

DRAFT MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT, is made and entered into this ___ day of _____, 2019, by and between the **TOWN OF EAST LYME** (hereinafter the "Town") and the **EAST LYME AMBULANCE FUND, INC.** (hereinafter the "Ambulance Fund") (collectively referred to as the "parties").

WITNESSETH:

WHEREAS, the Town desires to hire two (2) Firefighter/Emergency Medical Technicians (EMT) (hereinafter the "Overnight Firefighters"), effective July 1, 2019 (the "Effective Date") to work a Sunday evening – Friday morning schedule, nine (9) hours a day for a 45-hour work week. Their shifts would begin at 10:00 p.m. and end at 7:00 a.m. One firefighter will be staffed in the Niantic Fire Department and the second will be staffed in the Flanders Fire Department; and

WHEREAS, the employment of the Overnight Firefighters shall be governed by an agreement between the Town and the International Association of Fire Fighters, Local 3377 (hereinafter the "Union");

WHEREAS, it is in the Ambulance Fund's best interest that said shifts be staffed in order to better provide ambulance service to the Town; and

WHEREAS, to facilitate the hiring of the Overnight Firefighters, the Ambulance Fund has agreed to contribute funds to the Town as set forth herein to offset the salaries and benefits payable to the Town's two least senior firefighters/EMTs and reduce the burden to the Town of the additional costs of the Overnight Firefighters; and

NOW, THEREFORE, the Town and the Ambulance Fund hereby agree to the following:

I. Definitions:

"Collective Bargaining Agreement" shall mean the then effective collective bargaining agreement between the Town and the Union.

"Fund Paid Benefits" shall mean the benefits payable by the Town to the Town's two least senior firefighters/EMTs as set forth in the Collective Bargaining Agreement, including any FICA/Medicare, retirement, worker's compensation, life insurance, disability insurance, insurance, uniform allowances, and longevity benefits except that the Fund Paid Benefits shall not include the Town Paid Benefits.

"Initial Term" shall mean the Effective Date through June 30, 2024.

"Salary" shall mean the base salary and overtime payable by the Town to the Town's two least senior firefighters/EMTs as set forth in the Collective Bargaining Agreement.

"Term" shall mean the Initial Term and any Extended Term pursuant to Section 5.

"Town Paid Benefits" shall mean the health insurance benefits payable to the Town's two least senior firefighters/EMTs as set forth in the Collective Bargaining Agreement.

2. The Town shall maintain the Overnight Firefighter positions during the Term.
3. In each year during the Term, provided the Overnight Firefighter positions are maintained by the Town, the Ambulance Fund shall make payments to the Town in an amount equal to the Fund Paid Benefits and Salary.
4. The Town agrees that it will pay the Town Paid Benefits, along with any salary and benefits of the Overnight Firefighters (if different from the two least senior firefighter/EMTs) during the Term.
5. The Term of this Agreement shall automatically renew upon the expiration of the Initial Term for successive five year terms (each, an "Extended Term") unless either party gives written notice to the other party no later than ninety (90) days prior to the expiration of the then current Term. After the expiration of the Term, the parties acknowledge that the Ambulance Fund shall have no further obligation to contribute towards the salaries, benefits or other costs of the two least senior firefighters/EMTs nor the Overnight Firefighters. The provisions of this Agreement may be amended or waived only with the prior written consent of the Town and the Ambulance Fund, and no course of conduct or failure or delay in enforcing the provisions of this Agreement shall affect the validity, binding effect, or enforceability of this Agreement.
6. During the Term, the Town of East Lyme shall bill the East Lyme Ambulance Fund quarterly, in arrears, for the payment of the amounts due under Section 3 hereof. Each quarter shall be based on the Town of East Lyme's calendar budget year. Invoices shall be sent in October, January, April and July. The East Lyme Ambulance Fund shall have up to 45 days from receipt of the invoice to send payment. The final fiscal year payment, billed in July, must be paid in full and received by the Town on or before August 30th each year. This payment schedule shall continue throughout the length of the agreed upon understanding.
7. Notwithstanding anything herein to the contrary, in the event that the reimbursement rates for ambulance transport are reduced by more than twenty percent (20%) from the current levels, the Ambulance Fund may terminate this Agreement without penalty upon thirty (30) days' prior written notice to the Town.
8. It is agreed that neither the Overnight Firefighters nor the two least senior firefighters/EMTs will be an employee, servant, agent, partner, or joint venturer of the Ambulance Fund. The Town acknowledges and agrees that the Town shall be responsible for filing all tax returns, tax declarations, and tax schedules, and for the withholding of all the taxes required, when due, with respect to the Overnight Firefighters and the two least senior firefighters/EMTs.
9. This Memorandum of Agreement between the Town and Ambulance Fund contains the full and complete understanding between the parties. No other promises or agreements shall be binding or of any effect unless they are signed by the parties.
10. This Agreement shall be governed by and construed in accordance with the domestic laws of the state of Connecticut without giving effect to any choice or conflict of law provision or rule (whether of the state of Connecticut or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Connecticut.

11. Any controversy, claim, or dispute arising out of or relating to any provision of this Agreement (collectively, a "Dispute") shall be venued exclusively in the state courts located in New London County, Connecticut or the District Court for the District of Connecticut. Such courts are together referred to as the "Exclusive Venues" for litigation. The Parties agree not to institute any litigation except in the Exclusive Venues and further agree that specific enforcement of this covenant with respect to Exclusive Venues may be awarded to the parties by means of all available legal or equitable remedies, including, without limitation, a temporary restraining order. The parties hereby submit to the personal jurisdiction of the Exclusive Venues, and waive any defense of inconvenient forum to the maintenance of any action or proceeding to be brought. THE PARTIES HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO A JURY TRIAL IN ANY LITIGATION BROUGHT IN ACCORDANCE WITH THIS AGREEMENT.
12. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement.
13. This Agreement may be executed by facsimile or other electronic signature and/or in separate counterparts, each of which is deemed to be an original and all of which taken together constitute one and the same agreement.
14. This Memorandum of Agreement is subject to approval by the Town of East Lyme and the East Lyme Ambulance Fund, Inc.

Board of Selectmen for the
Town of East Lyme

East Lyme Ambulance Fund, Inc.
By its President

Date

Date