



CITY COUNCIL STAFF REPORT



May 3, 2022

ITEM TITLE

Military Equipment Policy: Consideration of approving the Chula Vista Police Department's Military Equipment Policy

Report Number: 22-0123

Location: No specific geographic location

Department: Police

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Adopt an ordinance approving the Police Department's Military Equipment Policy. **(Second Reading and Adoption)**

SUMMARY

On September 30, 2021, the Governor of the State of California approved Assembly Bill (AB) 481, "Funding, Acquisition and Use of Military Equipment," which is codified in Chapter 12.8 of the California Government Code, Sections 7070 to 7075. This Chapter requires a law enforcement agency to obtain annual approval of a military equipment policy by its governing body before it may seek funding for, acquire new, or use existing military equipment.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On September 30, 2021 the Governor of the State of California approved AB 481, requiring law enforcement agencies to obtain approval of a military equipment policy by the applicable governing body. The Police Department is required to seek approval of this military equipment use policy from the governing body at a regular open meeting prior to the Department taking certain actions relating to the funding, acquisition, or use of military equipment, as defined.

The bill allows the governing body to approve the policy only if it determines that the military equipment meets specified standards. The policy is subject to annual review by the governing body to determine whether, based on annual military equipment report, the standards set forth in the approving policy have been met. The governing body may renew the authorizing policy, disapprove authorization for particular military equipment where standards have not been met, or require modifications to this military equipment use policy to address any non-compliance with standards.

The bill requires publication of the agency's military equipment use policy and the annual military equipment report on the agency's website. The Chula Vista Police Department posted the proposed Military Equipment Policy, designated as Number 714 in its Department Policy Manual, on its website on March 28, 2022, 30 days before submitting the policy to the Chula Vista City Council for its consideration and approval on April 26, 2022, as required by California Government Code Section 7071(b), and the Department's webpage also provided a link for public comments and questions on the proposed policy.

The Chula Vista Police Department's Military Equipment Policy, which is 9 pages with a 28-page attachment listing the Department's military equipment with photos, meets all the requirements of California Government Code 7070(d). Specifically, it is a written document that governs the Department's use of military equipment; describes each type of military equipment by quantity and capability, expected lifespan and manufacturer product description; addresses the purposes and authorized use for each type of listed equipment; addresses fiscal impact, including initial cost and annual maintenance costs; addresses the legal and procedural rules that govern authorized use and training required before use to ensure the full protection of the public's welfare, safety, civil rights and civil liberties; requires compliance with the policy, addresses mechanisms to ensure compliance with the policy and sanction for policy violations; and addresses the procedures for registering public complaints, concerns and questions and timely response to same.

Additionally, the Police Department's Military Equipment Policy meets all the requirements of California Government Code Section 7071(d)(1)(A)-(D): (A) the Department's military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety; (B) the Department's proposed military equipment policy will safeguard the public's welfare, safety, civil rights and civil liberties; (C) the Department's existing military equipment was purchased pursuant to the City's existing procurement requirements and best-practice protocols and is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety; and (D) prior military equipment uses complied with existing Department policies as well as the proposed military equipment policy, any future such uses will be evaluated according to the military equipment policy in effect at the time,

and corrective action will be taken to remedy any future nonconforming uses and to ensure future compliance.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no current-year fiscal impact approving the Police Department's Military Equipment Policy.

ONGOING FISCAL IMPACT

The Police Department's Military Equipment Inventory is outlined in Attachment A of the proposed Military Equipment Policy. During the budget process, ongoing maintenance or repair of this equipment will be included in the proposed budget. If any additional appropriations are required for this equipment, then City staff will seek Council approval at that time.

ATTACHMENTS

Attachment 1: Proposed Military Equipment Policy (CVPD Policy 714)

Staff Contact: Captain Dan Peak, Police Department