

RESOLUTION 2016-08

A RESOLUTION OF THE CITY OF NEW PORT RICHEY, FLORIDA DECLARING CERTAIN PERSONAL PROPERTY SURPLUS; PROVIDING FOR THE DISPOSITION OF SUCH PROPERTY; PROVIDING FOR TERMS AND CONDITIONS OF THE DISPOSITION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City is the owner of that certain canine “Cuda”; and

WHEREAS, under Florida law, canines are personal property; and

WHEREAS, the City has the sole discretion to classify as surplus any of its personal property that is obsolete or the continued use of which is uneconomical or inefficient; and

WHEREAS, Cuda is a seven-year-old German Shepherd trained specifically for patrol work under Corporal Justin Case (Handler); and

WHEREAS, Handler has been recently promoted, and his new job responsibilities prevent him from continuing as a Handler; and

WHEREAS, in addition to Cuda nearing the end of his service life, trainers have advised that Cuda may not respond to a new Handler, may become despondent, and shut down; and

WHEREAS, the City desires to transfer Cuda to Handler pursuant to Section 2-168(b).

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED, THAT:

SECTION 1. That certain canine known as “Cuda” is hereby declared to be surplus property of the City.

SECTION 2. Cuda shall be transferred to Handler on the terms and conditions stated in that certain Canine Waiver, Release, and Indemnification Agreement attached hereto

as **Exhibit A** (the Agreement). The City is not classified as a "Pet Dealer" as defined and for purposes of Florida Statutes §828.29(13); therefore, the City makes no representations as to the canine's condition at or after the date of sale, and Handler shall take said property in an as-is condition. There shall be no rights to refund, return, or exchange such property and all ownership rights and responsibilities shall be transferred upon execution of the Agreement. The City shall not be considered presently or subsequently liable for any acts or actions of Handler or the property declared to be surplus by this Resolution.

SECTION 4: This Resolution shall take effect immediately upon its adoption by the City Council.

The above and foregoing Resolution was read and adopted at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 1st day of March, 2016.

(SEAL)

CITY OF NEW PORT RICHEY, FLORIDA

ATTEST

Doreen Summers, CAP-OM, CMC
City Clerk

BY: _____
Rob Marlowe
Mayor

REVIEWED AND APPROVED:

Joseph A. Poblick, City Attorney

EXHIBIT A

CANINE WAIVER, RELEASE, AND INDEMNIFICATION AGREEMENT

PURSUANT TO THAT CERTAIN RESOLUTION NO 2016-08, adopted by the City Council of the City of New Port Richey, Florida on March 1, 2016 (the "Resolution"), and in accordance with the terms and conditions of the Resolution, the City of New Port Richey, Florida, a municipal corporation (the "City") does hereby give and relinquish all right, title, and interest in and to that certain German Sheppard known as Cuda ("Canine") to Corporal Justin Case ("Handler"), and the parties hereby agree and understand:

1. That Canine has been trained in protection, attack and apprehension techniques. The City Council has declared Canine to be surplus property. Handler has requested this transfer and hereby accepts the conditions stated herein and in the Resolution.
2. Handler agrees to release, waiver, discharge, and covenants not to sue the City, its council members, mayor, officers, employees, agents, and attorneys of and from any and all liability arising from any injury caused by Canine, whether deliberate or otherwise.
3. Handler assumes full responsibility for rise of bodily injury, death, or property damages due to possession of the Canine. Handler agrees to assume liability for and indemnify, hold harmless, and defend the City, its council members, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorneys' fees in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind of nature, including claims for personal injury, property damage, relief, or loss of use, arising out of the Canine's actions after the date hereof and Handler's possession of the Canine. Handler's liability hereunder shall include all attorneys' fees and costs incurred by the City in the enforcement of this indemnification provision. The obligations contained in this provision shall survive the expiration of this agreement. Nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the City may be entitled to under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.
4. It is further understood that Handler shall be solely responsible for the proper care, kennel, veterinarian and other needs of the Canine.
5. Handler and the City agree that together with the Resolution, this release, waiver, and indemnify agreement represents the entire agreement between the parties and may not be revoked, amended, or supplemented unless agreed to in writing by both parties and approved by the City Council. This agreement shall be governed by the laws of the State of Florida and venue for any state or federal action shall lie solely in the courts in and for Pasco County, Florida. If any portion of this agreement is held to be invalid or

unenforceable by a court of competent jurisdiction, the remaining portion shall be considered separate and severable and shall not be affected thereby.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on this 1st day of March, 2016.

(SEAL)

CITY OF NEW PORT RICHEY, FLORIDA

ATTEST

Doreen Summers, CAP-OM, CMC
City Clerk

BY: _____
Rob Marlowe
Mayor

REVIEWED AND APPROVED:

Joseph A. Poblick, City Attorney

HANDLER

Corporal Justin Case