

**ORDINANCE NO. 3935**

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON REGARDING PURCHASING AND CONTRACTING FOR GOODS, SERVICES, PROPERTY BOTH REAL AND PERSONAL, AND DONATIONS TO THE CITY**

**WHEREAS**, RCW 35.21.100 requires donations to the City of Mount Vernon (City) be accepted through policies adopted by ordinance; and

**WHEREAS**, the city council desires to establish procedures and means for receipt of and accounting for donations to the city; and

**WHEREAS**, the City is established as a non-charter code city granting general authority to contract including but not limited contracting for public works projects, real property, services in all forms, and the procurement of supplies, goods and materials through procedures set forth by the Revised Code of Washington (RCW); and

**WHEREAS**, the City desires to identify appropriate internal controls and identification of city officials responsible within its procurement and contracting activities (Procurement Policies); and

**WHEREAS**, the City wishes to conduct its operations in a prudent, efficient, and cost effective manner; and

**WHEREAS**, the City desires to align its Procurement Policies with current state law; and

**WHEREAS**, the City Council recognizes appropriate delegation of contracting authority to city administration can improve efficiencies; and

**WHEREAS**, the City Council now desires to update the City's Procurement Policies to align the policy with current City objectives, improve clarity in approval authority, and simplify contracting, receipt of donations, and disposal of property methods while maintaining public trust and transparency in all such processes.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS FOLLOWS:**

**Section 1. That Chapter 2.96 of the Mount Vernon Municipal Code is hereby repealed and re-enacted to read as follows:**

**Chapter 2.96  
PURCHASING, CONTRACTS AND PROPERTY DISPOSAL**

**Sections:**

**2.96.010 Purpose.**

**2.96.020 Application.**

**2.96.030 Federal funds.**

**2.96.040 Grants.**

**2.96.050 Professional service contracts.**

- 2.96.060 Purchased service contracts.**
- 2.96.070 Materials, supplies, and equipment contracts.**
- 2.96.080 Cooperative purchasing.**
- 2.96.090 Computers, telecommunication and electronic data processing equipment, and software contracts.**
- 2.96.100 Approval of municipal fiber contracts.**
- 2.96.110 Interlocal agreements.**
- 2.96.120 Contract amendments.**
- 2.96.130 Competitive Bidding Exemptions.**
- 2.96.140 Public work or improvement – Small works roster.**
- 2.96.150 Direct Contracting of Small Works.**
- 2.96.160 Bids to comply with regulations - Mayor Approval.**
- 2.96.170 General standards for determining lowest responsible bidder.**
- 2.96.180 Procedures.**
- 2.96.190 Change orders.**
- 2.96.200 Administrative guidelines, policies and procedures – Purchases for special events.**
- 2.96.210 Other contracts.**
- 2.96.220 Compost procurement requirements.**

#### **2.96.010 Purpose.**

The purpose of this chapter is to protect and advance the public interest by providing for efficient, fair and equitable treatment of all persons involved in the purchasing process, by maximizing the purchasing value of public funds and by providing safeguards for maintaining a purchasing system of quality and integrity.

#### **2.96.020 Application.**

This chapter applies to the award and termination of contracts by the city for services and goods including: (A) public works and improvements (B) purchases of materials, supplies, and equipment, (C) telecommunication contracts either involving city real property or the city's municipal fiber system, (D) purchased services, and (E) informational services and licenses such as software and fiber optic agreements. This chapter does not apply to the reimbursement of business expenses incurred by employees as governed by MVMC 2.90.070 as now or hereafter amended. This chapter does not apply to real property unless specifically provided. Any ordinance that delegates to a city official authority to award contracts in this Chapter includes in that delegation the authority to terminate such contracts. Any delegation of authority to award contracts shall require prior to its execution that: (A) the expenditure of funds as a result of the contract is provided in the city's budget approved by (or amended by) the city council and (B) the city's finance director has confirmed that sufficient funds exist in the city's budget. Upon request of the city council, the Mayor shall provide a report of all contracts not requiring council approval that have been entered into or terminated through this Chapter.

#### **2.96.030 Federal funds.**

When a purchase involves the expenditure of federal funds, purchasing shall be conducted in accordance with any applicable federal law or regulation, which applicable federal law or

regulation shall supersede the provisions of this chapter. For the purposes of this section, the term “federal law or regulation” shall include those rules and regulations adopted by any state agency and made applicable to the city, or made applicable to a particular purchase to be made by the city, in order to conform either with federal law or to enable the city or the state to remain eligible for federal grant funding.

#### **2.96.040 Grants.**

A. Nothing in this chapter shall prevent the city from complying with the terms and conditions of any grant, gift or bequest, which is otherwise consistent with law.

B. The mayor or mayor’s designee is authorized to apply for grants in any amount, and to execute grant contracts unless the city is required to contribute more than \$100,000.00. The mayor or designee shall notify the city council periodically of such grant contracts.

#### **2.96.050 Professional service contracts.**

Contracts for professional services and any amendments thereto, including contracts for architectural, engineering, legal, financial, insurance, and similar consulting services, are not subject to the requirements of this chapter. The mayor or mayor’s designee shall promulgate procedures and standards for the approval of such contracts. Contracts for architectural, engineering, and land surveying services, as those services are defined in RCW Title 18, shall be awarded in accordance with Chapter 39.80 RCW. For purposes of this section, “professional services” are those services involving skill, education and special knowledge and where the work is predominately mental, intellectual, or artistic, rather than physical and mechanical. This includes but is not limited to professional, “On-Call” services to ensure compliance with city codes and regulations by development applications and studies associated with development applications, when the cost of the work performed is recovered from applicant reimbursements or application fees. Examples of “on-call services” include but are not limited to agreements for geotechnical studies, arborists, biologists, and traffic impact analysis.

#### **2.95.060 Purchased service contracts.**

The mayor or mayor’s designee is authorized to enter into contracts for purchased services and any amendments thereto less than \$200,000.00, including contracts for janitorial services, uniform services, elevator or equipment inspection (but not repair), grounds keeping, pest control, mowing services, fire extinguisher inspection, and vehicle towing. Purchased services are those provided by vendors for routine, necessary, and continuing functions of a local government agency, mostly relating to physical activities. These services are usually repetitive, routine, or mechanical in nature, support the city’s day-to-day operations, involve the completion of specific tasks or projects, and involve minimal decision-making. The mayor or mayor’s designee shall promulgate procedures and standards for the approval of such contracts.

#### **2.96.070 Material, supplies and equipment contracts.**

Contracts to purchase or lease materials, supplies and equipment are not subject to the requirements of this chapter, but shall be subject to such procedures as are established by the mayor or mayor’s designee. All such agreements in excess of \$200,000.00 must, however, be

approved by the city council. Agreements shall comply with any applicable state law regarding debt capacity.

**2.96.080 Cooperative purchasing.**

To the greatest extent allowed by law, the finance director is hereby authorized to join in cooperative purchasing arrangements with other public agencies that are similarly authorized to join in cooperative purchasing arrangements, when the best interests of the city would be served thereby. Cooperative purchasing arrangements entered into under the authority of Chapter 39.34 RCW, Interlocal Agreements, shall comply with the requirements of that chapter. Any other cooperative purchasing agreement shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of state law in regard to competitive bidding when applicable. An interlocal agreement that establishes a small works roster or rosters to be used by the parties to the agreement shall clearly identify the lead entity that is responsible for implementing the provisions of Chapter 39.34 RCW.

**2.96.090 Computers, telecommunication and electronic data processing equipment, and software contracts.**

Contracts to acquire electronic data processing or telecommunication equipment, software, or services are not subject to the requirements of this chapter, but shall be subject to such procedures as are established by the mayor or mayor's designee. All such contracts in excess of \$200,000.00 must, however, be approved by the city council. Notwithstanding any provision of this chapter to the contrary, electronic data processing equipment, including computers, telecommunications equipment, and/or software may be acquired by the city through a competitive negotiation process in accordance with the provisions of RCW 39.04.270.

**2.96.100 Approval of municipal fiber contracts.**

A. Mayor Approval. The mayor or mayor's designee is authorized to approve contracts to license or provide rights on the city's fiber network set forth in a unified fee schedule approved by the city Council as follows.

1. **Dark Fiber contracts.** Contracts for use of un-activated deployed fiber within the city network through which the city transmits neither light nor any other signal; provided that:
  - a. The contract is for no more than 8 strands;
  - b. The contract term is for no more than 5 years;
  - c. The requested use of fiber strands are surplus and not necessary for the City's current or planned provision of services. Network capacity shall be determined by the Information Services Director or designee overseeing the city network;
  - d. The contract is on a form approved by the city attorney.
2. **Fiber Network Services.** Contracts for the provision of telecommunications services available through the city network, including contracts for point-to-point ethernet service, dedicated internet access service, and static IPv4 addresses; provided, that:

- a. The contract is for not more than 5 years;
- b. The contract is on forms approved by the city attorney.

**2.96.110 Interlocal Agreements.**

All interlocal agreements; excluding mutual aid agreements, must be approved by city council. Amendments to interlocal agreements that simply extend the term of the agreement may be approved by the mayor or mayor's designee.

**2.96.120 Contract Amendments.**

A. The mayor or mayor's designee may execute an amendment to a contract without city council approval provided that the amendment:

- 1. Simply extends the time of completion; or
- 2. Provides for a cost increase that does not exceed 10% of the original contract cost (up to \$50,000), and is within the approved budget.

B. All changes to the scope of work must be done by contract amendment. Substantial changes to the scope of work must be submitted to the city attorney for a determination as to whether the work should be a new contract.

This section does not apply to a change order for public works projects nor serve to further limit authority of the mayor to enter into contracts when such authority has been provided in the Mount Vernon Municipal Code. Amendments to contracts for public works projects shall be in the form of a change order approved in accordance with Section 2.96.220 of the Mount Vernon Municipal Code.

**2.96.130 Competitive Bidding Exemptions.**

A. Brand Names. The city may procure goods by specifying a particular brand name; provided, that the responsible city officials have exercised their judgment and determined that a certain brand name is of higher quality or is better suited to the municipality's needs.

B. Bidding Exemptions. Pursuant to RCW 39.04.280 as now or hereafter amended, competitive bidding requirements utilized by the city when awarding contracts may be waived under certain circumstances. In accordance with that statute, this section shall serve as the city's written policies governing exemptions from bidding requirements when otherwise required. This section shall supplement and not limit the authority of the city to exempt the award of a contract from competitive bidding requirements nor impose bidding requirements where it is not otherwise required by law or local regulation. Competitive bidding requirements when applicable and required may be waived:

- 1. In the event the public work, material, equipment, supplies, or goods are clearly and legitimately available from only one supplier, written documentation demonstrating the appropriateness of sole source procurement shall be submitted to and approved by the Finance Director prior to the acquisition of the public work material, equipment, supplies, or goods. Such written documentation shall recite the factual basis for the exception from competitive bidding.

The Finance Director's approval shall constitute authorization to conduct negotiations as appropriate as to price, delivery, and terms.

2. In the event the public work, material, equipment, supplies, or goods involves special facilities or market conditions;
3. If an emergency exists and the public work, material, equipment, supplies, or goods is needed to address the emergency situation;
4. The purchase of insurance or bonds.

C. Waiver by Resolution or Policy. Except in the event of an emergency, a waiver of competitive bidding requirements under subsection B of this section may be by resolution unless such waiver is pursuant to written policy adopted by the city council. If the city elects to waive competitive bidding requirements by the terms of its written policies, immediately after the award of any contract, the contract and the factual basis for the exception must be recorded and open to public inspection. If a resolution is adopted by the city council to waive competitive bidding requirements, the resolution must recite the factual basis for the exception. If an emergency exists, the mayor or person authorized by the city to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award all necessary contracts on behalf of the municipality to address the emergency situation. If a contract is awarded without competitive bidding under this section due to an emergency, a written finding of the existence of an emergency must be made by the city council, mayor or mayor's designee and duly entered of record no later than two weeks following the award of the contract. For purposes of this section "emergency" means unforeseen circumstances beyond the control of the municipality that either: (a) Present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

D. Pollution Control Facilities. Pursuant to RCW 70A.210.110 as now or hereafter amended pollution control facilities as defined in RCW 70A.210.020 as now or hereafter amended shall be constructed, reconstructed, and improved in the manner determined by the city council in its sole discretion and any requirement of competitive bidding, lease performance bonds or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of a municipality is not applicable when taking action under the authority of Chapter 70A.210 RCW.

**2.96.140 Public work or improvement – Small works roster.**

A. The city may utilize a small works roster process as authorized pursuant to Chapter 39.04 RCW as it now exists or hereafter amended for the award contracts for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The small works roster provisions as described in this section and in Chapter 39.04 RCW may be used in lieu of other procedures to award contracts for such work.

B. The finance director or public works director may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications,

registrations, bonding, insurance, or other appropriate matters on file with the city as a condition of being placed on a roster or rosters.

C. The finance director or public works director shall establish procedures for securing quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010 as it exists or is hereafter amended and in accordance with applicable law. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.

D. The City may utilize the statewide small works roster in accordance with RCW 39.04.151 and RCW 39.04.152 as they now exist or are hereafter amended.

#### **2.96.150 Direct Contracting of Small Works.**

In lieu of awarding contracts under MVMC 2.96.140, the city may award a contract for a public work, construction, alteration, repair, or improvement project estimated to cost less than \$150,000 through direct contracting using the public works process provided under RCW 39.04.152 as now of hereafter amended. The mayor or mayor's designee may promulgate procedures necessary to govern the award of contracts subject to this Section.

#### **2.96.160 Bids to comply with regulations - Mayor Approval.**

Unless waived by the city, all bids offered by persons, associations or corporations desiring to sell or supply material, equipment, or supplies to, or to construct a public work or improvement for, the city, shall comply strictly with the terms of the notice of invitation for bids and the specifications and evaluation criteria issued or published by the city in connection therewith, together with all relevant state laws, the terms of which shall be deemed included in such specifications whether or not they are expressly set out therein. The mayor or mayor's designee shall have authority to award and enter in public works contracts; provided however all public works contracts in excess of \$200,000 must be approved by the city council.

#### **2.96.170 General standards for determining lowest responsible bidder.**

The city shall award the contract for the public works project to the lowest responsible, responsive bidder; provided, that the city may reject all bids and call for new bids at its sole discretion without cause. A responsible bidder shall be a registered and/or licensed contractor who meets the mandatory bidder responsibility criteria established by Chapter 39.04 RCW and who meets any supplementary bidder responsibility criteria established by the city.

#### **2.96.180 Procedures.**

A. The City shall follow the procedures set forth in Chapter 39.04 RCW as it now exists or is hereafter amended and all other applicable state law for the contracting of public works as defined in RCW 39.04.010 as it now exists or is hereafter amended.

B. Bid limits. The City may construct any public work by contract or day labor or with its own employees without calling for bids therefor in accordance with RCW 35.23.352 as it exists now or is

hereafter amended whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment do not exceed the sums set forth in RCW 35.23.352 as it exists now or is hereafter amended. The Mayor or Mayor's designee shall establish procedures for securing public works contracts under this subsection.

C. All bid protests must comply with the protest procedures herein before seeking judicial review of any decision by the City of Mount Vernon regarding the award and execution of a contract for a public work or bid rejection.

1. Any protest concerning the award and execution of the contract or bid rejection including without limitation the following notifications: i) Notice of Intent to Award; ii) Notice that a bid or proposal is irregular or non-responsive; iii) Notice that a Bidder is not responsible; or iv) notice of bid rejection shall be delivered in writing by 5:00 PM on the second business day after the notification date. The notification date is defined as the date on which the City of Mount Vernon gave notification.
2. All protests shall be in writing and delivered by hand, courier, or US mail. The protestor accepts all risks of the delivery method it chooses. The city shall not be responsible to assure the protest is received within the protest deadlines. If the city does not receive the protest in a timely manner, the protest may be refused or rejected.
3. Protests shall be submitted to the physical address indicated in a solicitation for bids by the city. In the event no address is indicated it shall be submitted to the following:

Public Works Director  
City of Mount Vernon  
1024 Cleveland Ave  
Mount Vernon, WA 98273

4. To be considered, the protest must meet the following requirements:
  - a. The protestor must have submitted a bid;
  - b. The protest must not be on a matter which should have been known to the bidder before the bid deadline including matters which should have been known from the examination of the Bid Documents and project site. Protests based on the Bid Documents, specifications or other terms in contract documents must be received by the city no later than three (3) calendar days prior to the date established for submittal of Bids.
  - c. The protest must allege:
    - i. A matter of bias, discrimination, or conflict of interest;
    - ii. Errors in determination of responsiveness or responsibility; and/or
    - iii. Non-compliance with the bid evaluation procedures described in the Contract Documents; and

- d. The protest must be in writing, be submitted within the required deadline, state clearly that the bidder is submitting a formal protest and include the following:
  - i. The Bidder's company name, mailing address, phone number, and name of company individual responsible for submission of the protest;
  - ii. The project name;
  - iii. The specific action or decision protested;
  - iv. Indicate the basis and support for the protest, including specific facts and all documentation to support the protest;
  - v. Indicate what relief or corrective action the Bidder believes the Contracting Agency should make;
  - vi. Demonstrate that the bidder made every reasonable effort within the bidding process to resolve the issue, including asking questions, attending the pre-bid conference, seeking clarification, requesting addenda, and otherwise alerting the city to any perceived problems; and
  - vii. Be signed by an authorized agent of the company.
5. Upon receipt of a timely written protest the public works director will review and decide all such protests. The public works director's decision on the protest is conclusive and exhausts all administrative remedies. If protest is submitted in accordance with the procedures set forth above, the city will not execute a contract any sooner than two (2) business days after the city's decision on the protest. By submitting a bid the Bidder agrees the Bidder's compliance with the administrative protest procedures set forth herein are a mandatory condition precedent to the Bidder initiating a lawsuit against the city.
6. By submitting a bid the bidder acknowledges and agrees that the sole venue for a lawsuit or action related to or arising out of this procurement shall be the Superior Court of Skagit County, Washington.

#### **2.96.190 Change Orders.**

Change orders are to be approved in accordance with the cost thresholds outlined in this section, provided that the changes do not increase the project's cost in excess of previously approved budget appropriations.

A. Unless authorized by the city council for a specific project (e.g. a resolution or term within an approved agreement delegating authority to manage a project), approval of any change order that increases a project's cost beyond previously approved budget appropriations must be approved by the city council.

B Public Work Contract total remains below \$200,000 – change orders may be approved by the public works director, mayor or mayor's designee.

C. Public Work Contract total moves to \$200,000 or more, but the total cumulative amount of change orders is 20% or less – change orders may be approved by the public works director, mayor or mayor’s designee.

D. Public Work Contract total moves to \$200,000 or more and the total cumulative amount of change orders is more than 20% – the city council must authorize the public works director or mayor to approve the revised contract.

E. Additionally, the public works director may execute construction change orders that change the time for performance but do not increase the construction contract amount.

F. In the event unforeseen conditions necessitate an immediate change to avoid a contractor’s claim against the city for delays, the mayor or mayor’s designee may authorize and direct work irrespective of the limits above, provided any work change directive issued in excess of the mayor’s authority shall be incorporated into a change order and presented to the city council as soon as practicable.

#### **2.96.230 Administrative guidelines, policies and procedures – Purchases for special events.**

The mayor or mayor’s designee may promulgate procedures to govern the purchase of supplies, such as food, beverages, decorations and awards for public events and employee activities, including employee of the year recognition, volunteer recognition and ceremonial openings of public facilities.

#### **2.96.240 Other contracts.**

The mayor or mayor’s designee may promulgate procedures for the approval of all other contracts not otherwise covered by this chapter.

#### **2.96.250 Compost procurement requirements.**

A. When planning government-funded projects or soliciting and reviewing bids for such projects, the city shall consider whether compost products can be utilized in the project. If compost products can be utilized in the project, the city shall use compost products to the extent required by law, including, without limitation, RCW 43.19A.120(2).

B. To the extent required by RCW 43.19A.150(3), the city shall plan for the use of compost in the following categories:

1. Landscaping projects;
2. Construction and post-construction soil amendments;
3. Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and
4. Low-impact development and green infrastructure to filter pollutants or keep water on site, or both.

This plan will be reassessed each December 31st of even-numbered years, beginning in 2024 and thereafter as part of the reporting obligations in subsection D of this section.

C. To the extent required by RCW [43.19A.150](#)(4), the city will develop strategies to inform residents about the value of compost and how the city uses compost in its operations.

D. To the extent required by RCW [43.19A.150](#)(5), by December 31, 2024, and each December 31st of even-numbered years thereafter, the city shall prepare a report for the Department of Ecology covering the previous year's compost procurement activities, including the following information:

1. Total tons of organic material diverted each year;
2. The volume and cost of compost purchased each year; and
3. The source(s) of the compost purchased.

E. To the extent required by RCW [43.19A.150](#)(6), the city shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology.

F. In accordance with RCW [39.30.040](#)(1), the city may allow for the preferential purchase of compost to meet the requirements of RCW [43.19A.120](#).

## **2.96.230 Sale or Disposal of City Personal Property.**

### **A. Authorization**

The mayor or mayor's designee may authorize the sale or disposal of personal property owned by the city, provided that the property is no longer needed and that notice of intention to sell is given as provided in this section. The personal property shall be deemed as surplus or scrap.

Permission must be obtained from the grantor before selling or disposing of any personal property purchased with grant funding when required by any grant condition. All personal property sold or disposed shall be inventoried and documented by the finance department according to generally accepted accounting principles.

### **B. Sale versus Disposal**

Sale of surplus items to other governmental agencies may occur via private sale. Other sales of surplus items should be sold via public auction through third-party auction services. The mayor or mayor's designee shall have authority for the disposal of scrap via public auction, private sale at prices established by current market conditions, or disposal if there is no viable market. Of items with nominal value, the mayor or mayor's designee may donate such items to a charitable organization which is tax exempt pursuant to Internal Revenue Code 501(c)(3).

### **C. Trade-Ins**

Trade-in of old equipment to upgrade similar or reasonably related equipment is permitted when it is in the best interest of the city. The mayor or mayor's designee may authorize the sale, trade, or other disposition of surplus property and scrap belonging to the city when used for a trade-in.

D. Public Notice

If the city opts not to use a third-party auction service and instead chooses to conduct an auction itself, the notice of intent to sell surplus or scrap at a public sale shall be published once a week for two consecutive weeks in the city's official newspaper immediately prior to the sale. The notice shall state the time and place at which the property will be sold. Any other reasonable means to attract potential buyers to the sale may be used in conjunction with the notice posted in the official newspaper.

E. Conflict of Interest

City employees may have more information than the general public about city property to be auctioned or otherwise disposed and to promote the appearance of fairness necessary to maintain the public trust, employees, their spouses, and their agents are not permitted to bid on or buy personal property auctioned or sold directly by the city.

F. This section does not address the sale or disposal of real property.

**Section 2. That Chapter 2.95 of the Mount Vernon Municipal Code is hereby amended to read as follows:**

**Chapter 2.95**

**REAL PROPERTY ACQUISITION, SALE, AND LEASING**

**Sections:**

**2.95.010 Real property – Authority to acquire.**

**2.95.020 Real property – Leasing authority.**

**2.95.030 Real property – Transfer of interest.**

**2.95.035 Telecommunication Facility Leases.**

**2.95.040 Severability.**

**2.95.010 Real property – Authority to acquire.**

A. The mayor or mayor's designee is authorized in the following instances to acquire dedications, easements, rights-of-way, fee estates or other interest in real property for use by or on behalf of the city or department of the city:

1. Approved Projects. Any such acquisition which is part of an approved and funded project included in the city's capital improvement plan or a local improvement district ordered by the council; provided, that the cost of the property is less than \$150,000 and does not exceed by more than 10 percent the fair market value of the property as determined by the city's appraiser or review appraiser;

2. Minor Acquisitions. Any such acquisition where the purchase price is less than \$50,000.

B. All other real property acquisitions not authorized in advance will be submitted to the city council for approval.

C. Any real property acquisition sought by the city through its powers of eminent domain as delegated by the state in Chapter 8.12 RCW shall comply with the requirements of the state-directed policies in Chapter 8.26 RCW.

**2.95.020 Real property – Leasing authority.**

A. The mayor or mayor’s designee is authorized to execute leases of real property on behalf of the city where the term of the lease does not exceed five years and the consideration does not exceed \$75,000 per year. This section shall not apply to telecommunication facility leases governed by MVMC 2.95.035.

B. A lease that exceeds the limits stated in subsection A of this section, or one where city property is leased for less than fair market rent, will be submitted to the city council for approval.

**2.95.030 Real property – Transfer of interest.**

A. Any conveyance of an interest in city real property except for those mentioned pursuant to MVMC 2.95.020 and MVMC 2.95.035 will be submitted to the city council for approval.

B. All conveyances of real property must be in the best interests of the city, relating to a public purpose.

C. No conveyance may be approved if deemed a gift or loan of credit to a private entity, except in aid of the poor and infirm.

D. All conveyances of real property shall be only of an interest of that real property which is surplus to the needs of the city.

E. All dispositions of real property to another governmental unit shall comply with RCW 39.33.020.

F. All dispositions of utility property shall comply with RCW 35.94.040.

G. City council may take reasonable steps to determine the fair market value of the property up to and including formal appraisal if necessary.

H. City council may require, prior to a sale of a simple fee interest in city real property, procedures to ensure that offers are within the best interest and maximize value up to and including advertising and accepting bids on the property.

**2.95.035 Telecommunication Facility Leases.**

A. The mayor or mayor’s designee is authorized to approve facilities leases for telecommunication facilities as those terms are defined in MVMC 18.04.030 provided that:

1. The requested use of the property is surplus to the needs of the city current or planned provision of services which shall be determined by the mayor or mayor’s designee.
2. The contract term of the lease does not exceed 20 years including all options or renewals.
3. The contract is on a form approved by the city attorney.
4. Consideration shall not exceed \$50,000 per year.

B. The facilities lease shall substantially comply with the city's local regulations including but not limited to Title 18 of the Mount Vernon Municipal Code.

**2.95.040 Severability.**

If any section, subsection, sentence, clause, chapter, provision, or phrase of this chapter or its application to any person or circumstance is found to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the chapter or the application or the provisions to other persons or circumstances.

**Section 3. That Chapter 2.99 of the Mount Vernon Municipal Code is hereby repealed and re-enacted to read as follows:**

**Chapter 2.99 Donations**

**2.99.010 Purpose**

**2.99.020 Definitions**

**2.99.030 Donations of money and personal property.**

**2.99.040 Acceptance of ownership of or interest in real property.**

**2.99.050 Acknowledgement of donations and transparency.**

**2.99.060 In Kind Services.**

**2.99.010 Purpose.**

Consistent with RCW 35.21.100, which provides that the city council may accept donations of money or property by ordinance, this chapter delegates authority to the mayor or mayor's designee to accept such donations in circumstances with minimal risk and long-term obligation, and reserves the city council's authority in all other circumstances.

**2.99.020 Definitions.**

A. "Donation" means any money or personal property that is donated, devised, or bequeathed to the city.

B. "Restricted donation" means a donation that is given with any restriction or condition on the use of the money or property.

C. "Unrestricted donation" means a donation that is given without restriction or condition.

**2.99.030 Donations of money and personal property.**

A. Unrestricted donations.

1. The mayor or mayor's designee is authorized to accept unrestricted donations valued at twenty thousand dollars or less per donor, per calendar year.

2. The city treasurer must deposit accepted unrestricted donations into the general fund.

**B. Restricted donations.**

1. The mayor or mayor's designee is authorized to accept restricted donations valued at ten thousand dollars or less per donor, per calendar year that support an established city program, including, but not limited to: recreation programs, park facilities, museum exhibits, library materials, public art, and maintenance of city facilities.

2. All other restricted donations may only be accepted by action of the city council.

3. The city treasurer must deposit restricted donations of money into the fund most appropriate to carry out the restrictions or conditions of the donation.

4. The city must make reasonable efforts to use or dispose of any money or personal property in accordance with the donor's restrictions or conditions.

5. Restrictions or conditions on a donation are not binding upon the city unless accepted in writing by the city council.

**2.99.040 Acceptance of ownership of or interest in real property.**

A. The city may accept ownership of or an interest in real property, including a lease or other instrument transferring anything less than a fee simple interest, only if approved by action of the city council, such as by resolution or council approved contract, or plat approval, unless to comply with a development regulation, permit condition or when needed for an approved public work project of the city.

B. No other action by any city employee or agent may constitute the city's acceptance of any interest in real property.

**2.99.050 Acknowledgment of donations and transparency.**

A. For each donation, the city treasurer or city clerk should communicate to the donor a written acknowledgment of acceptance and appreciation on behalf of the city.

B. The city treasurer or city clerk shall maintain a continuous list of all donations accepted by the city, and must provide to the city council at the end of each year a list of all donations accepted by the city during the previous calendar year.

**2.99.060 In kind services.**

A. The mayor or mayor's designee is authorized to accept all in kind services that support an established city program, budgeted project or event, including but not limited to recreation programs, parks facilities, police volunteer programs, maintenance of city facilities including trails and open spaces, and the improvement of the city's critical areas. The mayor or mayor's designee may seek a donation agreement from a donor who wishes to donate in kind services.

**Section 4. Repealer.** That Chapter 2.92 of the Mount Vernon Municipal Code is hereby repealed in its entirety.

**Section 5. Severability.** If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective five days after publication of the Ordinance, or a summary thereof, in the official newspaper of the city.

Adopted this 28th day of January, 2026.



Peter Donovan, Mayor

**ATTEST:**



Becky Jensen, City Clerk

**Approved as to Form:**



Kevin Rogerson, City Attorney

Date of Publication: January 31, 2026

Effective Date: February 5, 2026