ORDINANCE NO. 2022-03

AN ORDINANCE OF THE CITY OF AVENAL ENACTING A MILITARY EQUIPMENT USE POLICY FOR THE AVENAL POLICE DEPARTMENT.

THE CITY COUNCIL OF THE CITY OF AVENAL DOES ORDAIN AS FOLLOWS:

Section 1. PURPOSE. California Assembly Bill No. 481 ("**AB-481**"), requires local law enforcement agencies to obtain approval from their local governing body of a military equipment use policy, as specified, by ordinance at a regular meeting held pursuant to specified open meeting laws, prior to taking certain actions relating to the funding, acquisition or use of military equipment. This ordinance is intended satisfy the requirements of AB-481 with regard to the Avenal Police Department ("**APD**").

Section 2. FINDINGS. The City Council ("**Council**") of the City of Avenal (the "**City**") hereby finds and declares all of the following:

(a) The military equipment which the subject of this ordinance is necessary because there is no reasonable alternative which can achieve the same objective of officer and civilian safety;

(b) The military equipment use policy approved by this ordinance will safeguard the public's welfare, safety, civil rights and civil liberties;

(c) The purchasing of the equipment specified as to be acquired, if any, is reasonably cost effective compared to available alternatives which can achieve the same objective of officer and civilian safety;

(d) The APD's prior military equipment use complied with all applicable use policies in effect at the time, if any, and to any extent that prior uses did not strictly comply with appliable policy, corrective action has been taken to remedy non-conforming uses and ensure future compliance; and

(e) The military equipment use policy approved by this ordinance was available on the APD's Internet website at least thirty (30) days prior to the date this ordinance was approved.

Section 3. ADOPTION OF POLICY. The provisions, terms and requirements of APD Policy 709, titled Military Equipment Use, attached hereto as **ATTACHMENT A**, is hereby incorporated into this ordinance as if fully set forth verbatim, and are hereby approved by the Council as the APD's military equipment use policy. This ordinance shall be reviewed at least once each calendar year at a regular meeting and vote on whether to renew the ordinance.

Section 4. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Avenal, or any official, employee or agent thereof.

Section 5. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 6. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Avenal hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Avenal Municipal Code as amended by this ordinance are substantially the same as provisions in the Avenal Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 8. EFFECTIVE DATE; AND PUBLICATION. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this full ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(a) and in three public locations within the City of Avenal, State of California, together with the names of the Council members voting for and against the same.

THE FOREGOING ORDINANCE was passed, enacted and adopted by the City Council of the City of Avenal, State of California, on **May 12, 2022** at a regular meeting of said Council duly and regularly convened on said day by the following vote:

AYES: **GRAVELLE, HERNANDEZ, VERDUGO, RAMIREZ, PRECIADO.**
NOES: **NONE.**
ABSTAIN: **NONE.**
ABSENT: **NONE.**

ALVARO PRECIADO, Mayor
CITY OF AVENAL

ATTEST:
MARIA A. ORTIZ, City Clerk
CITY OF AVENAL