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**APPLETON FIRE DEPARTMENT
700 N. DREW STREET
APPLETON, WI 54911**

MEMORANDUM

To: Alderperson Kathy Plank, Chair, Finance Committee
Alderperson Kyle Lobner, Chair Safety and Licensing
Members of the Common Council

From: Eugene R Reece, Jr., Deputy Fire Chief

Date: December 3, 2015

Re: Request to Donate CPAT Equipment to Fox Valley Technical College Fire Protection Program

In 2002, the fire department purchased equipment for conducting the Candidate Physical Ability Test (CPAT) as developed cooperatively between the International Association of Fire Chiefs (IAFC) and the International Association of Firefighters (IAFF). This physical testing process was used for evaluating the physical abilities for candidates applying for the position of firefighter. This testing process was adopted by the department based on the fact that the CPAT test was approved as a physical testing means by the federal government. Between 2002 and 2010, the department conducted the CPAT testing process using internal qualified proctors. This internal process was very labor intensive and costly to the department, but it was worth the protection garnered by an approved physical testing process for firefighter candidates.

In 2010, we were approached by the Fox Valley Technical College (FVTC) with a proposition for participating in the regional hiring process being conducted by the college. This process utilized the same testing components of our internal process. In evaluating participation, we quickly determined a significant cost saving to the city by having FVTC conduct the testing components of our hiring process. As part of our participation, we loaned our CPAT equipment to FVTC on an annual basis with an agreement between FVTC and the department to waive the \$1000 FVTC regional hiring process participation fee.

With the opening of the new Public Safety Training Center, FVTC has approached the department looking to purchase the CPAT equipment. They now utilize the equipment not only for the regional hiring process, but also for their entry level firefighter education curriculum. In lieu of a direct purchase, the department has worked out the attached agreement that would provide for the donation of the equipment to the college with the continued waiver of fee until 2021. This timeframe was developed based on a fair equipment depreciation schedule. This donation and agreement is a win-win for FVTC and the department. Should FVTC stop conducting the regional testing process prior to 2021, the equipment ownership would revert back to the department.

If you have any questions or need additional clarification, please feel free to contact me at 832-5810.

"Appleton Fire Department....serving with P.R.I.D.E."

AGREEMENT
CITY OF APPLETON FIRE DEPARTMENT –
FOX VALLEY TECHNICAL COLLEGE

1.0 WHEREAS, the City of Appleton Fire Department (Appleton) currently owns and maintains the necessary equipment to perform testing in the Candidate Physical Ability Test (CPAT).

2.0 WHEREAS, the Fox Valley Technical College does not own a similar equipment to use for conducting the CPAT.

3.0 WHEREAS, Fox Valley Technical College would like the opportunity to use Appleton's CPAT equipment and, in the interest of intergovernmental cooperation, Appleton wishes to grant Fox Valley Technical College access to this resource subject to certain conditions.

4.0 NOW THEREFORE, the parties agree as follows:

5.0 Appleton shall donate to Fox Valley Technical College the CPAT Equipment for the purpose of conducting the CPAT test under the License held between the International Association of Firefighter (IAFF) and Fox Valley Technical College.

6.0 Fox Valley Technical College understands and agrees that Appleton is donating the equipment to Fox Valley Technical College, and Appleton makes absolutely no certification, warranty or representation regarding its viability for CPAT testing. Any and all CPAT decisions shall be made solely by Fox Valley Technical College representatives.

7.0 INDEMNIFICATION. THE FOX VALLEY TECHNICAL COLLEGE AND ITS OFFICERS, OFFICIALS, EMPLOYEES AND AGENTS, FOR GOOD AND VALUABLE CONSIDERATION, DO HEREBY AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY OF APPLETON AND ITS OFFICERS, OFFICIALS, EMPLOYEES AND AGENTS, FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, DAMAGE, EXPENSE, COSTS (INCLUDING ATTORNEY'S FEES) THAT MAY ARISE IN ANY WAY OUT OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, FOX VALLEY TECHNICAL COLLEGE'S USE OF THE APPLETON FIRE DEPARTMENT'S CPAT EQUIPMENT, UNLESS CAUSED BY THE WILLFUL ACTS, OMISSIONS OR GROSS NEGLIGENCE OF APPLETON, ITS OFFICERS, OFFICIALS, EMPLOYEES AND AGENTS.

NOTHING CONTAINED IN THIS AGREEMENT IS INTENDED AS A WAIVER OF THE CITY TO RELY UPON THE IMMUNITIES OR LIMITATIONS TO LIABILITY AS MAY BE CONTAINED WITHIN WISCONSIN STATUTES §893.80 OR OTHER APPLICABLE LAW.

8.0 For additional consideration, Fox Valley Technical College agrees to waive Appleton's participation fee of One Thousand and 00/100 Dollars (\$1000.00), for its participation in the Fox Valley Technical College Regional Hiring Process through the completion of the 2021 testing year. The Appleton Fire Department is responsible for all other fees associated with participating in the annual process. Should the Appleton Fire Department decide not to participate in the annual testing process, the equipment remains the property of Fox Valley Technical College and the annual fee is lost by the Appleton Fire Department for the year of non-participation. Upon completion of the 2021 testing cycle all ownership and rights of the CPAT equipment belongs solely to Fox Valley Technical College.

9.0 Fox Valley Technical College agrees to return said equipment to the Appleton Fire Department should Fox Valley Technical College cease conducting a regional hiring process prior to 2021. Fox Valley Technical College agrees that if Appleton's equipment is damaged during Fox Valley Technical College CPAT process, it will be repaired or replaced at Fox Valley Technical College expense and at no cost to Appleton. Repairs shall only be made by an entity authorized to do so by the equipment manufacturer, or an entity of Appleton's choice. If equipment is damaged beyond repair, it shall be replaced, at Fox Valley Technical College cost, with comparable new equipment selected by Appleton.

10.0 This agreement shall be effective until the conclusion of the 2021 testing year of the Fox Valley Technical College Regional Hiring Process.

11.0 The terms, provisions, covenants, and conditions herein contained constitute the entire agreement between Appleton and Fox Valley Technical College and may not be altered, modified or amended except by a subsequent writing signed by both parties.

12.0 In the event any term, covenant, or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either Appleton or Fox Valley Technical College in the respective rights and obligations contained in the valid terms, covenants and conditions hereof.

CITY OF APPLETON

By: _____
Len Vander Wyst, Fire Chief

Approved as to form:

James P. Walsh, City Attorney

FOX VALLEY TECHNICAL COLLEGE

By: _____
Christopher Fischer, FVTC Fire Program Chair

Approved as to form:

Printed Name: _____

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