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DATE: July 10, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Nick McGowan, Lieutenant  
Ken Savano, Police Chief  
Eric Danly, City Attorney

SUBJECT: Receive and Review FY23 Military Equipment Annual Report and Renew Ordinance No. 2818 N.C.S., Approving Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy, in Compliance with California Assembly Bill 481 (AB481)

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### **RECOMMENDATION**

It is recommended that the City Council receive and review FY23 Military Equipment Annual Report and Renew Ordinance No. 2818 N.C.S., Approving Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy, in Compliance with California Assembly Bill 481 (AB 481).

### **BACKGROUND**

In 2021, the California Legislature passed Assembly Bill 481 (AB481) adding new statutes to the Government Code ([GC § 7070-7075](#)) requiring any state or local law enforcement agency wishing to acquire or use "military equipment" as defined in the statute after January 1, 2022, to have in effect a written policy governing the acquisition and use of equipment subject to AB481 that has been adopted by ordinance of the agency's governing body. AB481 also provides that in order for law enforcement agencies to continue to use equipment subject to AB481 that was acquired before January 1, 2022, the law enforcement agency must report annually to the governing body the usage of military equipment, any intended acquisitions in the coming year, and renew the previously adopted ordinance.

On an annual basis AB481, requires an agency to publish a Military Equipment Annual Report to its website and hold at least one community engagement meeting to allow the public to ask questions and discuss the report. The annual report shall be submitted to the governing body and provide the following information:

- A summary of how the Military Equipment was used during the previous year and the purpose of its use.
- A summary of any complaints or concerns received concerning the Military Equipment.
- The results of any internal audits, any information about violations of the Military Equipment Funding, Acquisition, and Use Policy, and any actions taken in response.
- 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.
- The quantity possessed for each type of Military Equipment.
- If the Police Department intends to acquire additional Military Equipment in the next year, the quantity sought and purpose for each type of Military Equipment.

In addition, the local law enforcement agency must make the Military Equipment Annual Report available on their website. The governing body of the local law enforcement agency is intended to utilize the annual report as a mechanism to ensure the Department's compliance with the Military Equipment Funding, Acquisition, and Use Policy for the subsequent year. In addition to review and oversight by the governing body, the Office of the Independent Police Auditor is also monitoring compliance with AB481 and will provide separate reporting to the governing body and community during their annual reporting requirements.

Pursuant with AB481, once the report is submitted, the governing body shall determine, based on the Military Equipment Annual Report, whether each type of Military Equipment identified in that report has complied with the standards for approval set forth in the previously adopted ordinance and the Military Equipment Use Policy. If the governing body determines that a type of Military Equipment identified in that Military Equipment Annual Report has not complied with the standards for approval, the governing body shall either disapprove a renewal of the authorization for that type of Military Equipment or require modifications to the Military Equipment Funding, Acquisition, and Use Policy in a manner that will resolve the lack of compliance.

In compliance with AB481, the Petaluma Police Department (Department) developed Policy Section 709, Military Equipment Funding, Acquisition, and Use Policy including both the policy document and a required inventory of the equipment used by the Police Department that AB481 defines as "military equipment." The equipment defined in AB481 as military equipment is broader than being limited to just equipment previously used by or acquired from the military.

The equipment detailed in AB481 is divided into fifteen (15) categories. The policy and inventory were posted for public viewing on the [Department's website](#). On April 18, 2022, the City of Petaluma gave public notice on AB481 at the City Council Meeting. The staff report and recording for that meeting can be located [here](#).

On [June 20, 2022](#), City Council adopted Ordinance No. 2818 N.C.S. approving the Petaluma Police Department's Military Equipment Funding, Acquisition, and Use Policy, in compliance with California Assembly Bill Number 481 (AB481). Staff discussed with Council each of the items of equipment possessed by the Department in each of the qualifying categories and identified the governing policies and State laws that regulate and guide their potential uses. The Department provided a historical overview of how and when the specific types of equipment came into possession and use. The Department provided statistical data regarding the use of such equipment as well as comparison of the types and categories possessed by the Department compared to the allied agencies in the area and agencies in the region who operate and maintain a full-service law enforcement agency with a Crisis Response Team such as Special Weapons and Tactics (SWAT) Team.

Additionally, the Department presented a draft policy governing the use of Unmanned Aerial Systems (UAS) commonly referred to as Drones. AB 481 defines UAS as qualifying military equipment, even if they were not produced for or used by the military. At that time and even now presently, the Department does not possess UAS equipment. Through the presentation of the draft policy and discussion regarding UAS use the Department sought approval to acquire UAS and utilize them in accordance with departmental policy and authorized uses. The Department experienced and observed the benefits of law enforcement agencies utilizing UAS as seen through the Sonoma County Sheriff's Office use and assistance in one of our agency's own missing person cases where a UAS was used to supplement grid searches in remote difficult-to-access areas. In 2023, the Department established an internal UAS team to research the various UAS equipment and vendors available to determine which systems would best enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective, more costly, and more dangerous.

The Military Equipment Funding, Acquisition, and Use Policy Section 709 requires the Department website provide members of the public a method to submit complaints, concerns or questions about the use of each specific type of military equipment included in Department's inventory list. Over the past year, the Department received zero (0) complaints regarding the use of the identified equipment included in the policy.

## **DISCUSSION**

This item facilitates the transmittal of the attached Military Equipment Annual Report to our governing body, the City Council, as required by AB481 documenting all required information for the reporting period of June 2022 to June 2023.

This item also seeks City Council review and approval for the continued use of all authorized military equipment identified in the previously presented Military Equipment Inventory on June 6, 2022. As shown in the annual report, Attachment 2, the Department used some but not all of the listed equipment and received no complaints or concerns associated with the use of the listed military equipment. In addition, the Department had no policy violations associated with deployment or use of the military equipment. The Annual Report shows the Department has complied with the requirements of Ordinance No. 2818 N.C.S. and the Military Equipment Use Policy for the previous year.

In order to approve the continued use of the currently authorized military equipment by the Department, Ordinance No. 2818 N.C.S. and AB481 require the City Council to find that the military equipment listed in the policy is necessary because there is no reasonable alternative that can achieve the same objective of community and officer safety and that the proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties. All of the equipment listed in the policy was designed to enhance law enforcement's ability to ensure public safety and welfare. The policy ensures that there are safeguards, including transparency, oversight, and accountability measures in place for the use of the listed equipment. Members of the public are provided direction per the policy on how to register complaints for violations. All items which result in a use of force are investigated and reviewed by the Department and the Office of the Independent Police Auditor. Based on ongoing equipment evaluation and deployment history, the Department has not discovered alternative equipment items that can achieve the same objects of community and officer safety. The equipment in the Petaluma Police Department's inventory that is subject to AB481 allows the Police Department to protect both the community and staff during life-threatening incidents. Some of the equipment is specifically intended to help de-escalate and peacefully resolve life-threatening situations. With this equipment, the Police Department can safely respond to critical, possibly life-threatening incidents and use less lethal methods for law enforcement to achieve safe and successful outcomes without the use of deadly force.

The Department has assigned the Professional Standards Lieutenant to oversee the military equipment inventory, provide the required annual report, coordinate the annual community meeting and City Council review, and establish and oversee the required complaint procedure. The Professional Standards Lieutenant also reviews all use of force related incidents involving all military equipment with the Office of the Independent Police Auditor.

For the above listed reasons and based on the annual report, staff recommends that City Council adopt the attached resolution, which approves the continued use of the currently authorized military equipment. Any future military equipment purchases use would be subject to the City's existing purchasing use requirements as well as the requirements of AB481 outlined above.

In addition to the equipment currently in inventory, and to improve officer and public safety during high-risk and/or crisis situations, the Department is exploring the acquisition of seven (7) unmanned aerial system (UAS) devices (aka drones) and one (1) unmanned ground vehicle (UGV) device (aka remote-operated robots) in FY24, which currently the Department does not have. The seven UAS devices include three (3) smaller devices for rapid deployment in patrol, two (2) for collision and crime scene documentation which integrate with existing forensic software, and two for the Crisis Response Team comprised of Special Weapons and Tactics (SWAT) team. The Department is seeking authorization to acquire one (1) non-weaponized Unmanned Ground Vehicle (UGV) in FY24 for the Crisis Response Team comprised of Special Weapons and Tactics (SWAT) team.

Unmanned aerial systems (UAS) are necessary as they provide visibility to high-risk locations. With a UAS, police officers would have the ability to have an overhead observation of high-risk areas, increased effectiveness of locating missing persons, improved visual assistance during rescue operations, and be able to assess suspicious/dangerous objects from a safe distance. In addition to crime and rescue operations, UAS equipment is utilized to memorialize and document crime scenes and traffic collision scenes. The UAS system can enter small spaces, such as enclosed structures, as well as provide overhead observations of high-risk situations within business districts, residential sections, open land/wooded areas, and other crowded spaces. Accordingly, this equipment is necessary as without this equipment safety risks to the public and law enforcement personnel would increase in the circumstances described. Therefore, we have found no reasonable alternatives which would allow the Department to achieve these public safety objectives, and as there are no available alternatives, the purchase is reasonably cost-effective to ensure civilian and officer safety. It should also be noted that UAS devices are currently being used in Public Works and Utilities as well as the Fire Department for specific departmental missions.

Remote controlled unmanned ground vehicles (UGV) are used to gather images and/or video during high-risk operations and critical incidents, most often by the specially trained Crisis Response Team which includes the Special Weapons and Tactics (SWAT) Team. The equipment provides visibility in areas where it would be unsafe to send a police officer. This system can also be used to observe potentially hazardous items, such as explosive devices or suspicious chemicals. Having access to this resource prevents the use of police officers or other emergency responders to engage in high-risk tasks and would shorten the mitigation process during dangerous operations. There are no known alternatives to the devices.

These UAS and UGV devices will be utilized in accordance with AB481 as well as Department Policy 613, Unmanned Aerial System (UAS) and Unmanned Ground Vehicle (UGV) as well as Policy 709, Military Equipment Funding, Acquisition, and Use. Regionally, both the Sonoma County Sheriff's Office and the Santa Rosa Police Department both currently utilize UAS and UGV devices. Both policy 613 and 709 are

attached for review. By complying with these policies, the use of UAS and UGV's will safeguard the public's welfare, safety, civil rights, and civil liberties.

AB481 requires that any proposed use and equipment that was not previously be approved be submitted to the local governing body and publicly available on the local law enforcement agency's website at least 30 days prior to any public hearing to approve the use. As the Department requests the use of UAS and UGV's to better protect Petaluma, the Department is submitting the UAS and UGV policies with this staff report, attached hereto as Attachment 3, and making them available on the Department's website. Staff is preparing a draft ordinance regarding the acquisition and use of unmanned aerial system (UAS) and unmanned ground vehicle (UGV) devices an agenda item for Council consideration on August 7, 2023.

## **PUBLIC OUTREACH**

The Department has a dedicated webpage (<https://cityofpetaluma.org/police-department-specialized-equipment/>) on the city website regarding military equipment, as well as a dedicated email address: [petalumapoliceequipment@cityofpetaluma.org](mailto:petalumapoliceequipment@cityofpetaluma.org), to respond to questions and concerns is also on that page.

The Department is committed to improving the trust and confidence between the Department and the community it serves. As the Department strives to enhance community relationships and continues to be a progressive leader amongst law enforcement agencies nationwide, we want to ensure the public has access to the way its Police Department operates and engages with the public. The Department regularly utilizes select military equipment, such as the Mobile Incident Command vehicle, during outreach and community events, as a means of public awareness, transparency and education.

The Department hosted a community engagement display on May 4, 2023, to provide community members the opportunity to view, comment on, discuss, and ask questions regarding the department's military equipment. The community engagement event was shared with the public through the City's weekly update and the City's social media channels, including Facebook, Nextdoor, and Instagram pages. Members from the community, City Departments, City Council and media attended the community meeting.

Additionally, the event was covered by our local media:

- <https://www.petaluma360.com/article/opinion/community-matters-building-trust-is-a-two-way-street/>
- <https://www.petaluma360.com/article/news/letters-to-the-argus-courier-may-26-2023/>
- <https://www.petaluma360.com/article/news/for-petaluma-police-armored-vehicles-are-a-mixed-blessing/>

- <https://www.petaluma360.com/article/opinion/editorial-petaluma-doesnt-need-military-grade-equipment/>

## **COUNCIL GOAL ALIGNMENT**

This effort aligns with and achieves the City Council’s goal of “A Safe Community that Thrives.”

In April 2023, the City of Petaluma hired IntegrAssure to be the City’s first Independent Police Auditor (IPA). The IPA provides additional oversight on policies, procedures, administrative investigations, complaints, and uses of force. This staff report and associated attachments are aligned with policy, oversight, AB481 and Ordinance No. 2818 N.C.S.

## **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

Using existing equipment, when available, reduces the need to manufacture new equipment which reduces the greenhouse gas emissions associated with manufacturing. There are currently no known electric armored rescue vehicles or command and control vehicles on the market.

## **ENVIRONMENTAL REVIEW**

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378. Adoption of a resolution renewing an ordinance that authorizes the police department’s use of current 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.

## **FINANCIAL IMPACTS**

The projected cost to acquire the recommended remotely operated aerial and ground vehicles is approximately \$46,000. The Department intends to utilize existing funding in the FY23/24 budget to pursue these acquisitions in addition to seeking grant funding when appropriate and available.

All other equipment has been in the possession of the Department and as such there are no additional financial impacts beyond maintaining authorized inventory quantities and routine maintenance and repair costs outlined in the annual report.

## **ALTERNATIVES**

There are no alternative considerations associated with this report.

## **ATTACHMENTS**

1. Attachment 1 – Resolution
2. Exhibit A – Ordinance No. 2818 N.C.S.
3. Exhibit B – Policy 709 Military Equipment Funding, Acquisition, and Use Policy
4. Exhibit C – Petaluma Police Department Military Equipment Inventory
5. Attachment 2 – Annual Military Equipment Use Report June 2022 – June 2023
6. Attachment 3 – Policy 613 Unmanned Aerial System (UAS) and Unmanned Ground Vehicles (UGV) Operations