

**MEMORANDUM OF UNDERSTANDING
FOR THE IMPLEMENTATION OF THE
SMART911 SPECIAL NEEDS REGISTRY**

County of Kern – City of Shafter

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into on _____, by and between the County of Kern (“County”), through its Behavioral Health and Recovery Services Department (“BHRS”), and the City of Shafter, through the Shafter Police Department (“SPD”). BHRS and SPD may be referred to individually as “Party” and collectively as “Parties.”

WITNESSETH:

WHEREAS:

- A.** BHRS and SPD recognize that emergency services for behavioral health individuals may be improved if special needs registries developed by the caller are accessible to public safety emergency dispatch and first responders; and
- B.** BHRS has contracted with Rave Mobile Safety, Inc., creator of Smart911, to fund software licensing, installation, and training services to enable Smart911 User Profiles (a type of special needs registry) to be accessed by emergency services staff; and
- C.** SPD will be provided Smart911 software, training, and support from Rave Mobile Safety, Inc. that is funded by BHRS, for SPD’s Public Safety Access Point(s) communications center(s) to enable Smart911 User Profiles to be accessed by SPD emergency staff, including dispatch and first responders; and
- D.** BHRS and SPD mutually agree to collaborate on the implementation of Smart911 with a focus on the clients of BHRS and residents of Kern County who experience behavioral health challenges.

NOW, THEREFORE, the Parties mutually agree as follows:

I. TERM

This MOU shall be deemed effective on the date first written above and shall remain in effect until June 30, 2022 unless sooner terminated as hereinafter provided. Either Party may terminate this MOU with or without cause, upon thirty (30) days prior written notice to the other Party.

II. RESPONSIBILITIES OF BHRS

The responsibilities of BHRS shall include the following:

- A.** Fund Smart911 software license(s) for use by SPD in its Public Safety Access Point (PSAP) communication center(s). BHRS has prepaid Rave Mobile Safety for

Smart911 software licensing, training and support, for five years ending June 30, 2022. Neither Party shall obligate the other Party to fund additional software licenses, training or support, without prior written consent of the other party.

- B. Reimburse SPD for hardware as needed for use by SPD in the implementation of Smart911, including servers (physical or virtual), cables, converters, and splitters. The process for reimbursement will require that the items and associated costs have been detailed in writing from SPD to BHRS, and BHRS has approved the request for reimbursement in writing. Neither party will obligate the other Party to fund additional hardware without prior written consent of the other Party.
- C. Convene regularly scheduled meetings including, but not limited to, Smart911 Public Safety Access Point (“PSAP”) oversight committee meetings, either in person or virtually, to ensure continuous quality improvement based on outcomes data. Meeting attendees must be familiar with and well versed in the requirements of this MOU.
- D. Train Kern BHRS staff on Smart911 benefits and on how to support BHRS clients in creating Smart911 User Profiles.
- E. Generate awareness of and encourage individuals receiving behavioral health services to create special needs registries.
- F. For individuals receiving behavioral health services from the BHRS System of Care, BHRS will invite these individuals to complete an online survey following an emergency 911 call and after the emergency situation has been resolved.
- G. Create and increase public awareness of Smart911. This may include, but not be limited to, providing registration links on the BHRS website; providing reminders in written communications with citizens; conducting email marketing campaigns; and providing registration information with community partners and other agencies.
- H. Facilitate training provided by Rave Mobile Safety, Inc. to SPD communication center staff, dispatch staff and first responders. Trainings may include on site-trainings at SPD facilities, trainings at non-SPD locations, in-person trainings, train-the-trainer, web-based trainings, or other methods of training delivery.
- I. Contract with an independent evaluator who will provide overall evaluation of data gathered from all public safety sites, BHRS and Rave Mobile Safety, Inc.

III. RESPONSIBILITIES OF SPD

The Responsibilities of SPD shall include the following:

- A. Implement Smart911 in SPD’s PSAP communication center(s).
- B. Be responsible for all hardware including Smart911 hardware (physical or remote) cables, converters, and splitters. Communicate to BHRS in a timely manner whenever BHRS funding is needed to acquire these items for the implementation of Smart911.

- C. Ensure staff participate in trainings related to Smart911 as appropriate to their roles.
- D. Survey dispatch and response staff (bi-weekly for the first 3 months of the program and monthly thereafter) to gather information regarding the value of the use of Smart911 information provided.
- E. Create and increase public awareness of Smart911. This may include, but not be limited to: inclusion of registration links on the SPD website; providing reminders in written communications with citizens; email marketing campaigns; providing registration information to individuals receiving services and through community channels. SPD will clearly indicate on public announcements and literature distributed by SPD for the purpose of apprising the general public of the nature of the Smart911 registry service that the County of Kern funds the Smart911 services covered under this MOU.

IV. COMPENSATION

No compensation shall be exchanged by either Party to this MOU for the services performed under this MOU.

V. ASSIGNMENT

Neither Party shall assign or transfer this MOU or its obligations hereunder, or any part thereof.

VI. NON-APPROPRIATION

The Parties reserve the right to terminate this MOU in the event insufficient funds are appropriated or budgeted for this MOU in any fiscal year. Upon such termination by one Party, the other Party will be released from any further financial obligation to the first Party, except for services performed prior to the date of termination. In addition, the other Party will be given thirty (30) days written notice in the event that such action is required by the first Party.

VII. NOTICES

Notices to be given by one Party to the other under this MOU will be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices will be deemed received four (4) days after deposit. A Party may change the address to which notice is to be given by giving notice as provided above.

Notice to BHRS will be addressed as follows:

Bill Walker, Director
Kern County Behavioral Health and Recovery Services
P.O. Box 1000
Bakersfield, CA 93302-1000

Notice to SPD will be addressed as follows:

Kevin Zimmermann, Chief
Shafter Police Department
201 Central Valley Highway
Shafter, CA 93263

Nothing in this MOU will be construed to prevent or render ineffective delivery of notices required or permitted under this MOU by personal service.

VIII. MODIFICATIONS TO MOU

Material changes to this MOU may be modified in writing only, signed by the Parties in interest at the time of this modification.

IX. CONFIDENTIALITY

Neither party shall, without the written consent of the other Party, communicate confidential information, designated in writing or identified in this MOU as such, to any third party and will protect such information from inadvertent disclosure to any third party in the same manner that it protects its own confidential information, unless such disclosure is required in response to a validly issued subpoena or as otherwise authorized by law. Upon completion of this MOU, the provisions of this paragraph will continue to survive.

X. HIPAA/HITECH COMPLIANCE

Where applicable both Parties agree to safeguard and protect patient privacy as required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws. Both Parties agree to: (i) implement appropriate safeguards and maintain individually identifiable patient health information ("Protected Health Information" or "PHI," including electronic PHI); (ii) use and disclose only the minimum necessary PHI; (iii) use and disclose PHI only as permitted under HIPAA for legal, management and administrative purposes in connection with treatment, payment and healthcare operations or as required by law; (iv) require third parties to whom it may disclose PHI to agree in writing to similar restrictions and to comply with HIPAA; (v) promptly notify the other Party of disclosures of PHI in violation of HIPAA and this Agreement and take steps to mitigate, to the extent practicable, deleterious effects of improper use of PHI; (vi) promptly make PHI available to each other and patients upon request; and (vii) permit patients to request amendment to or correction of PHI, amend and/or correct PHI as appropriate when so requested, notify the other Party of such requests for correction and amendments to PHI by patients and incorporate into PHI amendments and/or corrections made to PHI by County as directed by County.

Upon termination of this Agreement, PHI shall be returned to the BHRS or be destroyed, if BHRS so directs. Both Parties acknowledge that each has established internal policies and procedures regarding HIPAA compliance and privacy and both agree to make such policies and procedures available to the other Party upon request.

The Parties acknowledge that state and federal laws relating to electronic data security and privacy are rapidly evolving and that amendment of this MOU may be required to provide for procedures to ensure compliance with such developments. The Parties hereto specifically agree to take such action as is necessary to implement the requirements of HIPAA, the HITECH Act, and HIPAA Regulations and other applicable laws relating to the security or confidentiality of PHI to the extent that either Party is subject to these requirement, regulations and/or laws.

Notwithstanding any other provision of this MOU, either Party may terminate this MOU upon thirty (30) days' written notice in the event: either Party becomes aware that the other Party or any of its subcontractors or agents discloses PHI in a manner that is not authorized by this MOU or by applicable law.

XI. COMPLIANCE WITH LAW

Each Party and any subcontractors will observe and comply with all applicable County, State, and federal laws, ordinances, rules, and regulations now in effect or hereafter enacted, each of which are made a part hereof and incorporated herein by reference.

XII. AUTHORITY TO BIND

It is understood that neither Party in performance of any and all duties under this MOU, except as otherwise provided in this MOU, has authority to bind the other Party to any agreements or undertakings.

XIII. NONDISCRIMINATION

Both Parties agree to abide by all applicable federal and state laws prohibiting discrimination against any participant, volunteer, or any other person because of race, color, religion, handicap, sex, age, sexual orientation, or place of natural origin.

XIV. NO THIRD-PARTY BENEFICIARIES

It is expressly understood and agreed that the enforcement of these terms and conditions and all rights of action relating to such enforcement, will be strictly reserved to both Parties. Nothing contained in this MOU will give or allow any claim or right of action whatsoever by any other third person. It is the express intention of both Parties that any such person or entity, other than the Parties to this MOU, receiving services or benefits under this MOU will be deemed an incidental beneficiary only.

XV. INDEMNIFICATION

SPD agrees to indemnify, defend and hold harmless county and county's agents, board members, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, cost, and expense (including, but not limited to, reasonable attorneys' fees of County Counsel and counsel retained by county, expert fees, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any act or omission of SPD's officers, agents, employees, independent contractors, subcontractors of any tier, or authorized representatives, except as caused by County's gross negligence or willful misconduct.

Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of county; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this MOU on behalf of Contractor by any person or entity.

XVI. CHOICE OF LAW AND VENUE

The Parties hereto agree that the provisions of this MOU will be construed pursuant to the laws of the state of California. This MOU has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this MOU will be in the County of Kern.

XVII. NON-WAIVER

No covenant or condition of this MOU can be waived except by the written consent of BHRS and SPD. Forbearance or indulgence by BHRS or SPD in any regard whatsoever will not constitute a waiver of the covenant or condition to be performed by either Party. BHRS or SPD will be entitled to invoke any remedy available to BHRS or SPD under this MOU or by law or in equity despite said forbearance or indulgence.

XVIII. ENFORCEMENT OF REMEDIES

No right or remedy herein conferred upon or reserved to BHRS or SPD is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each will be cumulative of every other right, or remedy given hereunder, now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

XIX. CAPTIONS AND INTERPRETATION

- A. Paragraph headings in this MOU are used solely for convenience, and will be wholly disregarded in the construction of this MOU.
- B. No provision of this MOU will be interpreted for or against a Party because that Party or its legal representative drafted such provision, and this MOU will be construed as if jointly prepared by the Parties.

XX. TIME OF ESSENCE

Time is hereby expressly declared to be of the essence of this MOU and of each and every provision hereof, and each such provision is hereby made and declared to be a material, necessary and essential part of this MOU.

XXI. COUNTERPARTS

This MOU may be executed simultaneously in any number of counterparts, each of which will be deemed an original but all of which together will constitute one and the same instruments.

XXII. NON-COLLUSION COVENANT

SPD represents and agrees that it has in no way entered into any contingent fee arrangement with any firm or person concerning the obtaining of this MOU with BHRS. SPD has not received from BHRS any incentive or special payments, or considerations not related to the provision of services under this MOU.

XXIII. ENTIRE AGREEMENT

This document, including all attachments hereto, contains the entire MOU between the Parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations or promises have been made, other than those recited in this MOU. No oral promise, modification, change or inducement will be effective or given any force or effect.

XXIV. NEGATION OF PARTNERSHIP

In the performance of all services under this MOU, SPD shall be, and acknowledges that SPD is, in fact and law, an independent municipal entity and not an agent or employee of BHRS. SPD has and retains the right to exercise full supervision and control of the manner and methods of providing services under this MOU. SPD retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting SPD in the provision of services under this MOU.

With respect to SPD's employees, if any, SPD shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state, or local, and compliance with any and all other laws regulating employment.

XXV. SEVERABILITY

Should any part, term, portion or provision of this MOU be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions will be deemed severable and will not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the MOU which the Parties intended to enter into in the first instance.

XXVI. TERMINATION

Either Party may terminate this MOU, with or without cause, upon thirty (30) days prior written notice to the other Party. In the event of termination of this MOU for any reason, both Parties will have no further obligation to pay for any services rendered or expenses incurred by the other Party after the effective date of the termination.

XXVII. IMMEDIATE TERMINATION

Notwithstanding the foregoing, both Parties will have the right to terminate this MOU effective immediately after giving written notice to the other Party in the event either Party determines that the other Party does not have the proper credentials, experience, or skill to perform the required services under this MOU; or in the event that continuation by either Party in the providing of services may result (i) in civil, criminal, or monetary penalties

against that Party, (ii) in the breach of any federal or state or regulatory rule or regulation or condition of accreditation or certification, or (iii) the loss or threatened loss of that Party's ability to participate in any federal or state program.

XXVIII. SIGNATURE AUTHORITY

Each Party has full power and authority to enter into and perform this MOU, and the person signing this MOU on behalf of each Party has been properly authorized and empowered to enter into this MOU.

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IN WITNESS TO WHICH, each Party to this MOU has signed this MOU upon the date indicated, and agrees for itself, its employees, officers, partners, and successors, to be fully bound by all terms and conditions of this MOU.

APPROVED AS TO CONTENT:
Behavioral Health and Recovery Services

COUNTY OF KERN
Board of Supervisors

By: _____
Bill Walker, LMFT, Director

By: _____

Chairman

APPROVED AS TO FORM:
Office of the County Counsel

CITY OF SHAFTER
Shafter Police Department

By: _____
Ann E. Garza, Deputy

By: _____
Kevin Zimmermann, Chief of Police