MEETING: December 20, 2022

TO: The Board of Supervisors

FROM: Walter Wall, District Attorney

RE: An Ordinance in Accordance with AB 481

RECOMMENDED ACTION AND JUSTIFICATION:

Waive the Second Reading and Adopt an Ordinance in Accordance with AB 481, Titled "An Ordinance Adopting the Mariposa County District Attorney's Office Military Equipment Use Policy."

On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies.

Assembly Bill 481, codified at California Government Code sections 7070 through 7075, requires law enforcement agencies to obtain approval of the applicable governing body, by an ordinance adopting a “military equipment use policy,” at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term “military equipment” is defined in California Government Code section 7070, subdivision (c).

Assembly Bill 481 allows the governing body of a county to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board has approved Ordinances as required by Assembly Bills in the past.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

First Reading: The Board has the latitude to change the ordinance text as desired. If the Board elects not to introduce the ordinance, the District Attorney’s Office will not be compliant with the requirements of AB481.

Second Reading: The Board may not make changes to the ordinance text, and can only approve the ordinance or not.

ATTACHMENTS:
RESULT:    ADOPTED [UNANIMOUS]
MOVER:    Marshall Long, District III Supervisor
SECONDER: Wayne Forsythe, District IV Supervisor
AYES: Rosemarie Smallcombe, Marshall Long, Wayne Forsythe
EXCUSED: Miles Menetrey
MARIPOSA COUNTY ORDINANCE NO. 1183
(Not to be codified)

AN ORDINANCE ADOPTING THE MARIPOSA COUNTY DISTRICT ATTORNEY'S OFFICE MILITARY EQUIPMENT USE POLICY

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPOSA COUNTY,
a political subdivision of the State of California, does ordain as follows:

SECTION I: Findings.

(a) On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, relating to the use of military equipment by law enforcement agencies.

(b) Assembly Bill 481 reflects a legislative recognition of the impact of military equipment on public safety, welfare, civil rights, and civil liberties. Assembly Bill 481 also reflects legislative intent to ensure that appropriate legal safeguards are in place to govern the use of military equipment in communities and to ensure that the public has a right to participate and provide meaningful input on a law enforcement agency’s decision to fund, acquire, or use military equipment.

(c) Assembly Bill 481, codified at Government Code Section 7070-7075, requires law enforcement agencies to obtain approval of the applicable governing board, by an ordinance adopting a military equipment use policy, at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment, as that term is defined in Government Code Section 7070.

(d) Assembly Bill 481 allows the governing body to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations.

(e) The Mariposa County District Attorney's Office has prepared a military equipment use policy in accordance with the terms of Assembly Bill 481, which it has added to its policy manual as Mariposa County District Attorney's Office Policy 706.

(f) Mariposa County District Attorney's Office Policy 706 was published on the Mariposa County District Attorney's Office internet website on October 17, 2022, and the policy is available for inspection from the District Attorney's Office.

(g) The Mariposa County District Attorney's Office Policy 706 meets the requirements of California Government Code Section 7070, subdivision (d).
SECTION II: Adoption of the Mariposa County District Attorney's Office Military Equipment Use Policy.

(a) Based on the findings above and the military equipment use policy the Board of Supervisors determines as follows:

1. The military equipment identified in Mariposa County District Attorney's Office Policy 706 is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety.

2. Mariposa County District Attorney's Office Policy 706 will safeguard the public’s welfare, safety, civil rights, and civil liberties.

3. The military equipment identified in Mariposa County District Attorney's Office Policy 706 is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

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

(b) Based on the preceding determinations, the Board hereby approves and adopts the military equipment use policy known as Mariposa County District Attorney's Office Policy 706.

SECTION III: This Ordinance shall become effective thirty (30) days after final passage pursuant to the provisions of Government Code Section 25123.

PASSED AND ADOPTED by the Board of Supervisors of Mariposa County this 20th day of December, 2022 by the following vote:

AYES: SMALLCOMBE, LONG, FORSYTHE
NOES: NONE
EXCUSED: MENETREY
ABSTAINED: NONE

ROSEMARIE SMALLCOMBE, Chair
Board of Supervisors

ATTEST:

Danielle Bondshu
Clerk of the Board

APPROVED AS TO FORM:

STEVEN W. DAHLEM
County Counsel