

#28

AUG 15 2013



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Where Values Make The Difference

MEMORANDUM

Fire Department

DATE: AUGUST 15, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *rd*
PAT MCDERMOTT, ASST. CITY MANAGER *pm*
JEFF CLARK, FIRE CHIEF *jc*

FROM: MARC WALKER, ASST. FIRE CHIEF *mw*

SUBJECT: AGREEMENT WITH MARICOPA COUNTY

RECOMMEDATION: Staff recommends approval of an agreement with Maricopa County, through the Maricopa County Department of Public Health (MCDPH) for the purpose of distributing medications, and medical materials, to the City of Chandler for dispensing to City of Chandler employees in the event of a public emergency.

BACKGROUND: Maricopa County has previously had a verbal agreement with the City of Chandler through the MCDPH to provide medications and medical supplies for employees during a public emergency.

DISCUSSION: In the event of a public emergency where there is an occurrence or imminent threat of illness or health condition that threatens public health, the employees of the City of Chandler will be called upon to continue to provide vital services. It is important that employees receive the proper medications and medical supplies to protect them so they can continue to provide these services. During a public emergency the MCDPH will have access to the Strategic National Stockpile of assets, and will provide them to the City of Chandler to dispense to their employees.

FINANCIAL IMPLICATIONS: None

PROPOSED MOTION: Move to approve the agreement with Maricopa County for the purpose of dispensing medications and other medical materials in the event of a public emergency.

AGREEMENT TO PROVIDE STRATEGIC NATIONAL STOCKPILE ASSETS

This Agreement is entered into by and between Maricopa County, through the Maricopa County Department of Public Health (MCDPH) and City of Chandler (“City of Chandler”) for the purpose of distributing medications, other medical materials and information to City of Chandler for dispensing to City of Chandler employees and their families (the “Authorized Recipients”) in the event of a public health emergency. MCDPH or City of Chandler may individually be referred to in this Agreement as a “Party” or the entities collectively as the “Parties.”

RECITALS

WHEREAS, pursuant to A.R.S. §36-787, when there is a state of emergency or state of war emergency in which there is an occurrence or imminent threat of an illness or health condition that threatens the public health, the Arizona Department of Health Services (“ADHS”) has the responsibility for planning and executing public health emergency assessment, mitigation, preparedness response and recovery for the state, and coordinating public health emergency response among state, local and tribal authorities; and in furtherance of its responsibility ADHS has entered into an agreement with Maricopa County through MCDPH to develop and enhance the state’s emergency response capabilities; and

WHEREAS, pursuant to A.R.S. §26-308, Maricopa County and each incorporated city and town has the responsibility for establishing and providing for emergency management within its jurisdiction in accordance with state emergency plans and programs; and

WHEREAS, by resolution adopted by the Maricopa County Board of Supervisors, the Maricopa County Department of Emergency Management defines authorities and duties regarding emergency plans and programs related to emergency services, and the Maricopa County Department of Emergency Management has acknowledged the MCDPH as the Lead County Agency for the Health and Medical Emergency Support Function, and the SNS Points of Dispensing (“POD”) are integral to a Public Health Emergency Response; and

WHEREAS, the MCDPH has created the Office of Preparedness and Response (“OPR”) to coordinate and prepare a Health and Medical plan to support the Maricopa County Emergency Operations Plan, and to respond to a Public Health Emergency in which there is an occurrence or imminent threat of an illness or health condition caused by a natural event, bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin that poses a substantial risk to public health; and

WHEREAS, OPR has been asked by City of Chandler to provide City of Chandler with SNS assets at its location, 151 E. Boston Street, Chandler, AZ 85225, as may be necessary to respond to a public health emergency; and

WHEREAS, MCDPH and OPR wish to cooperate with City of Chandler by providing City of Chandler with SNS assets for distribution to the Authorized Recipients in the event of such a public health emergency;

NOW, THEREFORE, the Parties agree as follows:

1. Delivery of SNS assets

- 1.1. In the event of a public health emergency, MCDPH through OPR will deliver to City of Chandler medications, vaccinations, dispensing information or such other SNS materials as available and may be necessary to respond to a public health emergency, under the conditions specified in this Agreement. City of Chandler understands that such SNS assets cannot be provided by MCDPH

until said assets are released by the Arizona Department of Health Services and the Division of Strategic National Stockpile Program to OPR. City of Chandler's responsibilities under this Agreement are to take custody of the assets for the purpose of dispensing to the Authorized Recipients, and to cooperate with MCDPH to ensure the accessibility of the City of Chandler delivery site at 151 E. Boston Street, Chandler, AZ 85225, as a delivery point.

- 1.2 MCDPH will provide City of Chandler with notice as soon as possible when an event triggers the activities under this Agreement. The City of Chandler contact for MCDPH is:

Marc Walker
Emergency Services Coordinator
151 E. Boston Street
P.O. Box 4008, MS 801
Chandler, AZ 85244
480 782-2121 (office)
480 782-2135 (cell)
Marc.Walker@chandleraz.gov
480 748-3752 (fax)

The MCDPH contact will promptly advise the City of Chandler of MCDPH's intent to deliver SNS assets to that location. MCDPH may also contact the delivery site directly if need be. The City of Chandler contact will be responsible for coordinating MCDPH's access to the delivery site, for offloading the SNS assets, and for security and appropriate storage of the SNS assets once delivered. The Parties agree to exchange whatever information is necessary to facilitate planning and coordination in preparation for delivery of SNS assets to City of Chandler.

- 1.3. MCDPH will deliver sufficient SNS assets to City of Chandler to serve an estimated targeted population of 4,900 Authorized Recipients provided appropriate and secure storage facilities for materials or antibiotics are available. Depending upon the supply, MCDPH may provide more medical countermeasures, if requested and needed. If SNS assets received by MCDPH are limited and MCDPH is unable to supply the entire amount required for City of Chandler, MCDPH will determine an allocation for City of Chandler based on an analysis of the current situation. Personnel, supplies, and equipment needed to dispense to the service population, such as copy machines and paper, furniture such as tables and chairs, and other items, will be supplied by City of Chandler.
- 1.4. City of Chandler agrees to dispense SNS assets using City of Chandler personnel or volunteers who have the appropriate licensure, training, and/or certification to dispense SNS assets, to dispense SNS assets only to the Authorized Recipients as specified under OPR guidelines, to distribute product information sheets provided by OPR, to return to OPR any excess SNS assets inventory, to provide OPR approved documentation of all dispensing, and to reconcile SNS assets received with those dispensed and those returned to OPR. City of Chandler agrees not to charge for SNS assets or for any of the services provided as part of the administration or dispensing of SNS assets unless agreed upon separately in writing.
- 1.5. As a condition of this Agreement and prior to the distribution of any SNS assets to City of Chandler, City of Chandler agrees to arrange sufficient time for the personnel who would be involved in SNS asset distribution at City of Chandler to participate in an OPR-provided training on the procedures for dispensing of SNS assets. The minimum number of people to attend the training for City of Chandler will be mutually agreed upon.

1.6 During transfer of custody of SNS assets to City of Chandler at 151 E. Boston Street, Chandler, AZ 85225, City of Chandler will be responsible for offloading and moving the assets to the storage area City of Chandler plans to utilize, and for sufficient security to maintain order and safeguard persons against bodily injury. The Maricopa County Sheriff's Office is the lead agency for security during transport and delivery of assets to the City of Chandler delivery site.

1.7 City of Chandler agrees to utilize dispensing information, including prophylaxis or treatment dispensing algorithms, guidelines, and patient information forms, provided by OPR and to provide OPR with a completed patient information form within 48 hours for each person to whom SNS assets were dispensed. City of Chandler agrees to have trained employees (Section 1.5) oversee the dispensing of SNS assets to the Authorized Recipients.

2. **Indemnification.** To the fullest extent permitted by law, MCDPH shall defend, indemnify, and hold harmless City of Chandler, its agents, officers, officials, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of MCDPH, its agents, employees, or volunteers or any tier of its contractors in the performance of this Agreement. The amount and type of insurance coverage requirements of the Agreement will in no way be construed as limiting the scope of indemnification in this Paragraph. The terms of this section survive the termination, expiration, non-renewal, or rescission of this Agreement.

To the fullest extent permitted by law, City of Chandler shall defend, indemnify and hold harmless MCDPH, its agents, officers and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of City of Chandler, its agents, employees, or volunteers or any tier of its contractors in the performance of this Agreement. The amount and type of insurance coverage requirements of the Agreement will in no way be construed as limiting the scope of the indemnification in this Paragraph. The terms of this section survive the termination, expiration nonrenewal, or rescission of this Agreement.

3. **Insurance.** MCDPH shall maintain a self-insurance program under the *Revised Restated Declaration of Trust for Maricopa County, Arizona Self-Insured Risk Trust Fund* during the term of this Agreement. At the signing of this Agreement, MCDPH shall furnish City of Chandler with certificates of self-insurance evidencing the coverages and limits listed below at the following address:

Marc Walker
Emergency Services Coordinator
151 E. Boston Street
P.O. Box 4008, MS 801
Chandler, AZ 85244
480 782-2121 (office)
480 782-2135 (cell)
Marc.Walker@chandleraz.gov
480 748-3752 (fax)

MCDPH's insurance must be primary, and any insurance or self-insurance maintained by City of Chandler shall not contribute to it. If any part of this Agreement is contracted, these insurance requirements also apply to all contractors.

Insurance coverage required under this Agreement is as set forth below (or the equivalent coverage with respect to Maricopa County or any other self-insured entity):

Maricopa County:

- 3.1. **Commercial General Liability** insurance with a limit of not less than \$2,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of this Agreement;
- 3.2. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to MCDPH's owned, hired, and non-owned vehicles;
- 3.3. **Workers' Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than \$2,000,000 for each accident, \$2,000,000 disease for each employee, and \$2,000,000 disease policy limit; and
- 3.4. **Professional Liability** insurance covering acts, errors, mistakes, and omissions arising out of the work or services performed by MCDPH, or any person employed by MCDPH, with a limit of not less than \$2,000,000 each claim.

Receiving Agency:

City of Chandler shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in the State of Arizona with a current AM Best, Inc. rating of A- VII or better. In the alternative, City of Chandler may submit required coverage under a self-insured program. At the signing of this Agreement, City of Chandler shall furnish MCDPH with Certificates of Insurance or Self-Insurance evidencing the required coverages, conditions and limits required by this Agreement.

- 3.5. **Commercial General Liability** insurance with a limit of not less than \$2,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage, including but not limited to, the liability assumed under the indemnification provisions of this Agreement;
- 3.6. **Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than \$2,000,000 each occurrence with respect to City of Chandler's owned, hired, and non-owned vehicles;
- 3.7. **Workers' Compensation** insurance with limits statutorily required by any Federal or state law and **Employer's Liability** insurance of not less than \$2,000,000 for each accident, \$2,000,000 disease for each employee, and \$2,000,000 disease policy limit; and
- 3.8. **Professional Liability** insurance covering acts, errors, mistakes, and omissions arising out of the work or services performed by City of Chandler, or any person employed by City of Chandler, with a limit of not less than \$2,000,000 each claim.

In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend for two years past expiration of the Agreement and must be evidenced by annual Certificates of Insurance upon request from MCDPH.

4. **Verification Regarding Compliance with Arizona Revised Statutes §§35-391.06 and 35-393.06 Business Relations with Sudan and Iran:**

- 4.1 By entering into the Agreement, City of Chandler certifies it does not have scrutinized business operations in Sudan or Iran. City of Chandler shall obtain statements from its subcontractors performing work under this Agreement, if any, certifying compliance with the foregoing and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Agreement.
- 4.2 Maricopa County may request verification of compliance for City of Chandler or subcontractor performing work under the Agreement. Should Maricopa County suspect or find that City of Chandler or any of its subcontractors performing work under the Agreement are not in compliance, Maricopa County may pursue any and all remedies allowed by law, including, but not limited to: suspension of partnership and termination of the Agreement. All reasonable costs necessary to verify compliance are the responsibility of Maricopa County.

5. **E-verification of employees:**

City of Chandler warrants that it is in compliance with A.R.S. § 41-4401 and further acknowledges:

- 5.1 That City of Chandler and its subcontractors, if any, performing work under this Agreement warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A;
- 5.2 That a breach of a warranty under subsection 5.1 above, shall be deemed a material breach of this Agreement that is subject to penalties up to and including termination of the Agreement;
- 5.3 That MCDPH retains the legal right to inspect the papers of City of Chandler or subcontractor employee who performs work under this Agreement to ensure that City of Chandler or subcontractor performing work under this Agreement is complying with the warranty provided under subsection 5.1 above and that City of Chandler agrees to make all papers and employment records of said employee(s) available during normal working hours in order to facilitate such an inspection.

6. Nothing herein shall make City of Chandler or any subcontractor an agent or employee of MCDPH.

7. **Termination.** Either party may terminate this Agreement at any time by giving 90 days written notice to the other party, but in no case after the declaration of a Public Health Emergency, until it has been determined and declared to be ended.

8. **Cancellation.** This Agreement is subject to cancellation pursuant to the terms of A.R.S. §38-511.

9. **Notices.** Any notices hereunder shall be written notices, personally delivered to the other party, except that in the event of a Public Health Emergency, notice may be given by any means, to be followed by written, personally delivered notice, as soon as is reasonably practicable. Such personally delivered notice shall be at the following addresses:

For MCDPH/OPR:

Program Manager
Maricopa County Department of Public Health
Office of Preparedness and Response
4041 N. Central Avenue, Suite 600
Phoenix, AZ 85012
Tel: 602 506-2650
Cell: 602 723-6966

For City of Chandler:

Marc Walker
Emergency Services Coordinator
151 E. Boston Street
P.O. Box 4008, MS 801
Chandler, AZ 85244
480 782-2121 (office)
480 782-2135 (cell)
Marc.Walker@chandleraz.gov
480 748-3752 (fax)

10. **Use of Name.** MCDPH/OPR shall not use the names or trademarks of City of Chandler or of any of City of Chandler's affiliated entities in any advertising, publicity, endorsement, or promotion unless City of Chandler has provided prior written consent for the particular use contemplated. All requests for approval pursuant to this Section must be submitted to the City of Chandler at least 5 business days prior to the date on which a response is needed. The terms of this Section survive the termination, expiration, non-renewal, or rescission of this Agreement.
11. **Amendments.** This Agreement may not be amended or modified except in writing signed by both parties and identified as an amendment to this Agreement.
12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns.
13. **Waiver.** The failure of either party to complain of any default by the other party or to enforce any of such party's rights, no matter how long such failure may continue, will not constitute a waiver of the party's rights under this Agreement. The waiver by either party of any breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other provision. No part of this Agreement may be waived except by the further written agreement of the parties.
14. **Entire Agreement.** This Agreement together with the Attachments hereto constitutes the entire agreement between the parties with respect to its subject matter and supersedes all past and contemporaneous agreements, promises, and understandings, whether oral or written, between the parties.
15. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party. Any purported assignment in violation of this clause is void. Such written consent, if given, shall not in any manner relieve the assignor from liability for the performance of this Agreement by its assignees.

- 16. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect as if the invalid or unenforceable provision has never been a part of the Agreement.
- 17. **Independent Contractor Status.** It is mutually understood and agreed that the relationship between the parties is that of independent contractors. Neither party is the agent, employee, or servant of the other. Except as specifically set forth herein, neither party shall have nor exercise any control or direction over the methods by which the other party performs work or obligations under this Agreement. Further, nothing in this Agreement is intended to create any partnership, joint venture, lease or equity relationship, expressly or by implication, between the parties.
- 18. **Counterparts.** This Agreement may be executed in any number of counterparts which, when taken together, will constitute one original, and photocopy, facsimile, electronic or other copies shall have the same effect for all purposes as an ink-signed original.
- 19. **Representation on Authority of Parties/Signatories.** Any individual executing this Agreement on behalf of a Party represents and warrants to the other Party that they are duly authorized to execute this Agreement on behalf of such Party, and that upon their signature this Agreement shall be binding upon the Parties.

MCDPH:
 MARICOPA COUNTY
 DEPARTMENT OF PUBLIC HEALTH
 MARICOPA COUNTY BOARD OF SUPERVISORS

CITY OF CHANDLER:

By: _____
 Title: Chairman of the Board

By: _____
 Title: _____

Date: _____

Date: _____

ATTEST:

By: _____
 Clerk of the Board

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
 Attorney for Maricopa County

By: _____ (kb)
 Chandler City Attorney

Date: _____

Date: _____