

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

September 26, 2023

FROM

WILLIAM L. GILBERT, Director, Arrowhead Regional Medical Center

SUBJECT

Unified Participation Agreement with American Heart Association, Inc. for the Get With The Guidelines – Resuscitation and Stroke Registry Programs

RECOMMENDATION(S)

Approve Unified Participation **Agreement No. 23-1027** with American Heart Association, Inc., including non-standard terms, for the subscription and participation in the Get With The Guidelines – Resuscitation and Get With The Guidelines – Stroke Registry programs, in the not-to-exceed amount of \$91,700, retroactively effective May 25, 2023 through December 31, 2027. (Presenter: William L. Gilbert, Director, 580-6150)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The cost of \$91,700 is funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenue. Funding sources may change in the future pending any legislative activity related to the repeal and/or replacement of the Affordable Care Act. Adequate appropriation and revenue have been included in the Arrowhead Regional Medical Center (ARMC) 2023-24 budget and will be included in future recommended budgets.

BACKGROUND INFORMATION

The Unified Participation Agreement (Agreement) with the American Heart Association, Inc. (AHA) will allow ARMC to subscribe to and participate in the Get with the Guidelines – Resuscitation (GWTG-R) and Get With The Guidelines – Stroke Registry (GWTG-S) programs. The subscriptions to GWTG-R and GWTG-S provide ARMC the latest evidence-based clinical practice guidelines for the care of patients during cardiac arrest and patients experiencing stroke. ARMC participates in the registries by submitting resuscitation and stroke data to AHA. AHA uses the data to compare with other facilities and to demonstrate the improvement of patient care.

The GWTG-R program will improve the quality of care for hospitalized patients by promoting consistent adherence to the latest evidence-based clinical practice guidelines for the care of patients during cardiac arrest. The GWTG-R is the national standard for benchmarking resuscitation and supports future efforts for obtaining Chest Pain Center accreditation through the American College of Cardiology. Obtaining Chest Pain Center Accreditation is an Inland Counties Emergency Medical Agency (ICEMA) requirement for hospitals seeking ST-Segment

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Elevation Myocardial Infarction (STEMI) Center designation, which demonstrates a hospital that has the personnel, infrastructure and expertise to diagnose and treat patients who require intensive medical and surgical care specialized tests, or intervention therapies for cardiovascular issues.

The GWTG-S program is a program for improving the quality of care for patients hospitalized with stroke by promoting consistent adherence to the latest evidence-based clinical practice guidelines. The GWTG-S is also the industry standard for stroke data submission to regulatory agencies nationwide including but not limited to, Healthcare Facilities Accreditation Program (HFAP), The Joint Commission (TJC) and Centers for Medicare and Medicaid Services (CMS). Failure to participate in the GWTG-S would leave ARMC unable to submit data to regulatory agencies and could affect ARMC's Stroke Certification and ICEMA designation as a Primary Stroke Center. ARMC has had a long-standing agreement with AHA to cover data reporting services to regulatory agencies.

On September 12, 2023, ARMC received the Agreement from AHA, which is retroactively effective May 25, 2023, the date AHA drafted the agreement. Although the recommended Agreement is retroactively effective, no financial action will be taken until the Board of Supervisors (Board) has approved this item. This Agreement is being presented to the Board for approval at the earliest available meeting after completion of required financial and legal reviews.

The Agreement is AHA's standard program participant agreement, which includes terms that differ from the standard County contract and omits certain County standard contract terms. AHA is unwilling to negotiate these terms. The non-standard and missing terms include the following:

1. The Agreement does not contain the standard contract provisions regarding Government Code section 84308 (Senate Bill 1439) and the disclosure of campaign contributions to a member of the Board or other County elected officer.
 - Under the County standard contract, the contractor states it has disclosed campaign contributions of more than \$250 to any member of the Board or other County elected officer and completed a form providing additional information.
 - Potential Impact: The County may have difficulty gathering information about campaign contributions made by AHA.
2. The County is required to indemnify AHA against all claims caused by: (1) County's material breach of the Agreement or the Business Associate Agreement (BAA), (2) County's patient care activities, (3) County's negligence or willful misconduct, (4) County's failure to obtain required consents to disclose data to AHA under the Health Insurance Portability and Accountability Act regulations and/or applicable data and security privacy laws, (5) any errors or inaccuracies contained in the data as delivered by County to AHA, (6) any actual or alleged infringement arising from AHA's authorized use or disclosure of the data in accordance with the data license, or (7) any violation of laws or regulations applicable to County's participation in the Programs.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: By agreeing to indemnify AHA, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred

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- against the County, time limited, or expense limited could be brought against AHA without such limitations and the County would be responsible to defend and reimburse AHA for costs, expenses, and damages, which could exceed the total Agreement amount.
3. The Agreement does not require AHA to meet the County's insurance standards as required pursuant to County Policy 11-07.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: The County has no assurance that AHA will be financially responsible for claims that may arise under the Agreement, which could result in expenses to the County that exceed the total Agreement amount.
 4. AHA disclaims all liability to the County, without exclusion, except for its indemnification obligations, which are: AHA shall indemnify and hold harmless County, its affiliates, its contractors and licensors, their officers, directors, members, employees and agents, against any third-party claims, liabilities, losses or expenses (including reasonable attorney's fees) to the extent directly caused by: (1) AHA's material breach of this Agreement or the BAA/Data Use Agreement, (2) AHA's negligence or willful misconduct, (3) any actual or alleged infringement arising from AHA's unauthorized use of Program Participant's, San Bernardino County on behalf of ARMC, Data.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Claims, other than indemnified claims, are solely the County's financially liability.

ARMC recommends the approval of this agreement with AHA, including the non-standard terms, based on the specialized information provided in their registries and web-based solutions for measuring, improving, and reporting on stroke data, quality of care, and positive patient outcomes.

PROCUREMENT

Subscription and participation in the Agreement is a non-competitive based on specialized credentials, as the access to the specific stroke data and submission of data to regulatory agencies is unique to the AHA. The Purchasing Department supports this non-competitive procurement.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on August 8, 2023; Purchasing (Ariel Gill, Buyer III, 777-0722) on August 10, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on August 24, 2023; ARMC Finance (Chen Wu, Finance Budget Officer, 580-3165) on September 1, 2023; Finance (Jenny Yang, Administrative Analyst, 387-4884) on September 7, 2023; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on September 11, 2023.

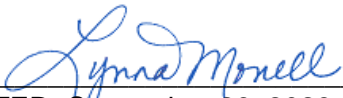
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Jesse Armendarez
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: September 26, 2023



cc: ARMC - Gilbert w/agree
Contractor - c/o ARMC w/agree
File - w/agree
CCM 09/29/2023