 11, 2010, the Ninth Circuit explained that displaying such a venerable reminder of our national heritage and identity as the national motto is unquestionably constitutional.

The Ninth Circuit's ruling follows every other court and judge in the nation that has considered the national motto, including the following:

- *Lambeth v. Bd. of Comm'rs of Davidson County*, 407 F.3d 266 (4th Cir. 2005), held a county board's decision to authorize inscription of "In God We Trust" on facade of county government center did not constitute a violation of the Establishment Clause.
- *Schmidt v. Cline*, 127 F.Supp.2d 1169 (D. Kan. 2000), held constitutional the placement in a county building of posters bearing the motto. The court relied on a previous Tenth Circuit decision finding that the motto has a secular purpose akin to Justice O'Connor's well-known references to "ceremonial deism".
- *Myers v. Loudoun County School Bd.*, 251 F. Supp. 2d 1262 (E.D. Va. 2003), upheld as constitutional a school's implementation of a state statute requiring schools to post the national motto in every public school building.

"Raising the Torch of Justice for Our Civil Liberties"
www.pacificjustice.org

- Numerous Supreme Court decisions and opinions of individual justices have pointed to the national motto as an example of constitutionality, *see, e.g, Wooley v. Maynard*, 430 U.S. 705, 717, n.15 (1977); *Lynch v. Donnelly*, 465 U.S. 668, 693 (1984); *County of Allegheny v. ACLU*, 492 U.S. 573, 602-3 (1989); *Stone v. Graham*, 449 U.S. 39, 45 (1980) (Rehnquist, J., concurring); *School Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J. concurring); *Marsh v. Chambers*, 463 U.S. 783, 818 (1983) (Brennan, J. dissenting); *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 322-323 (2000) (Rehnquist, C.J. dissenting); *Van Orden v. Perry*, 125 S.Ct. 2854, 2879 (2005) (Stevens, J. dissenting); *McCreary County v. ACLU*, 125 S.Ct. 2722, 2750 (2005) (Scalia, J. dissenting).

As the foregoing cases attest, numerous legal authorities at all levels of the federal judiciary and throughout the country support displaying the national motto in a public setting.

In conclusion, the Pacific Justice Institute would like to commend your organization for promoting the national motto, and to assure you that under applicable case law, such recognitions are clearly constitutional. Should any government entity receive legal threats from those who oppose even innocuous acknowledgements of religion in public life, the Pacific Justice Institute would be honored to defend them at no charge in state or federal court. To take advantage of this offer, or if you have any other questions about this important issue, please do not hesitate to contact Pacific Justice Institute at either (916) 857-6900 (Northern California office), (510) 834-7232 (Bay Area Office), (714) 796-7150 (Southern California office), or via our website at www.pji.org.

Sincerely,

Matthew B. McReynolds
Staff Attorney
PACIFIC JUSTICE INSTITUTE

IN GOD WE TRUST~AMERICA, INC.

Our Mission

To Promote Patriotism

By Encouraging Elected Officials to "Vote Yes"

To Legally Display Our Congressionally Approved National Motto

IN GOD WE TRUST

In Every City, County Chamber and State Capitol

In America

Will You Be Part of This Patriotic Campaign

Dear Honorable Elected Officials,

This is an invitation to join the growing list of cities and counties across America that are "Voting Yes" to proudly and prominently display our national motto, *IN GOD WE TRUST*, in the Chamber where we conduct the peoples business.

My name is Jacquie Sullivan. I have been a City Councilmember in Bakersfield, California, since 1995. In 2002, I led our City Council to **"Vote Yes"** to display ***IN GOD WE TRUST,*** in our Council Chamber at City Hall. Soon after, all eleven cities in our county of Kern, as well as other cities and counties, in California and across the country, were voting to do the same.

To encourage this trend across America, we created a non-profit organization named ***IN GOD WE TRUST~AMERICA, INC*** with 501(c) (3) non-profit status. Its sole purpose is to Promote Patriotism by Encouraging Elected Officials to **"Vote Yes"** to Display ***IN GOD WE TRUST*** in their City and County Chambers.

On July 30, 1956, during the Dwight D. Eisenhower administration, the U.S. Congress adopted *IN GOD WE TRUST* as the official National Motto of the United States of America. Thus, displaying our Motto is a legal right, protected by the first amendment.

UPDATE:

On November 1, 2011 the U.S. House of Representatives voted overwhelmingly, 396 – 9, to reaffirm *IN GOD WE TRUST* as our nation's motto. Congressman Randy Forbes, of Virginia, authored the bill, in part, because some have mistakenly stated that "E Pluribus Unum" is our national motto. **Most importantly, the resolution specifically encourages the placement of the motto in all government buildings from courthouses to school classrooms.

As a grassroots patriotic movement, ***IN GOD WE TRUST~AMERICA, INC.*** stands on solid legal ground. To date, not one legal challenge has been raised against any city or county that has **"Voted Yes."** This effort is legal and there is nothing to challenge!.

Will You Be Part of This Patriotic Movement?

****We are elected officials showing a commitment to the values our country was founded upon.***

May God Bless America and may America's trust always be in God!

Thank you in advance,

Jacquie Sullivan

City Councilmember: Bakersfield , CA

IN GOD WE TRUST~AMERICA, INC

Founder/President

Website: www.ingodwetrust-america.org

A non-profit 501c3 educational corporation ID# 2624857