



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** DECEMBER 7, 2021

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**FROM:** STEVE DANLEY, ACTING CITY MANAGER

**PREPARED BY:** ELLIS CHANG, DIRECTOR OF ADMINISTRATIVE SERVICES  
STEVEN AVALOS, BUDGET AND PURCHASING MANAGER  
JIMMY ARMENTA, BUYER I

**SUBJECT:** FULLERTON MUNICIPAL CODE AMENDMENT  
PERTAINING TO EMERGENCY PURCHASES

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### **SUMMARY**

Proposed amendment to Fullerton Municipal Code (FMC) Section 2.64.090 (Emergency purchases) reporting requirement for emergency purchases in excess of \$5,000.

### **RECOMMENDATION**

Introduce Ordinance No. XXXX for first reading by title only and waive further reading of the Ordinance.

ORDINANCE NO. XXXX – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING FULLERTON MUNICIPAL CODE CHAPTER 2.64 (PURCHASING), SECTION 2.64.090 (EMERGENCY PURCHASES)

### **PRIORITY POLICY STATEMENT**

This item matches the following Budget Policy Priority Statement/s:

- Fiscal and Organizational Stability.

### **FISCAL IMPACT**

There is no fiscal impact associated with amending the emergency purchases reporting provision in the FMC. All emergency purchases are subject to adopted budget levels. City

Council must approve any emergency purchase(s) of goods and/or services exceeding budget authority.

## DISCUSSION

The City of Fullerton (City) has seen an increase in the number of emergency repair purchases due to the City's aging infrastructure, primarily in our streets, water and sewer utility infrastructure. Fullerton Municipal Code, Purchasing Chapter 2.64, Section 2.64.090 (Emergency Purchases) requires a full report of the circumstances for all emergency purchases exceeding \$5,000 to City Council at its next regular meeting. Staff proposes amending the FMC to increase the minimum emergency purchasing threshold from \$5,000 to \$50,000 per emergency purchase to report at the next scheduled City Council meeting.

The proposed FMC Chapter 2.64 (Purchasing) amendment is as follows:

### 2.64.090 Emergency purchases.

Notwithstanding the provisions of Section 2.68.050, the immediate requirement of an item or items necessary for the preservation of life or property shall be deemed an emergency. The City Manager, or designee, may approve such purchases provided staff files a full report of the circumstances of all emergency purchases in excess of ~~five thousand~~ fifty thousand dollars with City Council at its next regular meeting. (Ord. XXXX § X (part), 2021; Ord. 2483 § 1 (part), 1983).

Staff proposes this change to the FMC Purchasing code as emergency purchases often exceed \$5,000 due to costs of equipment, materials and labor. Further, the performs a high frequency of emergency repairs due to the City's aging infrastructure. The has City made over 22 emergency repair purchases processed in calendar year 2021 to date. To properly adhere to the existing FMC would require staff to submit emergency procurement agenda items at almost every City Council meeting in order to report on all emergency purchases above \$5,000.

Surrounding, comparable cities of Garden Grove, Brea and Costa Mesa have set minimum thresholds at \$50,000 to report emergency purchases to their City Council, which is substantially higher than the City of Fullerton's \$5,000 minimum emergency purchase reporting requirement. A table of comparable cities and their emergency purchasing minimum threshold amounts follows:

City	Minimum Emergency Purchase Threshold Amount
City of Fullerton	> \$5,000 per Emergency Purchase
City of Garden Grove	> \$50,000 per Emergency Purchase
City of Brea	> \$50,000 per Emergency Purchase
City of Costa Mesa	> \$50,000 per Emergency Purchase

Staff seeks City Council approval to amend FMC Section 2.64.090 (Emergency Purchases) to increase the minimum amount to report emergency purchases to the City

Council from “in excess of \$5,000” to “in excess of \$50,000” per emergency purchase. Increasing the minimum threshold amount to report emergency purchases in excess of \$50,000 aligns with the City Manager’s purchasing authority and delegated emergency procurement authority as referenced in FMC Section 2.64.095 (Emergencies). Staff will continue to report emergency purchases above this new amount at the next scheduled City Council meeting, in compliance with State legislature and reporting requirements for Emergency Contracting Procedures as outlined in Chapter 2.5 of Part 3 of Division 2 of the California Public Contract Code (commencing with Section 22050).

This proposed amendment in the FMC Purchasing Code enables staff to focus on addressing the immediate need and emergencies at hand, while still keeping City Council properly informed of large-scale emergencies. Further, the reporting requirement of emergency purchases exceeding the new minimum threshold is consistent with standardized administrative and purchasing practices of surrounding, comparable cities.

If approved, staff will bring forward the second reading of the attached Ordinance on the consent calendar on December 21, 2021 for final approval.

Attachments:

- Attachment 1 – Presentation
- Attachment 2 – Draft Ordinance No. XXXX
- Attachment 3 – Draft FMC Chapter 2.64 (Purchasing)
- Attachment 4 – Draft FMC Chapter 2.64 (Purchasing) – Redlined