

ORDINANCE NO. 2826-10

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, RELATING TO THE AUTHORITY OF THE CITY MANAGER TO SIGN CERTAIN CONTRACTS UNDER SPECIFIED TERMS AND CONDITIONS; AMENDING SECTION 2-188 OF THE CODE OF ORDINANCES TO ALLOW THE CITY MANAGER OR MAYOR UNDER SPECIFIED TERMS AND CONDITIONS TO SIGN CERTAIN CONTRACTS OBLIGATING THE CITY OF WINTER PARK; AND PROVIDING FOR CONFLICTS AND AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Winter Park, Florida, has found and determined that it is in the best interest of the efficient operation of the City of Winter Park that the City Manager and Mayor shall have the authority under specific terms and conditions, to sign a contract obligating the City of Winter Park without the contract being first approved by the Commission at a public meeting; and

**WHEREAS**, the law of Florida provides that a city by ordinance may require that a contract entered by a city shall be voted upon at a public meeting and spread upon the minutes of the City Commission as held by the court in *Town of Indian River Shores v. Coll*, 378 So.2d 53 (Fla. 4<sup>th</sup> DCA 1979); and

**WHEREAS**, the City Commission of the City of Winter Park has found and determined that it will delegate limited authority to the City Manager and Mayor providing that either the City Manager or Mayor shall have the authority to sign contracts on behalf of the City, but only under the terms, conditions and limitations set forth specifically in this Ordinance.

**NOW THEREFORE**, the City Commission of the City of Winter Park, Florida, hereby ordains as follows:

Section 1. Recitals. The foregoing recitals are hereby adopted and confirmed.

Section 2. Code Amendment, Chapter 2, Article VI, Division 1, Section 2-188 is amended as follows: (underline type indicates additions and ~~strikeout type~~ indicates deletions):

Section 2-188. Purchases and contracts.

- (a) All purchases shall conform to such regulations as the city commission may from time to time prescribe.
- (b) Except as provided in this section, all contracts to which the city of Winter Park is a party must be approved by the city commission at a public meeting, the approval of the contract duly recorded in the minutes of the meeting and a true and correct copy thereof being available and maintained in the records of the city showing the date and official approval by vote of the city commission of the City of Winter Park.
- (c) Notwithstanding the general requirement that all contracts of the City of Winter Park shall be approved by the city commission at a public meeting,

the city manager or mayor shall have the authority to sign and enter contracts to which the City of Winter Park is a party, but only if all of the following conditions are present and satisfied by the terms of the contract:

- (1) The contract will not obligate the city to expend funds in excess of the City Manager's purchase order authority then existing at the time the contract is entered.
- (2) No term of the contract shall require the City of Winter Park to indemnify or hold harmless a private party.
- (3) No term of the contract shall waive the sovereign immunity of the City of Winter Park, nor shall any provision in the contract increase the City's limit of liability pursuant to Section 768.28, Florida Statutes, as that statute may be amended.
- (4) No term of the contract shall provide for venue of any litigation to occur outside of Orange County, Florida, and no term will apply the law of any state other than Florida.
- (5) If the contract is one of purchase, then to the extent applicable, all city regulations (including the provisions of the Purchasing Manual) shall be followed in selecting the vendor for the contract.
- (6) The term of the contract shall be for a maximum of one year.
- (7) No contract that transfers, conveys or grants any interest in real estate owned by the City of Winter Park may be entered except upon a majority vote of the City Commission. The types of contracts or interests that are subject to this requirement include contracts selling or leasing City property, easement agreements and encroachment agreements.
- (8) Notwithstanding the requirement that the Mayor or City Manager shall not enter a contract that exceeds the City Manager's purchase order authority, the City Commission finds that an exception is warranted when it is necessary to purchase materials pursuant to the direct purchase sales tax savings program and a delay in purchasing the materials to first obtain Commission approval may result in a delay of a public works construction project. Accordingly, as an exception, the City Manager or Mayor shall have the authority to issue a purchase order for materials that will be incorporated into a public works project of the City, the purchase is pursuant to the owner direct purchase sales tax savings program, and the funds for the project, including the materials to be purchased, are included in the City's budget for the project. The City Manager will report all purchase orders to the City Commission that are issued pursuant to this exception at the next Commission meeting.

If these conditions are satisfied, then either the City Manager or Mayor shall be authorized to enter the contract on behalf of the City of Winter Park if the City Manager finds that it is in the interest of the City to do so. All contracts so entered shall be maintained as part of the City's records and will be available through the office of the City Manager or designee thereof. The City Manager shall report at least monthly to the City Commission the contracts signed pursuant to this authority.

Section 3. Repeal of prior inconsistent ordinances and resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

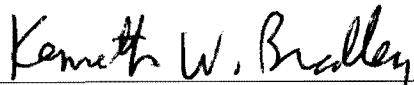
Section 4. Incorporation into Code. This Ordinance shall be incorporated into the Winter Park City Code at any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions, not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Conflicts. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 7. Effective Date. This Ordinance become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida, and pursuant to City Charter.

Adopted at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 25<sup>th</sup> day of October, 2010.

  
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MAYOR KENNETH W. BRADLEY

ATTEST:

  
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CYNTHIA BONHAM, CITY CLERK