

Memorandum of Understanding

Between

The Town of West Warwick

and

Local 1104, International Association of Firefighters AFL-CIO

This Memorandum of Understanding (“MOU”) is made and entered into this ____ day of June 2014 by and between the Town of West Warwick (the “Town”) and Local 1104, International Association of Firefighters AFL-CIO (the “Fire Union”).

WHEREAS, the Town and the Fire Union are parties to that certain collective bargaining agreement for the period July 1, 2011 to June 30, 2013 (hereinafter the “CBA”);

WHEREAS, in or about 1957, the Town as created the Pension Plan of the Town of West Warwick, for the Fire Union and the International Brotherhood of Police Officers Local 312, which pension plan has been amended and restated on numerous occasions including, without limitation, in July 1999 and October 2000, and further amended by ordinances of the Town (hereinafter collectively the “Pension Plan”);

WHEREAS, the CBA and the Pension Plan provide certain pension and other benefits to firefighters and civilian members of the Fire Union (hereinafter the “Member” and “Members”);

WHEREAS, as more particularly documented September 24, 2012 Retirement Plan Design report of NYHART (the “NYHART Report”), and the Town’s October 3, 2012 Proposed Corrective Action Report (the “Town Report”), the Town’s finances and its pension system are under tremendous strain and are in crisis;

WHEREAS, the NYHART Report and the Town Report make numerous recommendations for changes in the pension and other benefits for the Members of the Fire Union, among others, under the CBA and the Pension Plan; and

WHEREAS, the Town and the Fire Union have negotiated in good faith in an effort to reach a mutually satisfactory agreement in respect of the proposed changes in pension and other benefits.

NOW, THEREFORE, the parties hereto, hereby agree as follows:

1. The parties hereto agree that they shall each submit to their respective constituencies and/or superiors and recommend for approval, the agreement contained herein.
2. This agreement and the parties obligations contained herein shall be conditioned on the following:
 - (a) An affirmative vote of the Fire Union and the Town Council approving the agreement contained herein;
 - (b) the entry of a mutually acceptable Consent Judgment, in a friendly suit to be hereinafter commenced by the Fire Union against the Town, containing the terms and conditions of this agreement;
 - (c) as to the collective bargaining agreement for the period commencing July 1, 2014 through and including June 30, 2019 as hereinafter identified, the enactment of legislation by the Rhode Island General Assembly authorizing collective bargaining agreements with a duration of five years;
 - (d) the incorporation of the terms hereof into a mutually acceptable collective bargaining agreements for the six month period commencing January 1,

2014 through and including June 30, 2014, and the sixty month period commencing July 1, 2014 through and including June 30, 2019;

- (e) the passage of amendments to the Town's pension ordinance and the Pension Plan of the town of West Warwick (for Police and Fire) to effectuate the applicable terms hereof;
- (f) a mutual determination made in good faith by the parties hereto, that the Fire Union and the other public unions of the Town are each bearing their proportionate responsibility for resolution of the Town's critical financial status; and
- (g) the dismissal with prejudice of the appeal pending in the Rhode Island Supreme Court (Case No. M-13-146) of the Decision and Order dated August 29, 2013 in Town of West Warwick v. International Association of Firefighters, Local 1104, (C.A. No. 12-4218) (Superior Court for Providence County).

3. Except as expressly amended hereby, the terms and provisions of the CBA and the Pension Plan remain extant and in full force and effect until the next collective bargaining agreement is entered into by way of negotiated settlement or arbitration which shall also incorporate the terms of this Memorandum of Understanding.

4. For purposes of clarity, the phrase Basic Annual Salary as used herein and in the CBA shall mean the total of annual salary, longevity payment, holiday pay, and payments for EMTC pay as provided in Article XIX Section 3 of the CBA, and this definition shall apply to all individuals who were Members of the collective bargaining unit as of September 1, 2011, such

that all such Members shall receive the pension benefit due to them retroactively effective to October 1, 2013 and thereafter.

5. (a) Effective July 1, 2014 and thereafter, the retirement age for all current firefighter Members shall be the earlier of: (i) age 62; or (ii) age 50 and 25 years of service. Four (4) current firefighter Members shall be exempt from this paragraph: Donald Johnson, Mark D'Andrea, Stephen Harter and William Singleton (the "Exempt Members"). The Exempt Members shall continue to be permitted to retire in accordance with the prevailing CBA and Pension Plan such that they will be permitted to retire at the earlier of age 62.5 or 20 years of service. In addition, up to and including June 30, 2014, any firefighter Member who was eligible to retire based on years of service as of the date the West Warwick Town Council approves this MOU, may elect to retire under the current Pension Plan in which case such Member shall be subject to the terms and conditions of that certain Final and Consent Judgment in West Warwick Public Employees Retiree Coalition, et al. v. The Town of West Warwick, et al., Superior Court for Kent County, Rhode Island, C.A. No. KC-14-0424;

(b) Effective July 1, 2014, for any firefighter Members hired on or after such date, the retirement age shall be the earlier of: (i) 62; or (ii) age 55 and 25 years of service;

(c) Effective July 1, 2014 and thereafter, a civilian Member may retire after Ten Years of service but shall not begin receiving his or her pension until such Member attains the age of Sixty (60) years; and

(d) The Twenty-Three (23) year anniversary requirement contained in Article XVII Section 5 E of the CBA shall be and is hereby eliminated.

6. Effective upon approval of this MOU by the West Warwick Town Council and thereafter, Member contributions to the Pension Plan under the CBA shall be increased from

Nine Percent (9%) to Eleven Percent (11%) of Basic Annual Salary. Effective July 1, 2014, Members contributions to the Pension Plan shall increase to Twelve Percent (12%) of Basic Annual Salary. Effective July 1, 2015, Member contributions to the Pension Plan shall increase to Thirteen Percent (13%) of Basic Annual Salary, after which Member contributions shall remain at Thirteen Percent (13%). All Members shall continue to make contributions to the Pension Plan while employed by the Town for all years of employment.

7. (a) Effective July 1, 2014 and thereafter, Members who retire on occupational disability prior to twenty-five (25) years of employment shall receive two-thirds (2/3) of their Basic Annual Salary. This benefit will continue for the period of such disability or, if sooner, until the date upon which the Member would have completed twenty-five (25) years of service and qualified for service retirement had the Member rendered service without interruption, at which time, the Member shall receive an occupational disability benefit of Fifty-Five Percent (55%) of the Basic Annual Salary of active employees who then occupy the same position as the Member did upon retirement. The COLA for such Members shall be treated in accordance with paragraph 9 herein.

(b) Effective July 1, 2014 and thereafter, Members who retire on occupational disability on or after Twenty-Five (25) Years of employment shall receive Two-Thirds (2/3) of their Basic Annual Salary. This benefit will continue for the lifetime of the Member.

8. Effective July 1, 2014 and thereafter, Members who retire on a non-occupational disability prior to Ten (10) Years of employment, shall receive Twenty-Five Percent (25%) of Basic Annual Salary. Effective July 1, 2014, Members who retire on non-occupational disability on or after Ten (10) Years of employment shall receive Twenty-Five (25%) of Basic Annual Salary, an increase of Two and Two-Tenths Percent (2.20%) of Basic Annual Salary for each

year of employment between Ten (10) and Twenty-Five (25) Years, and an increase of Three Percent (3%) of Basic Annual Salary for each year of employment between Twenty-Five (25) and Thirty (30) years.

9. (a) Effective July 1, 2014 and thereafter, the annual cost-of-living adjustment (“COLA”) due to each firefighter Member on account of the pension benefit as provided for in the CBA shall be suspended commencing on each firefighter Member’s retirement date until the earlier of: (i) Seven (7) years from the firefighter Member’s retirement date; (ii) or the date such firefighter Member attains the age of 62 and one-half years. When it resumes, the COLA shall be calculated at an annual rate of Two and 25/100 Percent (2.25%), simple interest, for a period of Fifteen (15) years.

(b) Effective July 1, 2014 and thereafter, the COLA due to each widow of a deceased firefighter Member shall be suspended until the earlier of: (i) Seven (7) Years from the deceased firefighter Member’s retirement; (ii) Seven (7) Years from the deceased firefighter Member’s death; or (iii) the date on which such deceased firefighter Member would have attained the age of 62.5 years. When it resumes, the COLA shall be calculated at an annual rate of Two and 25/100 Percent (2.25%) simple interest for a period of Fifteen (15) Years.

(c) Effective July 1, 2014 and thereafter, the COLA due to each civilian Member shall be suspended until the earlier of: (i) Seven (7) Years from the civilian Member’s pension commencement date; or (ii) the date such civilian Member attains the age of 67 years. When it resumes, the COLA shall be calculated at an annual rate of Two and 25/100 Percent (2.25%) simple interest for a period of Fifteen (15) Years.

(d) Effective July 1, 2014 and thereafter, the COLA due to each widow of a deceased civilian Member shall be suspended until the earlier of: (i) Seven (7) Years from the deceased

civilian Member's pension commencement date; (ii) Seven (7) Years from the deceased civilian Member's death; or (iii) the date on which such deceased civilian Member would have attained the age of Sixty-Seven (67) years. When it resumes, the COLA shall be calculated at an annual rate of Two and 25/100 Percent (2.25%) simple interest for a period of Fifteen (15) Years.

10. Effective July 1, 2014 and thereafter, an eligible Member's pension benefit shall be calculated based upon the average of the highest three (3) consecutive years of the Member's Basic Annual Salary.

11. Effective July 1, 2014 and thereafter, an eligible Member's pension benefit shall be earned and accrued at an initial annual rate of Two and Two-Tenths Percent (2.20%) per year for the first twenty-five (25) years of employment, and at an annual rate of Three Percent (3%) per year for twenty-five (25) to thirty (30) years of employment. In all events, the maximum annual pension benefit shall be Seventy Percent (70%) of the pension amount as hereinbefore calculated. Further, the aforesaid earn and accrual rate shall apply to both past and future employment.

12. Effective July 1, 2014, Members of the Fire Union shall be offered and shall select one of two alternative HealthMate, Coast-to-Coast insurance benefit plans attached hereto as Exhibit A (hereinafter the "\$500 Deductible Health Plan"), and Exhibit B (hereinafter the "HSA Plan").

13. Effective July 1, 2014, health insurance benefits for Members who retire shall be as follows:

A) No employee who is retired shall be eligible to receive health care benefits unless and until such employee is eligible to receive his or her pension.

B) Upon achieving eligibility for health care benefits, a retired employee shall receive the same health care benefit as such employee was receiving immediately prior to retirement.

C) The Town's obligation hereunder to provide health care benefits to each retiree shall be suspended if the retiree is receiving the same health care coverage as an employee of some employer other than the Town, and shall cease when the retiree becomes eligible for Medicare. In the latter case, the Town shall provide to each retiree a supplement to Medicare in the form of Plan 65 or its equivalent.

D) The parties agree that any Member hired prior to July 1, 2008 who retires on or after July 1, 2011 on the \$500 Deductible Health Plan will contribute four percent (4%) of his/her annual retirement benefit toward health insurance.

14. With respect to vacations, Article VIII, Section 2 of the Collective Bargaining Agreement shall provide:

(a) All Members of the West Warwick Fire Department hired prior to July 1, 2011, shall be entitled to the following annual amount of paid vacation:

With one (1) year of service and less than five (5) years	13 working days
With five (5) years of service and less than ten (10) years	18 working days
With ten (10) years of service and less than fifteen (15) years	21 working days
With fifteen (15) years of service or more	24 working days

(b) All Members of the West Warwick Fire Department hired on or after July 1, 2011, shall be entitled to the following annual amount of paid vacations:

With one (1) year of service and less than five (5) years	10 working days
With five (5) years of service and less than ten (10) years	15 working days
With ten (10) years of service and less than fifteen (15) years	18 working days

With fifteen (15) years of service or more

21 working days

15. With respect to personal days, Article XVI, Section 3 of the Collective Bargaining Agreement shall provide for the addition of one (1) additional personal day per year for each employee of the Fire Department with one (1) or more years of service.

16. With respect to accumulated sick leave on retirement or termination, Article VIII, Section D of the Collective Bargaining Agreement shall provide for an additional twenty (20) days for each of the scales.

17. The Town shall fund 100% of the Pension Plan's annual required contribution as determined by the Town's actuary in accordance with the Town's Five (5) Year funding improvement plan as submitted to and approved by the State of Rhode Island.

18. In the event that a receiver is appointed for the Town or if the Town files any insolvency proceedings, and in either event there is an attempt to change any of the terms of the Consent Judgment, then the Fire Union shall have the option to have the Consent Judgment vacated and then be able to contend that all previous pension benefits (including, but not limited to, COLAs) that were in place on or before January 1, 2013 be available to all Members of the Fire Union with full reservation by the Town of its rights, claims and defenses in any such case, including, without limitation, the right to reject, impair or otherwise modify any executing or other form of contract under applicable state or federal law; except that the defenses of laches or the statute of limitations shall not be available to the Town.

19. The Town also agrees that in the event that it files any insolvency proceedings, then any plan with respect to the pension benefits until there is a formal Plan of Adjustment, shall be governed by the Consent Judgment. In addition, and to the extent permitted by law, the

Consent Judgment shall be deemed to be the Plan of Adjustment with respect to pension benefits during any insolvency proceedings.

20. The parties understand that this MOU is not intended to be a binding agreement, but instead is intended to serve as an outline of the eventual Consent Judgment contemplated to be entered. In that context, an agreement must be arrived at between the parties as to all aspects set forth herein.

TOWN OF WEST WARWICK

**LOCAL 1104, INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS AFL-
CIO**

By: *Fredrick J. Presley*
Its: *Town Manager*
Elaine L. Mansour
Frank Partridge
V- President Local 1104

By: *John J. Partridge*
Its: *President*