

FREEDOM FROM RELIGION *foundation*

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**SENT VIA EMAIL & U.S. MAIL: gpankonin@enid.org, ward1@enid.org,
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The Honorable George Pankonin
Mayor
City of Enid
P.O. Box 1768
Enid, OK 73702

Re: Unconstitutional Funding and Promotion of Religious Event

Dear Mayor Pankonin and City Council members:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding serious constitutional concerns with the City of Enid expending more than \$150,000 of taxpayer funds to support the construction of a religious “Christ Tree” and many religious worship events intended to take place at the tree. FFRF is a national nonprofit organization with more than 35,000 members across the country, including members in Oklahoma. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

Multiple concerned Enid residents have reported that the City has partnered with an Enid resident, Kyle Williams, to put up a large Christmas tree, which is referred to as the “Christ Tree,” and to build surrounding infrastructure that will be used explicitly for a religious event called “The One,” and multiple religious worship services.¹ We understand “The One” is “meant to remind the Enid community” of “the true meaning of the Christmas holiday — celebrating the birth of Jesus Christ.”² “The One” will include free public concerts, musicals, carols and other events organized by churches and individuals, including five religious worship services on Christmas Eve, which will all be held at the “Christ Tree.”³ We understand that the City intends to spend “around \$150,000” of taxpayer dollars on infrastructure work for this project.

We write to request that the City immediately cease any infrastructure work that utilizes taxpayer funds in order to support the “Christ Tree,” and “The One” event. The City must also cease any promotion or endorsement of this religious event.

¹https://www.enidnews.com/news/140-foot-tall-christmas-tree-coming-to-enid-for-new-42-day-holiday-event/article_ce9b24ea-ee1e-11eb-abfe-2369ffd06e8b.html

² *Id.*

³ *Id.*

Our Constitution’s Establishment Clause—which protects Americans’ religious freedom by ensuring the continued separation of religion and government—dictates that the government cannot in any way endorse religion. As the Supreme Court has put it, “the First Amendment mandates governmental neutrality between religion and religion, and between religion and nonreligion.” *McCreary Cty. v. ACLU*, 545 U.S. 844, 860 (2005); *Wallace v. Jaffree*, 472 U.S. 38, 53 (1985); *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968); *Everson v. Bd. of Educ. of Ewing*, 330 U.S. 1, 15-16 (1947).

The Constitution prohibits any “sponsorship, *financial support*, and active involvement of the sovereign in religious activity.” *Walz v. NY Tax Comm’n*, 397 U.S. 664, 668 (1970) (emphasis added); *see also Mitchell v. Helms*, 530 U.S. 793, 819 (2000); *Bowen v. Kendrick*, 487 U.S. 589, 621 (1988); *Roemer v. Bd. of Pub. Works*, 426 U.S. 736, 754-55 (1976); *Hunt v. McNair*, 413 U.S. 734, 743 (1973).

The Establishment Clause of the First Amendment also prohibits the government from funding religious worship and proselytization. *See, e.g., Comm. For Pub. Educ. & Religious Liberty v. Nyquist*, 413 U.S. 756, 778–79 (1973) (striking down government-subsidized maintenance and repair of nonpublic schools); *Tilton v. Richardson*, 403 U.S. 672, 689 (1971) (holding that a 20-year ban on religious use of a taxpayer-funded building did not go far enough to ensure the grant would not advance religion); *Wirtz v. City of S. Bend*, 813 F.Supp.2d 1051, 1068 (N.D. Ind., 2011) (holding that a grant to a private religious school was unconstitutional). The City may not pay to build the infrastructure for a “Christ Tree” with a religious purpose that will be used for multiple Christian worship events.

Non-religious Americans make up the fastest growing segment of the U.S. population by religious identification – 35 percent of Americans are non-Christians,⁴ and this includes the more than one in four Americans who now identify as religiously unaffiliated.⁵ Officially supporting this religious “Christ Tree” and religious worship events “sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-310 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

The separation between state and church is one of the most fundamental principles of our system of government. The Supreme Court has specifically stated, “If there is any fixed star in our constitutional constellation, it is that **no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.**” *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (emphasis added). When a city promotes and expends \$150,000 of taxpayer funds in order to support a religious structure and multiple worship events, reasonable citizens will interpret this as government endorsement of religion.

⁴ *In U.S., Decline of Christianity Continues at Rapid Pace*, PEW RESEARCH CENTER (Oct. 17, 2019), available at <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/>.

⁵ *Id.*

The City of Enid must cease expending taxpayer funds to support religion, and must cease promoting religious events. We request written assurances that the City will cease this project, and will not spend taxpayer funds on religion in the future so that we may notify our local complainant that this matter has been resolved.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Line", with a long horizontal flourish extending to the right.

Christopher Line
Staff Attorney
Freedom From Religion Foundation