



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Introduce an Ordinance to Amend, Approve, and Adopt a Revised Public Safety Military Equipment Use Policy Pursuant to California Assembly Bill No. 481, to Increase the Authorized Quantity of Unmanned Aerial Systems, Commonly Referred to as Drones, from Two to Three Devices

BACKGROUND

On September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill No. 481 (AB 481), relating to the acquisition and use of military equipment by law enforcement agencies. AB 481 requires law enforcement agencies to obtain approval from the agency's governing body, in the form of an ordinance adopting a publicly released policy, prior to funding, acquiring or using any military equipment. The term "military equipment" is broadly defined in the new law (California Government Code section 7070) and includes various pieces of equipment that are currently used by the Department of Public Safety (DPS) staff such as drones, the command vehicle, battering rams, tear gas, pepper balls, armored personnel carrier, and flash bangs. DPS does not possess any equipment acquired from military surplus programs (known as 1033 Programs) designed for military use.

AB 481 required all law enforcement agencies to develop a military use policy approved by its governing body by ordinance by May 1, 2022. At minimum, AB 481 required that the approved policy address the type, quantity, capabilities, purposes, and authorized uses of each type of military equipment; the cost associated with its acquisition and continued use; the legal limitations and procedural rules that govern its use; the training required; the mechanisms in place to ensure policy compliance; and the procedures by which members of the public may file complaints. The City Council was also required to make findings that the equipment was necessary, will safeguard the public's safety, is reasonably cost effective, and that prior uses complied with policy.

In compliance with AB 481, DPS staff brought its proposed policy to Council on April 5, 2022 (RTC No. 22-0354). Ordinance No. 3191-22 was adopted approving the policy and took effect on May 26, 2022. DPS now seeks Council approval to amend the Ordinance to purchase and use a third Unmanned Aerial System (UAS drone) which will be added to the existing list of authorized military equipment.

EXISTING POLICY

General Plan Goal SN-3: Ensure a safe and secure environment for people and property in the community by providing effective public safety response and prevention and education services.

General Plan Goal SN-3.2: Control conduct recognized as threatening to life and property.

General Plan Goal SN-6: Effective Emergency Response Capability

Lexipol Policy 705.1 Military Equipment: The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

ENVIRONMENTAL REVIEW

The action being considered does not require review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it may have an impact on the environment. (CEQA Guidelines Section 15061(b)(3)).

DISCUSSION

The request to amend the Military Equipment Policy to purchase and use a third drone will provide DPS the ability to operate a UAS drone with specific capabilities for indoor use. Currently, the fleet of drones has significant limitations on indoor use including, but not limited to size, controller to device communications, two-way communications with persons and recovery from collision incidents when it bumps a wall or door.

DPS is seeking approval to purchase a UAS drone that is designed to operate in small compact spaces and maintain communications utilizing improved technology from the controller to device. The equipment sought also provides recovery options for when the drone becomes entangled and lands upside down on an object or ground. Existing UAS drones have proven useful in several incidents since the inception of the UAS drone program in 2019, which was presented to Council in 2018 (RTC No. 18-0934).

There have been 92 drone deployments since the program's inception. Using drones has allowed officers to see, locate and effectively de-escalate an ongoing law enforcement situation while minimizing the risk of a physical confrontation. In several instances, officers have attempted the use of existing equipment, and found that while existing drones are initially beneficial, the equipment became disabled due to limitations in the technology. A log of previous drone deployments is attached to this Report as Attachment 2.

In addition to the reporting requirements under AB 481, DPS provides information to members of the public regarding the drone program on the City website. A link to the UAS Drone Program website is attached to this Report as Attachment 3. The site maintains a log of all deployments, a copy of the drone policy, and a summary of the program. Since the inception of the program, all documented drone deployments have complied with previously approved uses. Using drones to support DPS law enforcement functions has proven to be valuable to increase efficiency, effectiveness and safety when operated under the authorized uses.

FISCAL IMPACT

Existing drones were purchased using outside funding sources such as federal Asset Forfeiture and California Supplemental Law Enforcement Services funds. Similarly, the proposed third drone will be purchased with California Supplemental Law Enforcement Services funds. Ongoing costs for maintenance and repair of drones are nominal and are funded by the Police Services operating budget. At such time that drones are at the end of their useful life, DPS will evaluate the program and determine appropriate funding sources for any required replacement.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Public Library, Senior Center, Community Center and in the Department of Public Safety Lobby. In addition, the agenda and report are available at the Sunnyvale Public Library, Office of the City Clerk, and on the City's website.

ALTERNATIVES

1. Introduce an Ordinance to Amend, Approve, and Adopt a Revised Public Safety Military Equipment Use Policy Pursuant to California Assembly Bill No. 481, to Increase the Authorized Quantity of Unmanned Aerial Systems, commonly referred to as Drones, from Two to Three Devices.
2. Introduce an Ordinance to Amend, Approve, and Adopt a Revised Public Safety Military Equipment Use Policy Pursuant to California Assembly Bill No. 481, With Modifications.
3. Do not Introduce the Ordinance and provide alternative direction to staff.

RECOMMENDATION

Alternative 1: Introduce an Ordinance to Amend, Approve, and Adopt a Revised Public Safety Military Equipment Use Policy Pursuant to California Assembly Bill No. 481, to Increase the Authorized Quantity of Unmanned Aerial Systems, commonly referred to as Drones, from Two to Three Devices.

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Reviewed by: Phan Ngo, Director, Department of Public Safety

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Proposed Ordinance (Redlined Policy, see pages 82 - 89 for proposed changes)
2. UAS Drone Activity Log
3. UAS Drone Program Website Link