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Contract Number
24-359
SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	<u>William L. Gilbert</u>
Telephone Number	<u>(909) 580-6150</u>
Contractor	<u>Community Hospital of San Bernardino, a California nonprofit public benefit corporation</u>
Contractor Representative	<u></u>
Telephone Number	<u></u>
Contract Term	<u>May 15, 2024 – May 14, 2029</u>
Original Contract Amount	<u>Non-Financial</u>
Amendment Amount	<u></u>
Total Contract Amount	<u></u>
Cost Center	<u>911004200</u>

TRANSFER AGREEMENT

This Transfer Agreement ("Agreement") is entered into by and between San Bernardino County, hereinafter referred to as "County," on behalf of Arrowhead Regional Medical Center, hereinafter referred to as "Medical Center," and Community Hospital of San Bernardino, a California nonprofit public benefit corporation, hereinafter referred to as "Affiliate."

RECITALS

WHEREAS, Affiliate operates a licensed general acute care hospital; and,

WHEREAS, County is a political subdivision organized and existing under the constitution and laws of the State of California, which operates Medical Center, which is a 456-bed general acute care hospital licensed by the State of California; and

WHEREAS, the Medical Center operates, *inter alia*, a Level 1 Trauma Center, Comprehensive Stroke Center and Burn Center within the hospital and also operates several primary and specialty care outpatient clinics; and

WHEREAS, the County and Medical Center recognize a professional and community responsibility to provide comprehensive, cost-effective medical care of high quality for patients and is organized to enhance the effectiveness of care in San Bernardino County and other areas as deemed appropriate; and

WHEREAS, the parties have determined that it would be in the best interest of patient care to enter into this agreement to enable Affiliate to transfer patients to Medical Center in the event Affiliate's patients require higher level of care services; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

I. DEFINITIONS

- A. "Effective Date" refers to May 15, 2024.
- B. "Insurer" includes any health plan that provides coverage for medical services to a Patient, including, but not limited to Medi-Cal, Medicaid, Medicare, Tri-Care, self-insured health plans, and health insurance companies.
- C. "Transferring Facility" shall mean Affiliate.
- D. "Receiving Facility" shall mean the County, by and through the Medical Center.
- E. "Patient" shall refer to a patient of that the Transferring Facility seeks to transfer to the Receiving Facility for higher level of care services.

II. TRANSFER ARRANGEMENTS

- A. In the event that a physician at the Transferring Facility determines that a patient at the Transferring Facility has a medical need to be transferred to the Receiving Facility for higher level of care services, the physician shall document the medical need and that the Patient is appropriate for transfer in accordance with all applicable Federal and State laws and regulations, the Healthcare Facilities Accreditation Program (HFAP) and any other applicable bodies as well as with applicable requirements of the Transferring Facility's transfer policy.
- B. A physician or staff member at the Transferring Facility shall telephonically notify a physician at Receiving Facility of the need for transfer of the Patient and obtain consent from the Receiving Facility for the transfer. Except where otherwise provided by law, the Receiving Facility shall make the determination of whether to accept the Patient based on the Receiving Facility's capacity and capability to provide the higher level of care services to the Patient.
- C. Subject to the limitations of applicable laws, including, but not limited to the Emergency Medical Treatment and Labor Act (EMTALA), the decision of whether to accept a patient for transfer from Facility to Medical Center under this Agreement will be made by the Medical Center at its sole discretion, and may be based on Medical Center's admission criteria relating to appropriate bed, personnel and equipment, and Medical Center's determination of whether it has the capability and capacity to treat the patient proposed to be transferred for the higher level of care.
- D. The Transferring Facility shall arrange and coordinate the method of transfer of the Patient to the Receiving Facility and shall assume responsibility for the Patient's care and safety during transport. A physician at the Transferring Facility shall, given the Patient's condition, designate the appropriate level of care, including qualified personnel and appropriate equipment needed during the transfer. Receiving Facility shall not be responsible for the Patient until arrival at Receiving Facility.
- E. The Transferring Facility shall send to the Receiving Facility, with the Patient, all information concerning the Patient, which is required to ensure continuity of care, including but not limited to, a

transfer summary, copies of appropriate portions of the Patient's medical records, and any other information which is appropriate or required by Federal or State law or regulation. Medical records that are maintained by each party shall remain the property of that party.

- F. A physician at Transferring Facility shall notify the Patient or Patient's legal representative of the transfer and shall provide any additional information required by State and Federal law or regulation; except that notification is not required where the individual is unaccompanied; where reasonable efforts have been made to locate a representative of the Patient; and, where notification of the individual is not reasonably practical due to the Patient's physical or mental condition. Written acknowledgement of notification (or lack of notification, where applicable) shall be appropriately documented in accordance with appropriate Federal or State laws or regulations.
- G. Personnel at Transferring Facility shall be responsible for assuring that the Patient is accompanied by any personal effects that the Patient brought to Transferring Facility, or shall otherwise make appropriate disposition of the Patient's personal effects.
- H. Receiving Facility agrees to accept and provide appropriate medical treatment to each Patient for whom a physician at Receiving Facility and Receiving Facility has consented and confirmed acceptance of transfer.
- I. The Medical Center and Affiliate each agree to meet the expectations identified below, relative to the safe quality provision of care, treatment, and/or service under this Agreement:
 - 1. Abide by applicable law, regulation, and its own policy in the provision of care, treatment, and service.
 - 2. Abide by applicable standards of accrediting and certifying agencies to which each facility itself must adhere.
 - 3. Provide a level of care, treatment, and service that would be comparable had the Transferring Facility provided such care, treatment, and service itself.
 - 4. Actively participate in each facility's quality improvement program, responds to concerns regarding care, treatment, and service rendered, and undertakes corrective actions necessary to address issues identified.
 - 5. Assure that care, treatment, and/or service is provided in a safe, effective, efficient, and timely manner emphasizing the need to – as applicable to the scope and nature of the contract service – improve health outcomes and prevent and reduce medical errors.
- J. If requested by Medical Center, Affiliate shall accept the return of patients who were originally transferred from Affiliate to Medical Center for higher level of care services after the higher level of care is provided at Medical Center as determined in the professional medical judgement of the patient's physician at Medical Center. If Affiliate is unwilling or unable to accept the return of a patient after being notified by Medical Center that the patient is ready to be returned to Affiliate, Affiliate shall reimburse County and its medical providers (including its physicians and allied health professionals) for any services or days that the patient remains at Medical Center beyond the date the patient is ready for a return transfer to Affiliate at the rate billed by Medical Center in accordance with its chagemaster.

III. CONSENT AND RETURN TRANSFERS

- A. A physician at the Transferring Facility shall, in addition to any applicable requirements in Section II above, obtain informed consent for the specific test or procedure or higher level of care services from the Patient or Patient's legal representative. Such consents shall be documented in writing in accordance with applicable Federal and State laws.
- B. Receiving Facility shall be responsible for assuring, if medically appropriate, that the contemplated procedure or higher level of care services are performed while Patient is at Receiving Facility. A

physician at Receiving Facility shall, where required by law, obtain the Patient's informed consent for the specific test or procedure(s) to be performed.

IV. BILLING

- A. In the event the Transferring Facility is treating a patient in its emergency department, and the Transferring Facility reasonably concludes that the patient has an emergency medical condition as defined under EMTALA, and Transferring Facility determines that the patient is in need of emergency specialized inpatient hospital services at Receiving Facility, Receiving Facility shall accept such Patient subject to staffing availability in accordance with the requirements of the EMTALA statute and implementing regulations. Unless prohibited by law, all charges incurred by the Patient with respect to any services performed by the Receiving Facility for Patients transferred to Receiving Facility pursuant to this Section IV(A) shall be billed and collected by Receiving Facility directly from the Patient, third-party coverage, Insurer, or other sources normally billed by Receiving Facility in accordance with all applicable federal and state laws.
- B. For all non-emergent patients or admitted patients at Transferring Facility who are transferred to Receiving Facility under this Agreement for higher level of care services, the Receiving Facility shall bill in accordance with its usual and customary practices the patient and those third-parties financially responsible for the care rendered to the Patient by the Receiving Facility, including, but not limited to third-party health plans and Insurers.

V. INSURANCE

- A. Each party shall maintain commercial/general, workers' compensation, and professional liability insurance policies or a program of self-insurance with coverage limits in amounts which are usual and customary for similar health facilities in San Bernardino County in size, complexity, and scope of services but, must meet or exceed the following minimum requirements:
1. Commercial/General Liability Insurance – General Liability Insurance covering all operations performed by or on behalf of the party providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
 - a. Premises operations and mobile equipment.
 - b. Products and completed operations.
 - c. Broad form property damage (including completed operations).
 - d. Personal injury.
 - e. Contractual liability.
 - f. \$2,000,000 general aggregate limit.
 2. Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the party and all risks to such persons under this Agreement.
 3. Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the Effective Date. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after expiration of termination of this Agreement.

- B. Each party shall give the other party at least thirty (30) days written notice of any proposed material reduction or cancellation of such insurance coverage, and shall provide to the other party evidence of the above described insurance policy or policies upon request.

VI. INDEMNIFICATION

Each party agrees to indemnify, defend, and hold harmless the other party, its directors, officers, employees and agents from any and all liabilities, claims, damages, losses, resulting solely from or attributable solely to acts or omissions of the indemnifying party or any of its agents in the performance of this Agreement.

VII. TERM AND TERMINATION

- A. This Agreement is effective as of the Effective Date and shall have a term of five (5) years from the Effective Date, unless earlier terminated pursuant to the provisions of this Agreement.
- B. Either party may terminate this Agreement for any reason upon thirty (30) days written notice to the other party.
- C. Either party may also terminate this Agreement immediately upon written notice to the other party in the event of the following:
1. Either party or their principals are suspended or excluded from the Medi-Cal or Medicare Program;
 2. Either party becomes insolvent, files a petition to declare bankruptcy or for reorganization under the bankruptcy laws of the United States, a trustee in bankruptcy or a receiver is appointed by appropriate authority for the party, or upon an assignment of a substantial portion of the assets of the party for the benefit of creditors;
 3. Either party loses any accreditation or licensures which is material for the provision of services under this Agreement;
 4. It becomes unlawful for either party to remain in a contractual relationship with the other party; or
 5. Any other basis for which immediate termination is explicitly permitted as specified in the terms of this Agreement.
- D. The Arrowhead Regional Medical Center Hospital Director is authorized to terminate this Agreement on behalf of the County.

VIII. NOTICES

All written notices provided for in this Agreement or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or deposited in the United States mail, postage prepaid, or by courier services or messenger, and addressed to the other party as follows:

To County:

Arrowhead Regional Medical Center
400 N. Pepper Avenue
Colton, CA 92324
Attn: Hospital Director

To Affiliate:

Community Hospital of San Bernardino, a
California nonprofit public benefit corporation
1805 Medical Center Dr.
San Bernardino, CA 92411
Attn: President

Any such notice to any party deposited in the mail for delivery by the United States Postal Service shall be deemed for all purposes of this Agreement to have been given 48 hours after such deposit. Notice delivered by personal service, courier or messenger shall be deemed given upon delivery.

IX. CAMPAIGN CONTRIBUTION DISCLOSURES (SB 1439)

Affiliate has disclosed to the County using Attachment 1 - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the County Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the 12 months before the date this Agreement was approved by the Board of Supervisors. Affiliate acknowledges that under Government Code section 84308, Affiliate is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Agreement.

In the event of a proposed amendment to this Agreement, Affiliate will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

X. DEBARMENT AND SUSPENSION

Each party hereby represents and warrants that it is not and at no time has been convicted of any criminal offense related to health care nor has been debarred, excluded, or otherwise ineligible for participation in any federal or state government health care program, including Medicare and Medicaid. Further, each party represents and warrants that no proceedings or investigations are currently pending or to the party's knowledge threatened by any federal or state agency seeking to exclude the party from such programs or to sanction the party for any violation of any rule or regulation of such programs.

XI. EXCLUDED PROVIDERS

Each party shall comply with the United States Department of Health and Human Services (HHS), Office of Inspector General (OIG) requirements related to eligibility for participation in Federal and State health care programs. State and Federal law prohibits any payment to be made by Medicare, Medicaid (Medi-Cal) or any other federal health care program for any item or service that has been furnished by an individual or entity that has been excluded or has been furnished at the medical direction or prescription of a physician, or other authorized person, who is excluded when the person furnishing the item or service knew or had reason to know, of the exclusion.

Each party shall screen all current and prospective employees, physicians, partners and persons having five percent (5%) or more of direct ownership or controlling interest of the party for eligibility against the OIG's List of Excluded Individuals/Entities to ensure that ineligible persons are not employed or retained to provide services related to this Agreement. The OIG's website can be accessed at: <http://oig.hhs.gov/fraud/exclusions.asp>.

Each party shall have a policy regarding sanctioned or excluded employees, physicians, partners and owners that includes the requirement for these individuals to notify the party administration should the individual become sanctioned or excluded by OIG.

Each party shall immediately notify the other party should an employee, physician, partner or owner become sanctioned or excluded by OIG and/or HHS and prohibit such person from providing any services, either directly or indirectly, related to this Agreement.

XII. GENERAL PROVISIONS

A. Non-Exclusive

This Agreement shall be non-exclusive between the parties. Nothing in this Agreement shall be construed as limiting the rights of either party to contract with any other health facility on a limited or general basis.

B. Assignment

Neither party hereto shall assign or transfer this Agreement, in whole or in part, or any of its rights, duties, or obligations under this Agreement, without the prior written consent of the other Party hereto.

C. Compliance with Laws

The parties shall comply with all applicable federal, state and local laws, regulations and ordinances, including applicable standards of the Joint Commission and any other applicable accrediting bodies, and reasonable policies and procedures of the parties. To the extent that any provision of this Agreement conflicts with EMTALA or state licensing laws for the provision of emergency services and care, as such laws may be amended, the provisions of EMTALA or the state licensing laws, as applicable, shall take precedence over and/or automatically supersede any inconsistent provisions of this Agreement.

D. Severability

The provisions of this Agreement are specifically made severable. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

E. Representation of the County

In the performance of this Agreement, each party and their respective agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the other party.

F. Relationship of the Parties

Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

G. Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Agreement or the parties' relationship with each other may be made or used without prior written approval of the other party.

H. Governing Law and Venue

This Agreement shall be governed by and construed according to the laws of the State of California. The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Agreement will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

I. Employment Discrimination

During the term of the Agreement, the parties shall not willfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, gender, marital status, age, political affiliation, disability or sexual orientation. The parties shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment Act and

other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

J. Informal Dispute Resolution

In the event that a party determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

K. Records

The parties shall maintain all records and books pertaining to the delivery of services under this Agreement and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Agreement requirements. Failure to maintain acceptable records shall be considered grounds for termination of the Agreement.

All records relating to the parties' personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Agreement shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

During the term of this Agreement, plus four (4) years after the term, both parties will comply with all applicable requirements of 42 CFR Section 420.302, including without limitation: (i) retaining required documents, and (ii) giving the US Comptroller General, HHS, and their duly authorized representatives access to its contract, books, documents, and records under this Agreement and those of any organizations related to the parties.

L. Health Insurance Portability and Accountability Act (HIPAA)

The parties agree to comply with all applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA), 42 United States Code 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Federal Regulations Parts 160, 162 and 164, and patient confidentiality laws, including but not limited to California Civil Code 56 et seq., and Health and Safety Code 1280.15 and 130200 et seq., and the requirements of the Health Information Technology for Economic and Clinical Health Act (HITECH), as incorporated in the American Recovery and Reinvestment Act of 2009, Public Law 111-5 and any implementing regulations.

M. Entire Agreement

This Agreement, including all attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

N. Electronic Signatures

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

ATTACHMENT 1



**Campaign Contribution Disclosure
(SB 1439)**

DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

Contractors must respond to the questions on the following page. All references to "Contractor" in this Attachment refer to Affiliate. If a question does not apply respond N/A or Not Applicable.

1. Name of Contractor: Community Hospital of San Bernardino
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?
 Yes ☒ If yes, skip Question Nos. 3-4 and go to Question No. 5
 No ☐
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: _____
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s): _____
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
CommonSpirit Health	Parent Company

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and/or Agent(s):

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name

9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-8?

No ☒ If no, please skip Question No. 10.

Yes ☐ If yes, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Please add an additional sheet(s) to identify additional Board Members/County elected officer to whom anyone listed made campaign contributions.

By signing the Agreement, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Agreement is being considered and for 12 months after a final decision by the County.