City of Carroll

Brad Burke, Chief of Police **Police Department**

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-3536 FAX: (712) 792-8088

MEMO TO: Mike Pogge-Weaver, City Manager MPW

FROM: Brad Burke, Chief of Police BB

DATE: September 6, 2017

SUBJECT: K9 contract and purchase

The Police Department has raised funds to cover the cost of purchasing a K9 and equipment necessary to outfit a vehicle through fundraising efforts. We have also met with and reviewed recommendations from outside agencies on many different providers of K9 services in the State of Iowa and surrounding states. Through this review we have decided that Canine Tactical in Chariton, IA best meets the needs of the department and provides one of the best services to law enforcement not only in our state but nationwide. Canine Tactical is currently training a dog which will be available in late fall and has reserved this dog for our department. They have provided a contract for the purchase, training, and warranty which has been reviewed by the City Attorney. Some minor changes were requested and Canine Tactical has made those changes in the contract. Additionally Canine Tactical recommends the purchase of additional gear such as an electric collar device and medical bag for the dog. Due to the differences in training and product offered for K9 programs, I request that the Council waive the City of Carroll Purchasing Policy #501 in order to best purchase a K9 that meets our needs and best serves the department. All funds used for this purchase have been fundraised and will have no impact on the budget.

RECOMMENDATION: Council consideration and approval of the contract between Canine Tactical and the Carroll Police Department, waiving City of Carroll Purchasing Policy #501, and approval of the purchase of one K9 from Canine Tactical along with the additional items (Canine Gear: Electric Collar Device and Canine Medical: Kick Bag) for a total amount of $14,514.00.

RESOLUTION NO.____

WHEREAS: The City Council of Carroll, Iowa meeting in regular session on the 11th day of September, 2017 has adopted this Resolution, and;

WHEREAS: The City Council agrees to the terms outlined in the contract with the Carroll Police Department and Canine Tactical for the purchase and training of one K9.

WHEREAS: The City Council recognizes that this purchase is for a specific item and that the waiver of the City of Carroll Purchasing Policy #501 is necessary to ensure that the best purchase is made for a K9 in the amount of $13,600.00

WHEREAS: Purchasing additional recommended equipment from Canine Tactical for use with the K9 unit including electric collar device and canine medical bag in the amount of $914.00 is necessary.

THEREFORE: BE IT RESOVLED, that the City of Carroll, by this Resolution of the City Council, waives the City of Carroll Purchasing Policy #501, and;

THEREFORE: BE IT FURTHER RESOLVED, that the City of Carroll, by this Resolution of the City Council, approves the contract with Canine Tactical and the purchase of a K9 and additional equipment for a total amount of $14,514.00

Passed and approved by the City Council of the City of Carroll, IA, this 11th day of September, 2017.

CITY OF CARROLL, IOWA

_____
Eric Jensen, Mayor

ATTEST: _____
Laura Schaefer, City Clerk

LAW ENFORCEMENT CANINE SALES AGREEMENT

This Sales Agreement (hereafter "Agreement") is entered into on 8August2017, (date) by and between Canine Tactical, LLC ("CTI") and Carrol Police Department [agency/department], officer Justin Ferrin [designated handler] ("Handler") (agency/department and Handler collectively "Buyer"), (Buyer and CT collectively, the "Parties").

WHEREAS Buyer wishes to purchase and CT wishes to sell the following canine:

✔ male ____ female; nickname/identification: Eudoris®3 / 839801013;

dam:_____; sire: _____; DOB: 12January2017 ("K9").

NOW THEREFORE, in consideration of the above recitals and the mutual covenants, promises, and releases contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Purchase Price. Upon the execution of this Agreement by all Parties, Buyer will deliver to CT $ 13,600.00 (the "Sale Price") to be paid as follows:

a. Deposit. Buyer will deliver Five Thousand Dollars ($5,000.00) to CT upon execution of this Agreement (the "Deposit"). Buyer expressly acknowledges and agrees that the Deposit will be used for the care, feeding, boarding, socialization, and initial training of K9 and is therefore **NON-REFUNDABLE** for any reason. Should Buyer decide not to purchase K9, **THERE WILL BE NO REFUND OF DEPOSIT** **Initial** _____

VOID

b. Balance. Buyer will deliver to CT the balance of $_____ upon delivery of K9. Buyer will be responsible to pay any applicable sales tax.

The Parties agree that the total amount of the Sale Price becomes fixed upon execution of the Agreement by all Parties. The amount of the Sale Price is mutually-acceptable and freely negotiated by all Parties, and is intended to fairly represent the value of K9 and Seller's services rendered and costs incurred in K9's training and preparation. **Buyer understands that all sales are final.**

2. Delivery. CT will deliver K9 when, in CT's sole discretion, K9 is ready to be placed. Depending upon Buyer's intended use and service of K9, delivery will generally take place between twelve (12) and twenty-four (24) months of age. Delivery of K9 will include a health check and a handler kit. In no event will delivery occur before Buyer completes the initial placement training as set forth in below.

3. Training. In no event will delivery occur before Buyer completes initial placement training to consist of a five- (5-) week course conducted with K9 and Handler under the direction of CT. Included with the Sale Price, CT additionally provides eight (8) hours of training per month for twelve (12) consecutive months after Delivery to begin the first month after completion of initial placement training by Handler. An additional eight (8) hours of training per month for a total of sixteen (16) hours monthly is highly recommended. Each additional eight- (8-) hour training session is offered at $150.00 per session. Buyer agrees not to engage in training of K9 with anyone other than CT without the prior, expressed, written consent of CT, which will not be unreasonably withheld in the event Buyer seeks to utilize the services of a suitable, qualified trainer as determined in CT's sole discretion.

4. Warranty.

a. Health Guarantee. CT guarantees the genetic integrity of K9 from hip or elbow dysplasia and all matters set forth in the health check for one (1) year from delivery of K9 with the following limitations. The warranty will be voided if Buyer:

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i. Spays or neuters K9 within the warranty period; or
ii. Transfers K9 without the prior expressed written consent of CT.

Presuming Buyer meets the above condition, any K9 shown to be genetically defective based on records from a certified veterinarian of Buyer as confirmed by a veterinarian of CT's choosing will be replaced at no charge to Buyer. CT will provide a replacement canine according to availability at CT's earliest opportunity. Buyer expressly acknowledges and agrees that in order to enforce this warranty Buyer must tender K9 back to CT.

b. Performance Guarantee. CT provides performance guarantee for one (1) year from the end of the initial placement training. A Handler is required to complete sixteen (16) hours of training monthly in order to keep department certification current. Provided Handler continues to complete monthly ongoing training of two eight- (8-) hour training sessions with CT to be billed at $150.00 per session, CT provides an ongoing performance guarantee. Barring unforseen health issues or injuries, this performance guarantee, will remain in effect for five (5) years (the estimated service duration for K9).

If Buyer returns K9 for any other reason, including but not limited to failed job performance, Buyer is eligible to receive a refund based on the presumption of five (5) working years of K9 service in the maximum amount as follows:

(Sale Price - Deposit)x[(5 years - duration of placement from Delivery to return)/5 years]

5. Breeding. Buyer agrees it will not breed K9 except with the prior express written consent of CT, which will not be unreasonable withheld.

6. Forfeiture. Buyer will forfeit K9 back to CT upon demand upon the occurrence of:

a. Unauthorized breeding of K9;
b. Mistreatment or abuse of K9 as determined in CT's sole discretion; or
c. Misrepresentation of the use by Buyer or services to be provided by K9.
d. Moral turpitude of Buyer or Handler as determined in CT's sole discretion;
e. Unsafe or unstable living or working environment as determined in CT's sole discretion;

Buyer agrees to pay any and all costs incurred by CT associated with recovery of K9 upon forfeiture under this provision. In the event of unauthorized breeding, any and all resultant canines will be the sole property of CT. In addition to other remedies as may be available under applicable law, the parties acknowledge that specific performance or injunctive relief shall be available and proper in the event that CT invokes this forfeiture provision. CT will not be required to post a bond. **Initial** _____

7. Media. Handler hereby consents and authorizes CT to take photographs or motion pictures of Handler and K9, or to produce video, audio, digital content, or other types of media that may capture Handler's name, voice, or image ("Materials"). Handler authorizes CT to copyright the Materials, and to use, reuse, copy, publish, display, exhibit, reproduce, license to third party, and distribute the Materials in any educational or promotional materials or other forms of media, which may include, but are not limited to social media, blog posts, articles, magazines, brochures, websites, or publications, electronic or otherwise, without notifying me. Handler agrees Handler is participating on a voluntary basis and will not receive any payment from CT for signing this release or as a result of any publication of Materials. Handler agrees that CT may identify Handler by name. **Initial** _____
Handler agrees that CT may identify K9 by name. **Initial** _____

*****If Handler does not wish to be identified by name, cross out applicable sentence, and initial.*****

8. Community. The Parties acknowledge that the community breeding or utilizing law enforcement canine services is small and closely connected by virtue of common interest and notwithstanding geographical diversity and lack of proximity.

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9. Nondisclosure of Confidential Information. The Parties acknowledge that CT has developed proprietary training and breeding methods. In fulfilling this Agreement, CT may provide Buyer with information relevant or necessary thereto, or that may assist in the course and scope of this Agreement (the "Information"). Buyer agrees: (i) to receive Information in confidence; (ii) to treat Information as embodying confidential, proprietary, copyrighted, or trade secreted information; (iii) not to disclose Information to any third party or recipients who are not specifically bound by a confidential agreement barring further disclosure, unless said Information was previously known to or in the, possession of Buyer from a source independent of CT. Buyer agrees to use their best efforts to prevent any prohibited use or disclosure of Information by any other person.

10. Waiver of Liability. In consideration of the receipt of K9 and any and all training or services associated therewith, including but not limited to specialized training for use in patrol and other law enforcement applications, which necessarily involves high risk duty, activities, and performance demands, Buyer acknowledges and agrees that Buyer and K9 will be participating in activities that may involve risk of serious injury, permanent disability, property damage, or death. These risks may result not only from Buyer's or K9's own actions, inactions, or negligence, but also from the action, inactions, or negligence of CT or others. There may be other risks not known to Buyer, or not reasonably foreseeable. Buyer assumes all of the foregoing risks and accepts personal responsibly for any and all damages following any such injury, permanent disability, property damage, or death to Buyer, K9, or third parties. Buyer releases, waives, discharges, and covenants not to sue CT, its affiliates, officers, directors, employees, independent contractors, agents, heirs, administrators, or executors from demands, losses, or damages resulting from injury, permanent disability, property damage, or death to Buyer, K9, or third parties caused or alleged to be caused to Buyer, K9, or third parties in whole or in part by the negligence of any person or otherwise, for Buyer and, if any, Buyer's spouse, heirs, successors, and assigns. Buyer agrees that Buyer is solely responsible for any and all medical or veterinary costs incurred as a result of the aforementioned activities.

11. Indemnity. Buyer will indemnify, defend, and hold harmless CT, its affiliates, officers, directors, employees, independent contractors, agents, or assigns for any act performed or omission made in good faith under this Agreement and from any claim, loss, expense, liability, action, or damage resulting from or relating to any act or omission of Buyer or K9, including without limitation reasonable fees and expenses of attorneys engaged by them in defense of such act or omission or initiated to enforce the indemnification provisions herein together with other reasonable costs and expenses of litigation and appeal. Buyer shall indemnify CT to the fullest extent permitted by applicable state laws as currently enacted or as enacted in the future.

12. Assumption of Risk/Acceptance of Responsibility. BUYER EXPRESSLY ACKNOWLEDGES AND AGREES THAT: (1) BUYER UNDERSTANDS THAT K9 IS A LIVING, BREATHING, THINKING CREATURE CAPABLE OF MAKING ITS OWN DECISIONS; (2) BUYER UNDERSTANDS THE NATURE OF THE K9 SOLD IN THIS AGREEMENT, THE INTENSITY OF THE TRAINING REQUIRED BY BUYER AND K9 AND THE CONSEQUENCES AND GRAVITY THEREOF; (3) BUYER BEARS ANY AND ALL RESPONSIBILITY FOR K9 DURING AND AFTER TRAINING AND SERVICES PROVIDED FOR IN THIS AGREEMENT; (4) AND BUYER BEARS ANY AND ALL RESPONSIBILITY FOR ANY AND ALL SERVICES PROVIDED TO BUYER BY COURT. **Initial _____**

13. Duration. Buyer expressly acknowledges and agrees that Sections 6, 7, 8, 9, 10, 11, and 12 to this Agreement will survive indefinitely. **Initial _____**

14. Notice. Any notice permitted or required hereunder will be in writing and deemed given on the date of receipt as evidenced by the return receipt or delivery confirmation. No party may refuse to accept any such correspondence. Notice to CT shall be sent to Heather M. Hendrix, THE HENDRIX LAW OFFICE, PLLC, 70 S. Val Vista Drive, Suite A3-418, Gilbert, AZ 85296, with a copy via email to: mylawyer@hendrixlaw.com. Notice to Buyer shall be sent to:

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_____ _____

_____,

with a copy via email to: _____@_____.

15. Counsel. Each of the Parties hereby acknowledges the receipt of legal counsel regarding this Agreement prior to its execution.

16. Counterparts. This Agreement may be executed in any number of counterparts, which when taken together shall constitute one Agreement.

17. Entire Agreement. This Agreement constitutes the final, complete, entire, and integrated agreement of the Parties and supersedes any and all prior or contemporaneous agreements, promises, representations, negotiations, statements, or understandings.

18. Modification. No modification or amendment to this Agreement shall be effective unless in writing and executed by the Parties.

19. Succession. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assignees, except that Buyer may not assign, delegate, or transfer any of its rights or obligations under this Agreement without the prior expressed written consent of CT.

20. Strict Construction. This Agreement is intended to express the mutual interests of the Parties, and irrespective of the identity of the party or counsel or representative who prepared this document, no rule of strict construction shall be applied against any party. Therefore, any ambiguity contained herein shall not be construed against any party.

21. Waiver. The failure, delay, or omission on the part of CT to exercise any right, remedy, power, or privilege under this Agreement shall not operate as a waiver thereof nor be construed as a waiver of such right, remedy, power, or privilege with respect to any other occurrence.

22. Governing law, jurisdiction, and venue. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Iowa. The Parties consent to the jurisdiction of the courts of the State of Iowa and venue therein in any action or proceeding which may be brought in connection with this Agreement.

23. Disputes. In the event any dispute arises relating in any way to this Agreement, and legal action is instituted to enforce any of the provisions of this Agreement including but not limited to disputes relating to an alleged breach or interpretation of this Agreement, the prevailing party shall be entitled to recoup its reasonable attorneys' fees and costs.

24. Severability. The invalidity or unenforceability of any provision of this Agreement pursuant to any applicable law or court of competent jurisdiction shall not affect the validity or enforceability of the remaining provisions hereof, but this Agreement shall be construed as if not containing the provision held invalid or unenforceable in the jurisdiction in which so held.

25. Further Assurances. After executing this Agreement, the Parties shall do all such further acts and shall execute, acknowledge, and deliver all such instruments, documents, and assurances as may be necessary to perfect or evidence consummation of the transactions contemplated hereby.

BY SIGNING THIS AGREEMENT BELOW I CERTIFY THAT I HAVE READ THE FOREGOING AGREEMENT IN ITS ENTIRETY, THAT I FULLY UNDERSTAND ALL THE WORDS, LANGUAGE, TERMS, AND CONDITIONS CONTAINED HEREIN, AND THAT I AGREE TO BE BOUND BY ALL THE TERMS AND CONDITIONS SET FORTH HEREIN. IN WITNESS HEREOF, the Parties hereto have executed this Agreement on the dates indicated below.

CANINE TACTICAL, LLC

Joshua Morton, Manager	1September2017 Date	Buyer	Date

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_____ _____

Canine Tactical
41402 State Highway 14
Chariton, IA 50049 US
(641) 203-4141
joshuamorton@caninetactical.com
www.caninetactical.com

BILL TO
Carrol Police Department
112 E. 5th St.
Carroll, IA 51401

SHIP TO
Carrol Police Department
112 E. 5th St.
Carroll, IA 51401

INVOICE #	DATE	TOTAL DUE	ENCLOSED
	08/08/2017	$14,514.00	

ACTIVITY	QUANTITY	RATE	AMOUNT
Canine:Canine Eudoris®	1	7,500.00	7,500.00
Handler Kit Handler Kit	1	956.75	956.75
Services 5 Wk (Multi - Purpose) LE Handler Course	1	5,143.25	5,143.25
			Subtotal: 13,600.00
Canine Gear:Electric Collar Device Not Included in Quote (Optional)	1	450.00	450.00
Canine Medical:Kick Bag Not Included in Quote (Optional)	1	464.00	464.00
	BALANCE DUE		**$14,514.00**