



April 29, 2024

### **DISCLAIMER AND OTHER CONDITIONS OF DONATION**

As an authorized representative of South Bay Regional Public Safety Training Consortium, (“Donee”), I have read, understand and accept the conditions of donation as outlined below on behalf of the Donee:

Conditions of donation of the following described (“Donated Equipment”):

<u>Item Description</u>	<u>Condition</u>
Quantity Fifty (60) Motorola APX 7000 Portable Radios. Each radio includes 1 radio chassis and 1 speaker mic. See attached Form.	Surplus/salvaged, Used / As-Is

The following conditions are hereby incorporated as conditions to the donative transfer of the Donated Equipment from the City of San Jose, California to Donee.

#### **1. DISCLAIMER**

THE DONATED EQUIPMENT WILL BE TRANSFERRED ON AN “AS IS” BASIS WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF TITLE, WARRANTY AGAINST INFRINGEMENT OF PATENT OF SIMILAR RIGHTS, OR WARRANTY THAT THE DONATED EQUIPMENT CAN BE SAFELY USED AT ALL, AND NO AFFIRMATION OF THE CITY, BY WORDS OR ACTION, WILL CONSTITUTE A WARRANTY AS TO THE DONATED EQUIPMENT. THE ENTIRE RISK AS TO THE QUALITY, CONDITION AND PERFORMANCE OF, AND TITLE OR OTHER RIGHTS TO, THE DONATED EQUIPMENT IS WITH DONEE, AND SHOULD THE DONATED EQUIPMENT OR TITLE OR OTHER RIGHTS THERETO PROVE DEFECTIVE FOLLOWING THE TRANSFER, DONEE, AND NOT THE CITY ASSUMES THE ENTIRE RISK OF USE AND COST OF ALL NECESSARY SERVICING, REPAIR OR DEFENSE.

#### **2. INDEMNIFICATION**

Donee agrees to defend, indemnify and hold harmless City, its officers and employees, from and against any and all claims, causes of action, damages, losses or liabilities arising out of or resulting in any way from the condition of the Donated Equipment or its ownership or use by Donee or subsequent transferee of the Donated Equipment.

3. USE OF DONATED EQUIPMENT

Donee covenants that the Donated Equipment shall be used for the benefits which are described in the Donation Request Form submitted by Donee with respect to the Donated Equipment.

4. INSPECTION; NO PROFIT OR FEE

Donee certifies that: i) Donee acknowledges condition of the Donated Equipment, as described above, that the City offered Donee the opportunity to fully inspect the Donated Equipment and demanded that Donee inspect the Donated Equipment, and that Donee undertook such inspection; and ii) no one involved in the donative process has received or shall receive a profit or fee in relation to the Donated Equipment.

5. PICKUP OF DONATED EQUIPMENT

Donee will be required to pick up the Donated Equipment at a City facility as designated by City.

Organization Name: South Bay Regional Public Safety Consortium

Signature:  \_\_\_\_\_

Name: Ernie Smedlund

Title: Director of Administrative Services

Date:     MAY 1 2024