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An Ordinance Adopting an Equipment Use Policy per CA Assembly Bill No. 481 as an Emergency Measure to Take Effect Immediately Upon Adoption [Two-Thirds Vote Required]

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File ID: 2021-01389

..Location

Location: Citywide

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Recommendation:

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Adopt an Ordinance: 1) establishing a Military Equipment Use Policy; and 2) declaring the ordinance to be an emergency measure to take effect immediately upon adoption.

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Presenter: None

Attachments:

1-Description/Analysis

2-SPD General Orders 410.06 Military Equipment Use (Exhibit A)

3-Ordinance

Description/Analysis

Issue Detail: Assembly Bill 481 (AB 481 or the Bill), codified at Government Code sections 7070 through 7075 requires a law enforcement agency (LEA) to obtain approval from the applicable governing body, via adoption of a “military equipment” use policy (the Policy) by ordinance (the Ordinance), prior to the LEA funding, acquiring, or using military equipment. The Sacramento Police Department (SPD) seeks City Council adoption of the attached Military Equipment Use Policy – General Order 410.06 (Exhibit A), in order to allow SPD to continue to use the vital equipment specified therein, as well as acquire one piece of new equipment.

Items deemed to be “military equipment” by AB 481 are used as a component of overall best practices for LEAs throughout the country. These tools have been tested in the field, and are used by LEAs to enhance citizen safety, officer safety. Loss of these items would jeopardize the welfare of citizens and peace officers within the SPD.

The term “military equipment”, as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be “military equipment” include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long range acoustic devices, and flashbangs.

SPD is committed to using the most up to date tools and equipment to safeguard the citizens of Sacramento. Many of items deemed to be “military equipment” by AB 481 are in fact employed by SPD, and LEA’s across the country, in order to specifically reduce risk to community members. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items at issue in this report, and accompanying Military Equipment Use Policy, also provide SPD’s peace officers with vital tools that facilitate compliance with its stringent use of force policy.

Other items deemed to be “military equipment” via AB 481 include foundational equipment such as rifles. These rifles allow peace officers to address lethal threats from a greater distance and with greater precision.

Along with seeking authorization to use preexisting equipment, the SPD also seeks authorization to acquire, fund and use a new piece of equipment. In sum, Sacramento Police officers have faced gun fire from suspects for prolonged incidents which required the use of armored/ballistic vehicles to protect the officers and community. The protection with ballistic equipment allows for more time and opportunity to attempt to deescalate situations and provide for safer tactics to resolve life threatening events in the safest way possible. The Rook is an armored vehicle on a tracked platform that allows officers the mobility to gain better view of suspects from a safe position and introduce less than lethal options when dealing with violent offenders. The Rook has become a standard for many tactical teams in the nation

offering more opportunity to resolve critical incidents in the safest manner for all involved parties. The SPD has been calling the Sacramento Sheriff's Department to respond with their Rook on many occasions to help resolve critical incidents.

Policy Considerations: The City Council has a long-standing commitment of ensuring the Sacramento Police Department has equipment necessary to safeguard the lives of the citizens of Sacramento.

Economic Impacts: None.

Environmental Considerations: Not applicable.

Sustainability: There are no sustainability considerations associated with this report.

Commission/Committee Action: N/A

Rationale for Recommendation: There is significant interest in ensuring that law enforcement continues to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools identified below are vital to SPD's mission and will continue to be strictly regulated through internal processes and oversight.

The proposed ordinance seeks to approve the SPD's General Order 410.06, which constitutes SPD's Military Equipment Use Policy. GO 410.06 outlines each item identified in Government Code section 7070, that is currently owned by the City. The GO also includes the current use and cost of each item (Exhibit 1). These particular items, and their stated uses, have been in place prior to the implementation of AB 481. Future acquisitions of any item deemed to be "military equipment" will require a further public meeting, policy update, and council approval.

The proposed GO 410.06 safeguards the public's welfare, safety, civil rights and civil liberties. The GO 410.06 ensures that there are safeguards, including transparency, oversight, and accountability measures in place. For instance, GO 410.06 requires that SPD's Inspections and Standards Team (IST) will ensure that SPD complies with GO 410.06. SPD will conduct an annual audit of military equipment. Violations of GO 410.06 will be corrected when discovered. 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 will be investigated, as is already required by existing SPD policy.

There are no reasonable alternatives to the items listed below. SPD has not discovered alternative items that can achieve the same objectives of officer and civilian safety. Each item's necessity is further described below:

Unmanned remotely piloted powered aerial vehicle: Unmanned aerial systems (UAS) are necessary as they provide visibility to high risk locations. Without the use of a UAS, peace officers would have to deploy to high risk locations which would increase the risk to the officers and members of the public. The UAS system is designed to enter small spaces, such as enclosed structures, as well as to provide overhead observations of wooded areas and other structures located in often times crowded spaces. There are no known alternatives which could be used to safely access these locations.

Unmanned remotely controlled ground vehicle: Unmanned ground robots are used for reconnaissance during critical incidents to assist in providing visibility in areas where it would be unsafe to send a peace officer. This system can also be used to defuse or move potentially hazardous items. Not having access to this item would require the use of peace officers to engage in high risk tasks. There is no known alternative to this system.

Armored personnel carriers, Humvees, wheeled vehicles that have a breaching or entry apparatus: Armored vehicles are used to provide ballistic protection to officers and citizens during rescue, critical incidents and other hazardous situations. These vehicles allow officers closer access to high risk situations while substantially reducing the physical risk to the officers and citizens. These vehicles are built on commercial vehicle chassis and are primarily a reinforcement of civilian commercial vehicles. As such, there are no reasonable alternatives to providing the same level of ballistic protection.

Command and control vehicles: The mobile incident command vehicle (MIC) is an unarmored vehicle equivalent to a commercial recreational vehicle. It is equipped with specific communication and audio-visual devices to assist in command and control of a critical incident. This vehicle allows for mobile incident command and use of the Incident Command Systems facilitating the best possible on scene decision-making by key leaders. It provides for mobility, sheltering, and logistical support, restroom facilities and power. There is no known alternative for the MIC which provides the same amount of mobility and support at one location in a quick deploying package.

Breaching apparatuses, battering rams, slugs: Battering rams and breaching apparatus are used to defeat locked, barricaded or fortified locations allowing officers to conduct rescues or high risk forceable entries. This includes but is not limited to rescuing hostages. These items allow peace officers to quickly enter a structure when time is of the essence. This would include but not limited to an active shooter or kidnapping situation. In such situations time is of the essence and it would not be feasible to wait for other delayed access to the structure. There are alternatives which are used for low risk and/or non-fortified situations. This includes handheld battering rams. However, this alternative does not afford the same level of protection or speed that such equipment provides when necessary. As such there is no reasonable alternative to these items when they are used and required.

Specialized firearms and ammunition including assault weapons: Patrol rifles, Special Weapons and Tactics (SWAT) rifles, and sniper rifles enable officers when in compliance with the SPD's Use of Force Policy, to address medium to long distance threats, or those threats who are heavily armed, armored or both. Further, in both short and long-distance deployments, they allow officers precision shot placement minimizing the risk to officers and innocent citizens. There are no known alternatives to these weapons that will provide the same level of distance or precision.

Flashbangs: Flashbangs are used as a distraction device in order to disorient or divert the suspect's attention away from officers. This can allow officers to gain safer access to a high-risk situation, giving extra time to assess and analyze existing threats. This can prevent injury to officers and citizens. These devices can often lead to a safer resolution and allow officers to take a citizen into custody without force. There is no known alternative to a flashbang when it is necessary.

Explosive breaching tools: Explosive breaching tools are used by the Explosive Ordinance Detail in order to enter fortified or hardened structures to allow for rescue or other high-risk police entries. They are used when there are no other reasonable alternatives to rapidly breach a location. They are only used when time is of the essence in order to preserve life. Without these items, peace officers may not be able gain access to a location in a safe and timely manner to engage in necessary police operations. There is no known reasonable alternative to these items when they are necessary as stated.

Tear gas and pepper ball: Tear gas and pepper ball are less lethal methods used to address violent or riotous crowds when there is a risk of physical safety. They are also used to safely extract a suspect from a fixed location or safely detain a suspect who poses a risk of violence to officers. Tear gas allows peace officers to deploy a less lethal chemical agent into a structure where other weapons would not be capable of doing so. These weapons are less lethal and afford peace officers an added option to avoid lethal force encounters. When these items are reasonable and necessary for use, there is no other alternative.

Long Range Acoustic Device (LRAD): The LRAD is used in situations necessary to address the public. It can also be used as a safe deterrent against hostile crowds or individuals. This device is only used when standard sound amplification equipment is not sufficient to provide adequate range or capability needed. There is no reasonable alternative that would suffice in situations where the LRAD is necessary.

40mm projectile launchers and bean bag shotguns: The 40mm launcher affords the ability to use less lethal chemical agents and impact munitions. This allows officers to address a threat from a greater distance and provides an alternative option for deadly force when reasonable. The bean bag shotgun also allows officers to confront a potentially armed or dangerous suspect at a longer distance. This can potentially prevent a deadly force encounter. When necessary, there is no alternative to these less lethal weapon systems.

New Acquisition

The Rook will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The Rook will allow officers to get closer to an incident with the necessary ballistic protection to resolve the situation with the least amount of force possible. The Rook provides the ability to gain proximity and sight on a suspect allowing for more effective communication, the possible deployment of less than lethal force options and for quicker response should other lives become at risk.

The requested Rook Tactical Vehicle will sustain SPD SWAT's core capabilities of protection, response, prevention, mitigation, and recovery to a terrorist attack, critical incident, or rescue, by allowing tactical team members access to a mobile piece of equipment for the safety of officers and civilians. The SPD SWAT Team needs mobile NIJ Level IV protection in off-road environments, tight indoor and outdoor spaces, and at second floor levels of structures. SWAT also needs NIJ Level IV protection in order to provide life-sustaining/saving services to the affected population, conduct stabilization and rescue efforts, and ensure a safe and secure environment. The Rook will also sustain efforts to identify, discover and locate threats or hazards, to include explosives and ballistic threats. At this time, there are no other commercially produced vehicles available that can achieve the same objective of officer and civilian safety.

The SPD will be seeking grants to pay for this equipment. The current grant that we are exploring is with the State of California Office of Emergency Services. The grant is for approximately \$500,000. The estimated cost of the Rook is \$381,000. Surplus funds for the grant will be used to purchase a trailer and Ford F650 for hauling purposes.

The SPD SWAT Team will train with the Rook to assess capability, safety and effective use. The training will consist of lecture, familiarization, and driving.

Because there is only one vendor producing this product or anything similar, the price is reasonable compared to other armored vehicles. The Rook is a specially designed and purposed vehicle that allows law enforcement access to areas where gunfire has occurred, or that potential exists. The Rook is built on a compact track loader. At this time, there are no other commercially produced vehicles available that offer the versatility of the Rook and provide the same level of protection and safety.

Financial Considerations: There are no new financial considerations for existing military equipment and munitions. The Rook is estimated to cost \$381,000. SPD will be seeking a grant for approximately \$500,000 to address this cost. Surplus from the grant would be used to purchase a trailer and Ford F650 to transport the Rook.

Local Business Enterprise (LBE): Not applicable.