

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Public Health

AGENDA DATE: CCA 04/08/14

CONTACT PERSON NAME AND PHONE NUMBER: Robert Resendes, 771-5794

DISTRICT(S) AFFECTED: All

SUBJECT: Revised language

Discussion and action requesting that the City Council approve of the City's participation in the mass preventive medication Closed Point of Dispensing (POD) program.

BACKGROUND / DISCUSSION:

The Strategic National Stockpile (SNS) is a national supply of medications and medical supplies to be used for emergency situations such as a bioterrorism attack or natural disaster. Within 12 to 24 hours of the Federal decision to deploy, the U.S. Centers for Disease Control and Prevention (CDC) can deploy a large shipment from the SNS, known as a 'push-pack,' anywhere in the United States or its territories, to supplement and re-supply state and local health and medical resources.

State and local health agencies must have plans in place to receive shipments from the SNS and distribute their contents to the community quickly and efficiently. Collaboration between the City of El Paso Department of Public Health and the private sector is a crucial part of these plans. The use of CLOSED Points of Dispensing sites is just one of many dispensing methods planned to deliver medication to 100 percent of the population within 48 hours.

Partnering with organizations to dispense medications provides many benefits to the community:

- Helps achieve community dispensing goal more rapidly
- Decreases the number of people going to an Open POD

Benefits to the organization:

- Protects residents, staff, and their families
- Helps to ensure organization's continuity of operations
- Exhibits commitment to our community

PRIOR COUNCIL ACTION:

n/a

AMOUNT AND SOURCE OF FUNDING:

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: _____



STATE OF TEXAS) **Agreement Regarding Mass Prophylaxis Dispensing**
COUNTY OF EL PASO) **Closed Point of Dispensing**

This Agreement is entered into on this the __ day of April, 2014 between Nazareth Living Care Center and the City of El Paso (the "City"), in El Paso County, Texas.

DEFINITIONS

1. After Action Report (AAR): a document detailing and evaluating the actions previously taken by a group as part of a goal-oriented exercise or series of exercises, in order to determine how the group can maximize the success of its operations.
2. DPH: City of El Paso Department of Public Health
3. SNS: Strategic National Stockpile, as described in 42 U.S.C. §247d–6b., is a national repository of antibiotics, chemical antidotes, antitoxins, life-support medications, intravenous administration, airway maintenance supplies, and medical and surgical items. The SNS is designed to supplement and re-supply state and local public health agencies' pharmaceutical resources in the event of a national public health emergency, anywhere and at any time, within the United States or its territories.
4. POD: Point of Dispensing
5. ORGANIZATION: Nazareth Living Care Center

RECITALS

WHEREAS, the Centers for Disease Control and Prevention (CDC) through the Texas Department of State Health Services (DSHS) approves the transfer of a pre-determined quantity of the aforementioned SNS to Nazareth Living Care Center in El Paso County, in accordance with the Texas SNS Plan (Appendix 8 to Annex H of the Texas State Emergency Management Plan); and

WHEREAS, the City's Department of Public Health in its dispensing and program planner functions as described in 42 U.S.C. §247d–6d., approves the transfer of a pre-determined quantity of the aforementioned SNS to Nazareth Living Care Center; and

WHEREAS, the City is acting under the provisions of 42 U.S.C. Section 247d-6d, entitled "Targeted liability protections for pandemic and epidemic products and security countermeasures"; and

WHEREAS, the City's Department of Public Health wishes to collaborate with Nazareth Living Care Center to enhance the ability of DPH and Nazareth Living Care Center to respond to a catastrophic biological incident or other communicable threat of epidemic proportions.

NOW THEREFORE, in consideration of the forgoing, the parties hereto agree as follows:

1. The ORGANIZATION agrees:

- a. To request SNS medications from DPH through DSHS established procedures according to the number of Organization's patients, employees, and number of employees' immediate family members.
- b. To assume responsibility for dispensing SNS medications (mass prophylaxis) to those individuals identified above in paragraph "a" to this section, by Nazareth Living Care Center trained staff at the site chosen by Organization and with no liability assumed by the City.
- c. To utilize SNS pharmaceuticals in accordance with the policies and procedures outlined in Organization's mass prophylaxis dispensing plan including the number of people to receive prophylaxis in a public health emergency, with said number reflecting Organization's patients, employees and family members.
- d. To provide to DPH the Organization's mass prophylaxis dispensing plan and the number of people to receive prophylaxis in a public health emergency.
- e. To designate one or more of its employees to have the authority to retrieve SNS medication from the DPH after distribution from the SNS.
- f. To provide to DPH, prior to receiving SNS pharmaceuticals from DPH, any updates to Organization's mass prophylaxis dispensing plan or prophylaxis eligible population.
- g. To train and educate all of Organization's staff that will be utilized in mass prophylaxis dispensing operations as specified in Organization's mass prophylaxis dispensing plan.
- h. To not charge individuals for SNS medication provided through this Agreement.
- i. To provide DPH with point of contact information to ensure timely notification of Organization in the event of a public health emergency.
- j. To secure any unused medication and dispensing documentation provided to Organization by the City pursuant to this Agreement until such time that a designee for Organization can return said medication and dispensing documentation to DPH.
- k. To compile and file an After Action Report with DPH identifying shortfalls and accomplishments of Organization's mass prophylaxis dispensing operation.

2. The CITY, by and through its DPH, agrees:

- a. To provide mass prophylaxis dispensing specific training/education opportunities to Organization's staff that Organization has identified for such activity.
- b. To provide pre-public health emergency planning and technical assistance, including training exercises regarding how to properly implement Organization's mass prophylaxis dispensing plan, supply lists, POD layouts, fact sheets, dispensing algorithms, etc.
- c. To ensure readiness of medication for pick up by Organization.

- d. To provide Organization with the medical protocols regarding dispensing activities including but not limited to, dosing, follow-up procedures and releasable information regarding the public health emergency situation.
- e. To provide Organization with consultation and assistance as needed and available for the given public health emergency.
- f. To make arrangements for the receipt of any unused SNS medication as well as copies of dispensing documentation from Organization after termination of the public health emergency.
- g. To provide technical assistance and consultation to Organization immediately after implementation of Organization's mass prophylaxis dispensing plan to determine what did or did not work and how to improve said plan, to the extent that said technical assistance and consultation is available.
- h. Compensation. This Agreement does not obligate the City to purchase any items or to pay Organization for the services described in this Agreement. The parties to this Agreement shall not exchange between each other goods or services for monetary remuneration.

3. It is mutually agreed that:

- a. The confidentiality of the patient's protected health information will be maintained and secured as mandated by the Health Insurance Portability and Accountability Act (HIPAA).
- b. This Agreement will remain in effect for a two-year period, with the possibility to renew for an additional two-year term with written notice to the other party 60 days prior to expiration of the original term. This Agreement may be terminated with a 30-day written notice provided by the terminating party to the other party at the address provided below.
- c. This Agreement will not supersede any laws, rules or policies of either party.
- d. After accomplishing the development of a mass prophylaxis dispensing plan and after being successfully trained by the City on said plan implementation, Organization would be considered a Closed POD, which is defined as an entity that does not dispense medications to the "general public" but only Organization's patients, employees and employees' immediate family members.
- e. It is understood that Organization's participation is completely voluntary. Organization may not be available to participate as a Closed POD during a public health emergency. Alternatively, the City may choose to not utilize Organization as a Closed POD during a public health emergency. If Organization is unavailable or if the City chooses to not utilize Organization as a Closed POD during a public health emergency, Organization would not be considered a Closed POD. If Organization is not considered a Closed POD by the City, then Organization's patients, employees and employees' family would be required to attend a public/open POD operated by the DPH and not be treated as or considered to be a Closed POD, despite the existence of this Agreement.

- f. **Independent Contractors.** Organization and the City are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither Organization nor City nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.
- g. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party, and such consent will not be unreasonably withheld. No such consent will be required for assignment to an entity owned by or under common control with assignor or in connection with any acquisition of all of the assets or capital stock of a party; provided however, the assigning party will provide notice of such transaction to the other party and remain fully responsible for compliance with all of the terms of this Agreement.
- h. **Notices.** Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

CITY: City of El Paso
Attn: City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

COPY TO: City of El Paso
Department of Public Health
Attention: Director
5115 El Paso Drive
El Paso, Texas 79905

ORGANIZATION: Nazareth Living Care Center
ATTN: Joy Martinez
Nazareth Hall Nursing Center Representative
Address: 1475 Raynolds Street
El Paso, Texas 79903

- i. **Headings.** The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.
- j. **Governing Law, Jurisdiction, Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas, without regard to its principles of conflict of laws. Venue shall be located in El Paso County, Texas.
- k. **Compliance with Laws.** Organization agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, and/or local rules and regulations. In the event that applicable federal, state or local laws and regulations or applicable accrediting body standards are modified, Organization reserves

the right to notify City in writing of any modifications to the Agreement in order to remain in compliance with such law, rule or regulation.

- l. **Severability.** In the event that one or more provision(s) of this Agreement is deemed invalid, unlawful and/or unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.
- m. **Entire Contract; Counterparts.** This Agreement constitutes the entire contract between City and Organization regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

(Signatures follow on next page)

STATE OF TEXAS)
COUNTY OF EL PASO)

Agreement Regarding Mass Prophylaxis Dispensing
Closed Point of Dispensing

Signature Page

PASSED AND APPROVED this _____ day of _____, 2014.

CITY OF EL PASO

Joyce A. Wilson
City Manager

Living Care
NAZARETH ~~HALL~~ NURSING CENTER




Joy Martinez
Representative

APPROVED AS TO FORM:

Josette Flores
Assistant City Attorney

APPROVED AS TO CONTENT:



Robert Resendes, MBA, MT, CLS
Director, Department of Public Health