

**ORDINANCE NO. 3099-18**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 2-188 OF THE CITY CODE GOVERNING PURCHASING, CONTRACTS, AND OTHER MATTERS; PROVIDING FOR, WITHOUT LIMITATION, SIGNATURE AUTHORITY, PROCEDURES AND POLICIES AND ADOPTION THEREOF, PROCUREMENT POLICY, CITY MANAGER AUTHORITY, MAYOR AUTHORITY, ENCROACHMENT UPON CITY DRAINAGE OR UTILITY EASEMENTS, EXECUTION OF EASEMENT AND LICENSE AGREEMENTS, EXECUTION OF DOCUMENTS AND OTHER MATTERS NOT INVOLVING EXPENDITURE OF CITY FUNDS, MATTERS RELATED TO CITY PROPERTY, AND OTHER MATTERS RELATED TO THE FOREGOING; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

WHEREAS, the City Commission finds that it is in the interests of the residents of Winter Park that Section 2-188 of the City Code be amended to improve and clarify the City's regulations with respect to the matters described in the title of this Ordinance; and

WHEREAS, the City Commission finds that this Ordinance is in the interests of the public health, safety, and welfare.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA:**

**SECTION 1. Recitals.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

**SECTION 2. Amendment of City Code.** Section 2-188 of the City Code is hereby amended as follows (words that are stricken out are deletions; words that are underlined are additions):

Sec. 2-188. – Purchases, signature authority and contracts.

(a) All purchases shall conform to such policies and regulations as the city commission may from time to time prescribe by ordinance or resolution. A Procurement Policy shall be established and amended from time to time by city commission approval to govern the procurement process.

(b) Except as provided in subsections (d) (e) and (f) of 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. This provision does not

prevent the city manager from negotiating, securing and signing a written contract or agreement that is subject to and contingent upon city commission approval before it becomes enforceable against the city.

(c) Either the mayor or the city manager shall have the authority to sign contracts and agreements approved by the city commission and related documents and instruments needed to consummate the approval of the city commission. Both the city manager and procurement manager shall each have the authority to issue and sign purchase orders approved by the city commission. For real estate transactions approved by the city commission, the mayor shall execute any deeds, leases and easements conveying real property or an interest in real property owned by the city, however either the mayor or city manager shall have the authority to execute any closing documents on behalf of the city consummating a transaction in which the city is acquiring real property or an interest in real property. For the issuance of debt approved by the city commission or by referendum, the mayor (or the deputy mayor in the absence of the mayor) shall execute bonds or notes issued by the city.

(ed) ~~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 shall have purchase, contract and agreement approval and signature (or execution) authority, without city commission approval, up to a certain threshold set forth in the procedures, policies and regulations the city commission may prescribe by ordinance or resolution from time to time. 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~~ The city manager's contract approval authority shall be subject to all of the following conditions ~~are~~ being 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 unless the city's liability is capped at the limits of liability of F.S. § 768.28(5) regardless of the type or basis of the claim.
- (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 F.S. § 768.28, 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 Procurement Policy 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; and easements encumbering city property agreements and encroachment agreements. However, if the city manager finds that it is in the interest of the city to do so, the city manager shall have the authority to approve and execute agreements authorizing by license the encroachment of a property owner's improvements within a city drainage easement or utility easement with terms and in a form acceptable to the city manager.~~

(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. Further, the city commission may delegate by way of the adoption of a Procurement Policy certain limited purchasing approval and signature authority to the city's procurement manager who is under the supervision of the city manager. 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.

(e) The city manager shall have the authority to approve and execute easement or license agreements that grant an easement or license to the city if the city manager finds such to be in the interest of the city to do so and any city expenditure relating to such, if any, is below the city manager's purchasing authority. Such easements or licenses in favor of the city include those matters relating to, rights-of-entry, temporary construction, sidewalks, bike or pedestrian trails, stormwater drainage, electric utilities, water utilities and sewer utilities. The mayor shall also have the authority to sign easement or license agreements approved by the city manager under this subsection.

(f) Without limiting the foregoing authority set forth above, in recognition of the city manager's duties and need to operate the city on a day to day basis, the city manager shall have the authority

to execute documents, orders, agreements and contracts on behalf of the city for which the city is not required to expend funds and which are consistent with the role and duties of the city manager as prescribed by the City Charter or by ordinance, resolution or directive of the city commission.

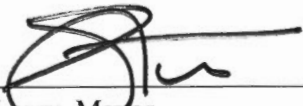
**SECTION 3. Codification.** This Ordinance shall be incorporated into the Winter Park City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

**SECTION 4. 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 5. Conflicts.** In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

**SECTION 6. Effective date.** This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Park, Florida.

**ADOPTED** this 8th day of January, 2018, by the City Commission of the City of Winter Park, Florida.

  
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Steve Leary, Mayor

ATTEST:

  
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Cynthia Bonham, City Clerk