



Contract Number

20-219

SAP Number

ARROWHEAD REGIONAL MEDICAL CENTER

Department Contract Representative	William L. Gilbert
Telephone Number	(909) 580-6150
Contractor	FMC/RAI Care Centers of Beaumont, LLC
Contractor Representative	Gary Fritzsche, Clinical Manager
Telephone Number	951-769-5072
Contract Term	October 6, 2020 to October 5, 2025
Original Contract Amount	00.00
Amendment Amount	00.00
Total Contract Amount	00.00
Cost Center	7740

IT IS HEREBY AGREED AS FOLLOWS:

WITNESSETH

This Agreement is entered into by and among the County of San Bernardino, hereinafter referred to as "County," on behalf of Arrowhead Regional Medical Center, hereinafter referred to as "Medical Center," and FMC/RAI Care Center of Beaumont, LLC hereinafter referred to as "Facility."

WHEREAS, the parties have determined that it would be in the best interest of patient care to enter into a transfer agreement for the transfer of patients between respective institutions for dialysis services.

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

Auditor-Controller/Treasurer/Tax Collector Use Only

Contract Database FAS

Input Date

Keyed By

I. DEFINITIONS

- A. TRANSFERRING FACILITY shall mean the facility from which the patient (also referred to herein as "individual") is being transferred from.
- B. RECEIVING FACILITY shall mean the facility to which the patient is being transferred to.

II. TRANSFER ARRANGEMENTS

- A. In the event TRANSFERRING FACILITY patients are transferred to RECEIVING FACILITY for dialysis treatment services due to an emergency that renders either facility as either inoperable or inaccessible to some or all of its enrolled dialysis patients, RECEIVING FACILITY agrees to provide dialysis treatment services to TRANSFERRING FACILITY patients. These services would continue until TRANSFERRING FACILITY returns to total operation and can accept the patient.
- B. A physician at the TRANSFERRING FACILITY shall determine and document that the individual 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.
- C. A physician or personnel at the TRANSFERRING FACILITY shall telephonically notify a physician at RECEIVING FACILITY and obtain consent to transfer and confirmation that the individual meets the RECEIVING FACILITY's admission criteria relating to appropriate bed, personnel and equipment, and that the RECEIVING FACILITY has the capability to treat the individual.
- D. The TRANSFERRING FACILITY shall arrange and coordinate the method of transportation of the individual to the RECEIVING FACILITY and shall assume responsibility for the individual's care and safety during transport. A physician at the TRANSFERRING FACILITY shall, given the individual'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 individual until arrival at RECEIVING FACILITY.
- E. Personnel and/or a physician at TRANSFERRING FACILITY shall send to the RECEIVING FACILITY, with the individual, all information concerning the individual, which is required to ensure continuity of care, including but not limited to, a transfer summary, copies of appropriate portions of the individual's medical record, 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 individual or individual's legal representative of the transfer and shall provide any additional information required by State and Federal law or regulation and shall secure the written informed consent of the individual or the individual's legal representative (if authorized by law), to the transfer. Informed consent for transfer shall be appropriately documented and obtained in writing in accordance with appropriate Federal or State laws or regulations.
- G. Personnel at TRANSFERRING FACILITY shall be responsible for assuring that the individual is accompanied by any personal effects that the individual brought to TRANSFERRING FACILITY, or shall otherwise make appropriate disposition of the individual's personal effects to the individual's legal representative or family.
- H. RECEIVING FACILITY agrees to accept and provide appropriate medical treatment to each individual for whom a physician at RECEIVING FACILITY and RECEIVING FACILITY has consented and confirmed acceptance of transfer. Services provided by RECEIVING FACILITY shall be provided

regardless of TRANSFERRING FACILITY patients' race, color, creed, sex, age, disability, national origin, or any other protected class under State or Federal law.

- I. RECEIVING FACILITY agrees to meet the expectations identified below, relative to the safe quality provision of care, treatment, and/or service:
 1. Abide by applicable law, regulation, and TRANSFERRING FACILITY policy in the provision of care, treatment, and service.
 2. Abide by applicable standards of accrediting and certifying agencies to which the RECEIVING 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 the TRANSFERRING FACILITY's quality improvement program, respond to concerns regarding care, treatment, and service rendered, and undertake 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.

III. TRANSFERS INVOLVING RETURN TO TRANSFERRING FACILITY

In the event an individual is transferred to RECEIVING FACILITY for a specific test or procedure where the individual will be returning to TRANSFERRING FACILITY, the following additional procedures shall be followed:

1. A physician at TRANSFERRING FACILITY shall, in addition to any applicable requirements in Section II above, obtain informed consent to the specific test or procedure from the individual or individual's legal representative (if authorized by law). Where required, such consent shall be documented in writing in accordance with applicable Federal and State laws.
2. RECEIVING FACILITY shall be responsible for assuring that the contemplated procedure is performed and that the individual is returned to TRANSFERRING FACILITY. A physician at RECEIVING FACILITY shall also obtain the individual's informed written consent for the specific test or procedure(s) to be performed, where required by law.
3. Before returning the individual to TRANSFERRING FACILITY, a physician at RECEIVING FACILITY shall determine that the individual is appropriate for transfer according to all applicable laws. In the event that the individual is not appropriate for transfer, RECEIVING FACILITY agrees to arrange for appropriate care for the individual until such time as the individual can return to TRANSFERRING FACILITY.
4. When the individual is returned to TRANSFERRING FACILITY, personnel and/or physician at the RECEIVING FACILITY shall assure that all appropriate information necessary for continuity of care the individual is returned with the individual to TRANSFERRING FACILITY.
5. RECEIVING FACILITY shall be responsible for coordinating the individual's return to TRANSFERRING FACILITY.
6. TRANSFERRING FACILITY agrees to accept the individual for continued care upon completion of the procedure at RECEIVING FACILITY that necessitated the transfer.

IV. GENERAL PROVISIONS

A. Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

B. Representation of the County

In the performance of this Contract, Facility, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

C. Relationship of the Parties

Nothing contained in this Contract 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.

D. Primary Point of Contact

The parties will designate an individual to serve as the primary point of contact for the Contract. Each party or designee must respond to the other parties' inquiries within two (2) business days. The parties shall not change the primary contact without written acknowledgement to the other party. Each party will also designate a back-up point of contact in the event the primary contact is not available.

E. Change of Address

Each party shall notify the other party in writing, of any change in mailing address within ten (10) business days of the change.

F. Subcontracting

The parties agree not to enter into any subcontracting agreements for work contemplated under the Contract without first obtaining written approval from the other party. Any subcontracting shall be subject to the same terms and conditions as Facility. Each party shall be fully responsible for the performance and payments of any subcontractor's Contract.

G. Agreement Assignability

Without the prior written consent of the other party, the Contract is not assignable by either party either in whole or in part.

H. Agreement Modification

The parties agree any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Facility and County.

I. Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

J. Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

K. Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not

constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

L. Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

M. Contract Exclusivity

This is not an exclusive Contract. The parties reserve the right to enter into a contract with other Facilities for the same or similar services.

N. Notification Regarding Performance

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under the Contract, the parties agree to notify the other party within one (1) working day, in writing and by telephone.

O. Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

P. Venue

The parties acknowledge and agree that this Contract 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 Contract will be the Superior Court of California, County of San Bernardino, 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 Contract 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, County of San Bernardino, San Bernardino District.

Q. Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

R. Licenses, Permits and/or Certifications

Each party shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The parties shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Each party will notify the other party immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

S. Notification Regarding Performance

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Agreement, each party shall notify the other party within one (1) working day, in writing and by telephone.

T. Conflict of Interest

Facility shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Facility shall make a reasonable effort to prevent employees, Facility, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as

those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Facility's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

U. Improper Consideration

Facility shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Facility shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Facility. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies:

V. Former County Administrative Officials

Facility agrees to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Facility. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Facility. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

W. Improper Influence

Facility shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Facility or officer or employee of the Facility.

X. Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Facility has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

Y. Release of Information

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

Z. Employment Discrimination

During the term of the Contract, 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.

AA. 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 Contract 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.

BB. Records

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

All records relating to the parties' personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract 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.

CC. 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.

V. FISCAL PROVISIONS

- A. TRANSFERRING FACILITY and RECEIVING FACILITY shall bill in accordance with their usual and customary practices, those parties financially responsible for the care rendered to the individual by their respective facility. Neither party shall have liability to the other for the other party's charges. Each facility agrees to provide information in its possession to the other facility and such physicians or professional providers sufficient to enable them to bill the patients, responsibly party, or appropriate third party payor.

VI. INDEMINIFICATION AND INSURANCE REQUIREMENTS

A. Indemnification

Facility agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability directly or indirectly arising out of or resulting from performance of Facility's work under this Contract. Facility indemnification obligation does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

County agrees to indemnify, defend and hold harmless Facility, its employees, and authorized agents from any and all claims, actions, losses, damages and/or liability arising out of this Agreement resulting from the negligent acts, errors or omissions of the County, its authorized officers, employees, agents or volunteers. Facility agrees to give County notice in writing within thirty (30) days of any claim made against it on the obligations covered hereby.

In the event the County and/or Facility are found to be comparatively at fault for any claim, action, loss or damage, which results from their respective obligations under this Agreement, the County and/or Facility shall indemnify the other to the extent of its comparative fault.

B. Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

C. Waiver of Subrogation Rights

Facility shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Facility and Facility's employees or agents from waiving the right of subrogation prior to a loss or claim. Facility hereby waives all rights of subrogation against the County.

D. Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

E. Severability of Interests

Facility agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Facility and the County or between the County and any other insured or additional insured under the policy.

F. Proof of Coverage

Facility shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Facility shall maintain such insurance from the time Facility commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, Facility shall furnish a copy of the Declaration page for all

applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G. Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

H. Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

I. Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Facility or County payments to Facility will be reduced to pay for County purchased insurance.

J. Insurance Review

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Facility agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

K. Facility agrees to provide insurance set forth in accordance with the requirements herein. If Facility uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Facility agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, Facility shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

1. Workers' Compensation/Employers 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 Facility and all risks to such persons under this contract.

If Facility has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the

requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Facilities that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

2. Commercial/General Liability Insurance – Facility shall carry General Liability Insurance covering all operations performed by or on behalf of Facility 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. Explosion, collapse and underground hazards.
 - e. Personal injury.
 - f. Contractual liability.
 - g. \$2,000,000 general aggregate limit.

3. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Facility is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Facility owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

4. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.
5. 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

or

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million (\$1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the County.

If insurance coverage is provided on a “claims made” policy, the “retroactive date” shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or “tail” coverage provided for a minimum of five (5) years after contract completion.

VII. RIGHT TO MONITOR AND AUDIT

- A. The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, pertaining specifically to this contract, and other pertinent items as requested, and shall have absolute right to monitor the performance of Facility in the delivery of services provided under this Contract. Facility shall give full cooperation, in any auditing or monitoring conducted. Facility shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.
- B. All records pertaining to services delivered shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

VIII. EXCLUDED PROVIDERS

RECEIVING FACILITY 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.

RECEIVING FACILITY 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 RECEIVING FACILITY 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 contract. The OIG's website can be accessed at: <http://oig.hhs.gov/fraud/exclusions.asp>.

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

RECEIVING FACILITY shall immediately notify ARMC's Chief Compliance Officer 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 contract.

IX. CORRECTION OF PERFORMANCE DEFICIENCIES

- A. Failure by RECEIVING FACILITY to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
- B. In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
1. Afford Facility thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
 2. Terminate this Contract immediately. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County.

X. TERM OF CONTRACT

This Contract shall be effective as of October 6, 2020, through October 5, 2025, but may be terminated earlier in accordance with provisions of this Contract. The Director of ARMC is authorized to initiate the termination on behalf of the County.

The County and Facility each reserve the right to terminate the Contract, for any reason, with a ninety (90) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to Facility for services rendered and expenses reasonably incurred prior to the effective date of termination. Should either party fail to maintain its license or accreditation, or if either party is no longer able to provide the service for which this Contract was entered into, this Contract shall automatically terminate. Upon receipt of termination notice Facility shall promptly discontinue services unless the notice directs otherwise.

XI. NOTICES

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

*County of San Bernardino
Arrowhead Regional Medical Center
400 N. Pepper Avenue
Colton, CA 92324
Attn: Director*

*FMC/RAI Care Centers of Beaumont, LLC
1536 E Sixth St
Beaumont, CA 92223
Attn: Clinical Manager*

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

XII. ENTIRE AGREEMENT

This Contract, including all Exhibits and other 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 Contract not expressly set forth herein are of no force or effect. This Contract 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 Contract and signs the same of its own free will.

