

Resolution No. 2023-XXX N.C.S. of the City of Petaluma, California

RENEWING ORDINANCE NO. 2818 N.C.S. AND APPROVING PETALUMA POLICE DEPARMENT'S MILITARY EQUIPMENT FUNDING, ACQUISITION, AND USE POLICY, IN COMPLIANCE WITH CALIFORNIA ASSEMBLY BILL NO. 481 (AB 481)

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 (AB 481) (codified in Government Code sections 7070 through 7075.), relating to the use of military equipment as defined in the statute by California law enforcement agencies; and

WHEREAS, AB 481 seeks to provide transparency, oversight, and an opportunity for meaningful public input on decisions regarding whether and how military equipment is funded, acquired, or used by local police departments; and

WHEREAS, the Petaluma Police Department is in possession of certain items of equipment that qualify as "military equipment" under AB 481; and

WHEREAS, AB 481 requires that a law enforcement agency possessing and using equipment subject to AB 481 must prepare a publicly released, written, Military Equipment Funding, Acquisition, and Use Policy including the inventory, description, purpose, use, acquisition, maintenance, fiscal impacts, procedures, training, oversight, and complaint process, applicable to the use of equipment subject to AB 481; and

WHEREAS, the Military Equipment Policies required by AB 481 and supporting information must be adopted by California law enforcement agency governing bodies by ordinance, and be reviewed annually; and

WHEREAS, in compliance with AB 481, on April 18, 2022, the Petaluma Police Department submitted the draft Petaluma Military Equipment Funding, Acquisition, and Use Policy (Policy) to the City Council as City Council agenda Item 4B, and posted the proposed Policy on the City's website for 30 days before the June 6, 2022, public hearing concerning this ordinance; and

WHEREAS, the City Council considered the proposed AB 481 Policy at a duly noticed regular meeting on June 6, 2022, and June 20, 2022, at which time all interested members of the public were provided the opportunity to provide public comment, and introduced and adopted Ordinance No. 2818 N.C.S. approving the Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy, incorporating specified changes to the ordinance and the policy approved pursuant to the ordinance in compliance with California Assembly Bill no. 481; and

WHEREAS, Ordinance No. 2818 N.C.S. took effect on July 20, 2022; and

WHEREAS, Ordinance No. 2818 N.C.S. includes a provision within Section 3 that states, "This ordinance and Policy 709 shall continue in effect until amended or repealed by ordinance of the City Council"; and

WHEREAS, on July 10, 2023, the Petaluma Police Department submitted to City Council and is publicly available on the Department's internet website, the June 2022-June 2023 Annual Military Equipment Use Report, attached hereto and incorporated into this resolution as Attachment 2, (Petaluma Annual Military Equipment Use Report); and

WHEREAS, in accordance with Government Code Section 7072(a) the Petaluma Annual Military Equipment Use Report, attached hereto as Attachment 2, includes:

1. A summary of how the military equipment was used and the purpose of its use;
2. A summary of any complaints or concerns received concerning the military equipment;
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response;
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report;
5. The quantity possessed for each type of military equipment;
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment; and

WHEREAS, in compliance with Government Code Section 7072(b) the July 10th, 2023, City Council meeting was well-publicized and conveniently located and allows the general public to discuss and ask questions about the Petaluma Annual Military Equipment Use Report; and

WHEREAS, on July 10, 2023, pursuant to Government Code Section 7071(e)(1) the City Council reviewed Ordinance No. 2818 N.C.S.; and

WHEREAS, this resolution renewing Ordinance No. 2818 N.C.S. is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378, because renewing an ordinance that authorizes the Petaluma Police department's use of existing and budgeted equipment subject to AB 481 does not meet CEQA's definition of a "project," because such administrative action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

1. The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.
2. Finds that this resolution renewing Ordinance No. 2818 N.C.S. is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378, because renewing an ordinance that authorizes the Petaluma Police department's use of existing and budgeted equipment subject to AB 481 does not meet CEQA's definition of a "project," because such administrative action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
3. Has reviewed Ordinance No. 2818 N.C.S., attached hereto as Exhibit A and the Petaluma Annual Military Equipment Use Report and has determined that each type of military equipment identified in the Petaluma Annual Military Equipment Use Report:
 1. Is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety;
 2. Will safeguard the public's welfare, safety, civil rights, and civil liberties;

3. The purchasing of the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and
4. That prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
4. Finds that the determinations and findings stated in Sections 2 and Section 3 of Ordinance No. 2818 N.C.S. are incorporated as findings within this Resolution.
5. Finds that the determinations and findings stated in Sections 2 and Section 3 of Ordinance No. 2818 N.C.S. are incorporated as findings within this Resolution.
6. Renews Ordinance No. 2818 N.C.S. in compliance with Government Code Section 7071(e)(1).
7. Finds that the Petaluma Police Department has complied with AB481, Government Code Sections 7070-7075.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 10th day of July 2023, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor

EXHIBIT A

Ordinance No. 2818 N.C.S.

EXHIBIT B

Policy 709 Military Equipment Funding, Acquisition, and Use Policy

EXHIBIT C

Petaluma Police Department Military Equipment Inventory