

10/29 (9)

**Christine Joyce**

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**From:** Steve Ledoux  
**Sent:** Tuesday, October 16, 2012 2:19 PM  
**To:** Christine Joyce  
**Subject:** FW: Acton.GenFD: Westford EMS Contract  
**Attachments:** Acton-Westford EMS Services Contract (A0168511).PDF

Please place this on the 10/29 agenda under "Selectmen's Business"

Steven L Ledoux  
Town Manager  
472 Main Street  
Acton, MA 01720  
Telephone (978) 929-6611

When writing or corresponding, please be aware that the Secretary of State has determined that most email is a public record and, therefore, may not be kept confidential.

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**From:** Nina Pickering Cook [<mailto:npickeringcook@AndersonKreiger.com>]  
**Sent:** Tuesday, October 16, 2012 2:12 PM  
**To:** Patrick Futterer; Steve Ledoux  
**Cc:** Stephen Anderson  
**Subject:** Acton.GenFD: Westford EMS Contract

All:

I just got word from Westford's counsel that they have tentatively approved our draft of the Westford EMS Contract without any changes. I have provided them with an execution copy that will be presented to their Board of Selectmen at their next meeting.

Steve: Likewise, the attached version should be presented to Acton's BOS for signature as soon as there is space on the agenda. The contract can be signed in counterparts, so we do not need to wait for Westford's signed copy before Acton can sign. I will, however, provide everyone with a fully executed version as soon as I receive them.

Thank you both for your help on this and let me know if you have any questions,  
Nina

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Nina L. Pickering-Cook

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# **AGREEMENT FOR PARAMEDIC INTERCEPT SERVICES**

**Between the Town of Westford**

**dba**

**Westford Ambulance Service**

**and**

**Town of Acton**

Pursuant to M.G.L. c. 40, § 4A, this Agreement for Paramedic Intercept Services is entered into between the Town of Westford, acting as Westford Ambulance Service (hereinafter referred to as “Westford Ambulance Service”) and the Town of Acton (hereinafter referred to as “Transport Agency”) with reference to the following recitals:

## **RECITALS**

1. Westford Ambulance Service is licensed as a provider of advanced life support services (ALS Services) that employ certified paramedics to provide such ALS services.
2. From time to time, Transport Agency or an agency that dispatches emergency medical services for the Transport Agency will request that the Westford Ambulance Service provide paramedic intercept services to augment the EMT-Basic (EMT-B) or EMT-Intermediate (EMT-I) services provided by the Transport Agency. The delivery of such ALS Services as specified in this agreement shall be referred to as Paramedic Intercept Services.
3. The Transport Agency desires that the Westford Ambulance Service perform, and the Westford Ambulance Service is willing to perform, Paramedic Intercept Services pursuant to the terms and conditions of this agreement.

## **AGREEMENT**

### **1. Paramedic Intercept Services**

- A. Upon request by the transport agency and subject to the availability of its resources and the other terms and conditions hereof, “Paramedic Intercept Services” as referred to herein shall consist of Westford Ambulance Service delivering a paramedic to the scene of an incident or to a rendezvous point as is reasonable, and the rendering of such ALS Services as the paramedic may deem necessary or appropriate, subject to the applicable medical control. The Transport Agency recognizes that the Westford Ambulance Service cannot guarantee immediate response in every instance and that nothing in this Agreement binds the Westford Ambulance Service to do so. Westford Ambulance Service does agree that it will respond to the Transport Agency’s request for assistance to the best of its ability consistent with the forgoing and will not accord the Transport Agency’s request any lesser priority than requests for service from others.

- B. In providing Paramedic Intercept Services, Westford Ambulance Service may collect Identifying Information, as defined by the Town of Acton's Identity Theft Prevention and Detection and Red Flags Compliance Policy ("Acton Plan") a copy of which is attached hereto. Westford Ambulance Service shall comply with the Acton Plan in connection with all services it provides to the Transport Agency, or such equivalent or stricter plan governing the Westford Ambulance Service in force and effect throughout this Agreement, a copy of which shall be provided to the Transport Agency and appended hereto.

## **2. Services Rendered and Costs**

- A. Westford Ambulance Service shall bill the Transport Agency for all Paramedic Intercept Services rendered during each service call for a flat fee of two-hundred and seventy five Dollars (\$275). This fee will only be paid by the Transport Agency to the Westford Fire Department after receipt of reimbursement from any insurance company and/or individual as the case may be. Payment shall be made by the Transport Agency to the Westford Ambulance Service within thirty (30) days of receipt of reimbursement for services.
- B. Transport Agency may bill any and all insurance companies or patients covered thereby for ALS Services rendered by Westford Ambulance Service in accordance with all applicable local, state and federal rules and regulations and the rules of the applicable Medicare Program. The Transport Agency shall be solely responsible for compliance with such rules and regulations in the creation and submission of claims. The Westford Ambulance Service shall provide Transport Agency such information and paperwork as is reasonable and customary for these purposes. Except to the extent that any error in billing to a Medicare Program is caused by the fault of Westford Fire Department, the Westford Ambulance Service shall have no responsibility or liability to Transport Agency or any Medicare Program or Medicare Program Patient arising from claims submitted by Transport Agency to the Medicare Program. To the extent permitted by law and with the exception described above Transport Agency agrees to indemnify and hold Westford Ambulance Service harmless from and against any and all costs and expenses, including reasonable attorney's fees arising from claims the Transport Agency submits to the Medicare Program.

## **3. Limitation of Liability and Indemnification**

- A. Westford Ambulance Service obligations hereunder shall be subject to the availability of qualified paramedic personal, supplies and transportation, as determined by the Westford Ambulance Service in its reasonable judgment in light of other actual and anticipated needs for its services. In the event the Westford Ambulance Service determines that it lacks qualified paramedic personnel or transportation to deliver such personnel to the scene of an incident or lacks supplies required for Paramedic Intercept Services, it shall have no responsibility or liability to the Transport Agency,

the patient or any third party, other than to immediately notify the Transport Agency of Westford Ambulance Services' inability to respond.

- B. To the extent permitted by law, and subject to the limit on liability in M.G.L. c. 258, § 2, Transport Agency shall indemnify and defend Westford Ambulance Service from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of Transport Agency's breach of this Agreement or the negligence or misconduct of Transport Agency, or Transport Agency's agents or employees.
- C. To the extent permitted by law, and subject to the limit on liability in M.G.L. c. 258, § 2, Westford Ambulance Service shall indemnify and defend Transport Agency from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of Westford Ambulance Service's breach of this Agreement or the negligence or misconduct of Westford Ambulance Service or Westford Ambulance Service's agents or employees.

#### **4. Insurance**

At all times during the term of this agreement both parties shall maintain general and professional liability insurance coverage provided by companies licensed to do business in the Commonwealth of Massachusetts in the minimum amount of one million dollars (\$1,000,000) per occurrence, and three million dollars (\$3,000,000) in the aggregate, providing coverage for the negligent acts or omissions for such party and its employees and agents.

#### **5. Term and Termination**

- A. The initial term of this Agreement shall be two year(s), commencing as of the date of the last signature appearing below. Thereafter, this Agreement shall automatically renew for subsequent one-year periods unless terminated as set forth below.
- B. This Agreement may be terminated by either party without cause upon thirty (30) days written notice as provided in this Agreement.
- C. This Agreement may be terminated for cause in the event of material breach by the other party and failure to cure such breach within ten (10) days of written notice specifying such breach.
- D. This Agreement may be terminated immediately upon notice by either party upon the occurrence of any of the following to the other party.
  - 1. Loss of its license of Medicare or Medicaid certification.
  - 2. Material diminution or loss of the insurance required.

3. Filing of a voluntary petition in bankruptcy or an assignment for the benefit of creditors or other steps seeking relief from creditors under any federal or state bankruptcy laws.

E. In the event of termination of this agreement, Westford Ambulance Service shall have no further obligation to provide Paramedic Intercept Services to the Transport Agency.

**6. No Influence on Referrals**

It is not the intent of either party to this agreement that any remuneration, benefit, or privilege provided for under this agreement shall influence or in any way be based on the referral or recommended referral by either party of patients to the other party or its affiliated providers, if any, or the purchasing, leasing, or ordering of any services other than specific services described in this agreement. Any payments specified in this agreement are consistent with what the parties reasonably believe to be the fair market value for the services provided to the Transport Agency.

**7. Miscellaneous Provisions**

A. The parties mutually agree that Westford Ambulance Service is and at all times shall be acting as an independent contractor. Transport Agency shall neither have nor exercise any control or direction over the methods by which Westford Ambulance Service and its employees shall perform their duties arising hereunder.

B. All notices, requests, demands or other communications under this agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the second day after mailing if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed.

If to Westford Ambulance Service:  
Westford Ambulance Service  
51 Main St.  
Westford, MA 01886

If to Transport Agency:  
Steven Ledoux, Acton Town Manager  
Town Hall  
472 Main Street  
Acton, MA 01720

Any party may change their address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

- C. This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this agreement.
- D. This agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral and written agreements with respect thereto, and no amendment shall be valid unless it is documented in a written instrument duly executed by both parties.
- E. Nothing in this agreement shall be construed to confer upon any person, any remedy or claim as third-party beneficiaries or otherwise.
- F. No waiver of any breach of any provision of this agreement shall be deemed a waiver of any preceding or succeeding breach. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligation or acts.
- G. Neither party may assign this agreement or any rights hereunder, nor may they delegate any of the duties to be performed hereunder without the prior written consent of the other party.
- H. Each individual executing this agreement on behalf of any entity, which is a party to this agreement, represents and warrants that he or she is duly authorized to execute and deliver this agreement on behalf of said entity. This agreement may be signed in counterparts.

[INTENTIONALLY LEFT BLANK]

Wherefore the parties have set their hands and seals to this Agreement on the dates set forth below:

<p>TOWN OF WESTFORD, Westford Ambulance Service, By its Board of Selectmen</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <p>Date: _____, 2012</p>	<p>TOWN OF ACTON, Transport Agency, By its Board of Selectmen</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <p>Date: _____, 2012</p>
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