



CITY COUNCIL AGENDA ITEM NO. F.18
04/23/2024

SUBJECT: 2023 Military Equipment Annual report, Determination of AB 481 Compliance, Renewal of Military Equipment Ordinance, and Approval of Military Equipment

DEPARTMENT: Police Department

STAFF: Tim Herbert, Chief of Police

TITLE/RECOMMENDATION

Adopt a Resolution 1) accepting the 2023 Military Equipment Annual Report; 2) determining that the Brentwood Police Department's (BPD) use of military equipment in 2023 complied with BPD Policy 708 and applicable state laws; 3) determining that, based on the 2023 Military Equipment Annual Report, each type of military equipment identified in that report has complied with the standards for approval set forth in applicable state laws, including Government Code section 7071(e); 4) renew Ordinance No. 1037, thereby determining that Policy 708 shall be continued without change; and 5) approving the BPD's funding, acquisition, and use of military equipment to preserve life and enhance the safety of citizens and officers.

FISCAL IMPACT

Not Applicable.

BACKGROUND

Assembly Bill 481 (AB 481), signed on September 30, 2021, by Governor Gavin Newsom (codified as Chapter 12.8 of the California Government Code and commencing with section 7070, *et seq.*), requires all California law enforcement agencies, including the Brentwood Police Department, to have a military equipment use policy approved by the agency's governing body prior to requesting, seeking funding for, acquiring, collaborating with other jurisdictions about the deployment of military equipment, or using military equipment. The law requires this policy to be approved through the adoption of a local ordinance.

On May 10, 2022, the City Council adopted Ordinance 1037, approving the Brentwood Police Department's Policy 708 (Military Equipment Funding, Acquisition,



and Use'). Policy 708 adheres to California Government section 7070, *et seq.* with respect to the funding, acquisition, and use of military equipment.

Annual Military Equipment Report

Policy 708, Ordinance 1037, and Government Code section 7072 require the Police Department to do both of the following:

- Publish annually a military equipment report for the prior calendar year (1) summarizing the use of each type of military equipment approved by Policy 708, (2) summarizing any complaints or concerns received about the military equipment, (3) providing the results of any internal audits and information about violations of Policy 708, and any actions taken in response, (4) providing the total annual cost for each type of approved military equipment and the source of funds for military equipment in the upcoming year, and (5) inventorying the quantity of each type of military equipment possessed and listing the quantity to be acquired in the upcoming year.
- Hold annually at least one well-publicized and conveniently located community engagement meeting within 30 days of submitting and publicly releasing the military equipment annual report.

The Police Department complied with both of these requirements. On March 18, 2024, from 5:30-7:00 pm, the Department hosted a community engagement meeting at the Brentwood Community Center. The meeting was well-advertised and offered the opportunity for members of the public to receive information and ask questions regarding the Department's military equipment. On April 2, 2024, the Police Department published its 2023 Military Equipment Annual Report to its website at the following link:

<https://www.brentwoodca.gov/government/police/military-equipment-policy-reports>

Council Annual Review of the Military Equipment Annual Report and Policy 708

Under Government Code section 7071(e)(1-2), the City Council must annually review Policy 708 and the Department's Military Equipment Annual Report and determine whether each type of military equipment identified in the report has complied with **all** of the following standards:

- The military equipment identified in Policy 708 is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- Policy 708 will safeguard the public's welfare, safety, civil rights, and civil liberties.
- If purchasing the equipment identified in Policy 708, the equipment is



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reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

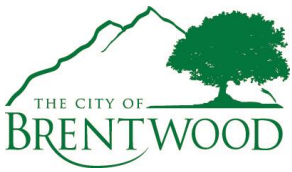
- The Police Department's prior military equipment use complied with the military equipment policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

Additionally, after reviewing military equipment annual report and Policy 708, under Government Code section 7071(e)(1), the City Council must vote annually whether to continue Policy 708 without change or direct staff to return at a future City Council meeting with a proposed ordinance to amend or repeal Policy 708 and Ordinance 1037 for the Council's consideration.

Staff recommends that Council determine that Policy 708 be continued without change for the following reasons:

- The Police Department retains and employs limited military equipment to safeguard the safety of the public and staff. There are no tools or resources that are reasonable alternatives to achieve the same safety objectives than use of the military equipment listed in Policy 708 and the 2023 Military Equipment Annual Report.
- Policy 708 safeguards the public's welfare, safety, civil rights and civil liberties.
- The Police Department adheres to the City's purchasing policies when military equipment is purchased.
- During the month of December 2023, the Police Department's Administrative Lieutenant, Range Staff Supervisor and SWAT Team Leader completed an audit of the Department's use of military equipment in 2023 and determined that the use of military equipment fully complied with Policy 708.

Staff recommends that the City Council adopt the proposed resolution (1) accepting the 2023 Military Equipment Annual Report, (2) determining that the Police Department's use of military equipment in 2023 complied with Policy 708 and applicable State law, (3) determining that, based on the 2023 Military Equipment Annual Report, each type of military equipment identified in that report has complied with the standards for approval set forth in applicable state law, including Government Code section 7071(e); (4) renewing Ordinance No. 1037, thereby determining that Policy 708 should be continued without change, and (5) approving the BPD's purchase of military equipment to preserve life and enhance the safety of citizens and officers. The Police Department's continued use of military equipment in the manner set forth in Policy 708 safeguards public and staff safety, and the public's welfare, civil rights and civil liberties.



CITY COUNCIL STRATEGIC INITIATIVE

Not Applicable.

PREVIOUS ACTION

Previous action is included on attachment 1.

DATE OF NOTICE

On March 8, 2024 and March 15, 2024 as required, public notices for the public information meeting scheduled for March 18, 2024 at the Brentwood Community Center were published.

ENVIRONMENTAL DETERMINATION

Not Applicable.

ALTERNATIVE OPTION(S)

Not Applicable.

ATTACHMENT(S)

1. Previous Action
2. Resolution
3. Annual Military Report Document 2023
4. BPD Policy 708
5. Ordinance No. 1037