

ORDINANCE NO. 3679

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON ESTABLISHING THE
MOUNT VERNON TRANSPORTATION BENEFIT DISTRICT AND SPECIFYING THAT
THE BOUNDARIES OF THE DISTRICT WILL COINCIDE WITH CITY BOUNDARIES**

WHEREAS, RCW 35.21.225 authorizes the legislative authority of a city to establish a transportation benefit district ("TBD"), for the purpose of acquiring, constructing, improving, providing, and funding transportation improvements within the TBD, subject to the provisions of Chapter 36.73 RCW; and

WHEREAS, transportation improvements are defined in RCW 36.73.015 to include projects contained in the transportation plan of a city, and which also includes investment in new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management ("TBD Projects"); and

WHEREAS, TBD Projects may also include the operation, preservation, and maintenance of the previously mentioned facilities or programs; and

WHEREAS, the City of Mount Vernon's ("City") Capital Improvement Plan ("CIP"), as now existing and as it may exist in the future, constitutes and will constitute a "transportation plan" as contemplated by RCW 36.73.015; and

WHEREAS, the City's CIP currently includes evidence indicating a need for a coordinated cost efficient approach to street resurfacing improvements and other improvements that may be funded by a TBD ("CIP Projects"); and

WHEREAS, the City Council finds that CIP Projects include transportation improvements within the meaning of RCW 36.73.015 and therefore also are TBD Projects; and

WHEREAS, on May 25, 2016, the City Council conducted a public hearing in accordance with RCW 36.73.050, after giving proper notice describing the TBD Projects and activities to be funded by the TBD; and

WHEREAS, as part of its review of the merit of establishing a TBD, the City Council considered various funding options for a number of CIP/TBD Projects; and

WHEREAS, the Council finds that the City can most effectively undertake CIP Projects if it works in conjunction with a TBD; and

WHEREAS, the City Council finds that establishment of a TBD would enable the City, in conjunction with the process for the adoption of its annual updates to the CIP, to consider and adopt mechanisms to fund required City street resurfacing, maintenance, and other TBD Projects in a coordinated, efficient manner; and

WHEREAS, the City Council finds it to be in the best interests of the City to establish a citywide TBD to fund and implement TBD Projects consistent with Chapter 36.73 RCW and the City's CIP to enable the TBD to contract with the City for management and staffing of the TBD's operations, and for the mutual undertaking and/or funding of CIP/TBD Projects; and

WHEREAS, the City Council wishes to establish a governing body for the TBD comprised of the City Council acting in an ex officio and independent capacity and to provide for the continuing operations of the TBD.

NOW THEREFORE, THE CITY OF MOUNT VERNON DOES ORDAIN:

Section 1: Findings

The City Council finds it is in the public interest to help provide an adequate level of funding for transportation improvements through establishment of a TBD.

Section 2: Formation of a Transportation Benefit District

The City, pursuant to RCW 35.21.225 and Chapter 36.73 RCW, hereby establishes and creates a TBD to be known and referred to as Mount Vernon Transportation Benefit District No. 1 ("MVTBD No. 1"), subject to the following:

1. Establishment of the Mount Vernon Transportation Benefit District- Boundaries and General Authority.

There is hereby created MVTBD No. 1 with geographical boundaries comprised of the corporate limits of the City as they currently exist or, as those boundaries may be adjusted in the future. MVTBD No. 1 shall be a quasi-municipal corporation and an independent taxing "authority" within the meaning of Article VII, section 1 of the Washington State Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the Washington State Constitution. MVTBD No. 1 shall constitute a body corporate and possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, to acquire, hold, and dispose of real and personal property, and to sue and be sued. Public works contract limits applicable to the City of Mount Vernon shall apply to the District.

2. Powers and Operations of MVTBD No.1.

a. MVTBD No.1 shall possess all of the powers of a transportation benefit district authorized pursuant to Chapter 36.73 RCW as now or hereafter amended, including without limitation, the power to request voter approval of, and thereafter impose and collect, a sales and use tax in accordance with RCW 82.14.0455, and a vehicle fee as allowed by RCW 36.73.065 and RCW 82.80.140. The TBD may impose an ad valorem tax pursuant to RCW 36.73.060, issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 and form a local improvement district and impose assessments therefor, take those actions allowed, and subject to the limitations of, RCW

36.73.0810, contract for street and highway improvements, and for its operations, exercise the power of eminent domain in the same manner as authorized for the City and accept and use gifts and grants.

b. Consistent with RCW 36.73.020(4), the secretary/treasurer of the MVTBD No. 1 shall be the City Finance Director. As such, the Finance Director shall establish those funds and accounts on behalf of MVTBD No. 1 as required and shall disburse funds and pay claims as approved by the MVTBD Board and prepare and maintain such accounts as appropriate and/or required by state or federal law.

c. The City Attorney or designee will serve as legal advisor to the MVTBD Board, except where separate counsel is engaged by MVTBD No. 1.

d. Other City employees shall carry out the operations of MVTBD No. 1 as agreed by MVTBD No. 1 and the City. Such employees and the contracts of MVTBD No. 1 shall be overseen and administrated by the Mayor and/or her/his designee.

e. MVTBD No. 1 may contract with the City for operations services and materials, office space and equipment, and to undertake and/or fund CIP/TBD Projects undertaken jointly or by one entity or the other.

3. Governing Board.

a. Consistent with RCW 36.73.020(3), the governing board of MVTBD No. 1 (the "MVTBD Board") shall be the members of Mount Vernon City Council acting in an independent capacity. The MVTBD Board shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and other applicable provisions of Washington State law. **b.** To carry out the purposes of this chapter, and subject to the provisions of RCW 36.73.065 as now or hereafter amended, the MVTBD Board is authorized to impose the general powers of the district as set forth in Chapter RCW 36.73 RCW as now or hereafter amended including without limitation RCW 36.73.040 as now or hereafter amended. Such powers include without limitation authorization to impose the following taxes, fees, charges, and tolls:

(i) A sales and use tax in accordance with RCW 82.14.0455 as now or hereafter amended;

(ii) A vehicle fee in accordance with RCW 82.80.140 as now or hereafter amended;

(iii) A fee or charge in accordance with RCW 36.73.120 as now or hereafter amended. However, if the City is levying a fee or charge for a transportation improvement, the fee or charge shall be credited against the amount of the fee or charge imposed by the District. Developments consisting of less than twenty (20) residences would be exempt from the fee or charge under RCW 36.73.120; and

(v) An ad valorem property tax as provided in RCW 36.73.060 as now or hereafter amended; and

(vi) The imposition of fees on building construction or land development under RCW 36.73.120 as now or hereafter amended.

c. The MVTBD Board may authorize and issue general obligation and/or revenue bonds in the manner and subject to the restrictions set forth in RCW 36.73.070 as now or hereafter amended.

d. The MVTBD Board may form a local improvement district and impose assessments therefor and take those actions allowed, and subject to the limitations of RCW 36.73.080 as now or hereafter amended.

e. As required by RCW 36.73.160(1), as the same may be amended from time to time, the MVTBD Board shall develop a material change policy to address major plan changes that affect MVTBD Project delivery or the ability to finance the plan for funding and implementing the MVTBD Projects.

f. Meetings of the MVTBD Board shall be governed by the procedural rules applicable to meetings of the City Council, as those rules may be amended by the City Council from time to time. MVTBD Board actions shall be taken by motion or resolution in the same manner and following the same procedure as for the adoption of City Council resolutions. Meetings of the MVTBD Board shall, whenever possible, take place on the same dates scheduled for City Council meetings; provided, that the MVTBD No. 1 meeting shall take place pursuant to its own agenda during a recess or otherwise outside of any regular business meeting or special meeting of the City Council. The MVTBD Board meetings shall comply with the state Open Public Meetings and Public Records Acts and the officials of MVTBD No. 1 shall be subject to Chapter 42.23 RCW, Code of Ethics for Municipal Officers - Contract Interests; provided, that the fact that TBD Board members and officials and Council members and City officials are simultaneously employed by both entities shall not be deemed a conflict of interest where MVTBD No. 1 and City are parties to contracts and/or agreements.

4. Transportation Improvements Funded.

The funds generated by MVTBD No. 1 shall be used for the MVTBD Projects described in this ordinance and/or allowed by state law. The MVTBD Projects may be amended in accordance with the MVTBD No.1 material change policy and in accordance with the notice, hearing and other procedures described in chapter 36.73 RCW, including RCW 36.73.050(2)(b), as the same may be amended from time to time.

5. Annual Report to Public.

As required by RCW 36.73 .160(2) as now or hereafter amended, MVTBD No. 1 shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in MVTBD No. 1.

6. Dissolution of MVTBD No. 1.

MVTBD No. 1 shall be dissolved pursuant to the procedures set forth in chapter 36.73 RCW as now or hereafter amended, when all indebtedness, if any, of MVTBD No. 1 has been retired and when all of MVTBD No. 1's anticipated responsibilities have been satisfied.

Section 3. Severability; Construction.

If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction; such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are

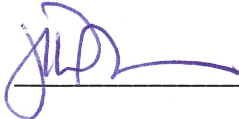
found to be inconsistent with the provisions of the Mount Vernon Municipal Code, this ordinance is deemed to control. This ordinance shall be liberally construed to permit the accomplishment of MVTBD No. 1 's purposes and objectives.

Section 4. This ordinance will be codified as a new chapter to the Mount Vernon Municipal Code, entitled "Chapter 3.50 Mount Vernon Transportation Benefit District" MVMC Chapter 3.50.

Section 5. Effective Date. This ordinance shall become effective five (5) days after publication of a summary thereof.

PASSED by the Mount Vernon City Council at its regular meeting held on May 25, 2016

City of Mount Vernon



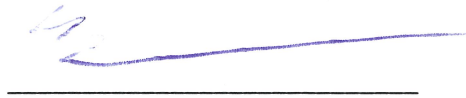
Jill Boudreau, Mayor

ATTEST:



Alicia D. Huschka, City Finance Director

Approved as to Form:



Kevin Rogerson, City Attorney

Date of Publication: June 12, 2016

The Mount Vernon City Council adopted Ordinance 3679 on May 25, 2016. An Ordinance of the City of Mount Vernon, Washington, establishing the Mount Vernon Transportation Benefit District and specifying that the boundaries of the District will coincide with City boundaries. Anyone wishing to view or receive the ordinance in its entirety should contact the Mount Vernon Finance Office, 910 Cleveland, Mount Vernon WA 98273.

Published: June 12, 2016