CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: **DATE: March 21, 2022**

Resolution - Termination of 28E Agreement between the cities of West Des Moines, Clive, and Urbandale for Combined and Consolidated Animal Control Services

FINANCIAL IMPACT: Undetermined.

BACKGROUND: In July 2014, the cities of Clive, Urbandale, and West Des Moines entered into a 28E Agreement ("Agreement") for the purpose of jointly owning and operating an animal control services center and shelter and to jointly provide animal control services across the three cities. Specifically, three objectives were stated: (1) jointly construct and staff an animal control shelter; (2) jointly provide animal licensing services; and (3) jointly provide animal control services.

Of these three objectives, two are not currently being met and the remaining objective continues to be difficult for the City of West Des Moines to achieve. The first objective never came to fruition and instead the cities, operating as WestPet, eventually entered into separate 28E Agreements with Furry Friends Refuge to provide animal control sheltering services. The second objective was achieved for a time but is no longer in operation – the joint program for licensing was coordinated by West Des Moines staff but over the past two years the cities have agreed to utilize separate programs to better accommodate each city's individual needs. The third objective of providing for consolidated animal control services has been difficult for the parties to fulfill.

Following discussion with representatives from each member city, and pursuant to the Agreement, on December 20, 2021 the West Des Moines City Council authorized that notice be given by December 31, 2021 to Clive and Urbandale regarding the intent of West Des Moines to terminate the Agreement no later than June 30, 2023. A full accounting of the existing assets of Westpet as of November 23, 2021 was also given to each city.

Subsequent to the notice, and as allowed by the Agreement, Clive and Urbandale mutually agreed to terminate the Agreement on June 30, 2022, rather than on June 30, 2023. The attached Termination of Chapter 28E Agreement by and between the City of Clive, City of Urbandale and City of West Des Moines, Iowa terminates the 28E Agreement and sets forth the terms regarding asset disposition.

OUTSTANDING ISSUES (if any): None

RECOMMENDATION: Approve the Agreement and Resolution Terminating the 28E Agreement between West Des Moines, Clive & Urbandale for Combined and Consolidated Animal Control Services

Lead Staff Member: Richard J. Scieszinski, City Attorney RJS

STAFF REVIEWS

Department Director	Chris Scott, Chief of Police
Appropriations/Finance	Tim Stiles, Finance Director
Legal	
Agenda Acceptance	AP

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Safety		
Date Reviewed	12/03/21		
Recommendation	Yes		

RESOLUTION TERMINATING CHAPTER 28E AGREEMENT BY AND BETWEEN THE CITY OF CLIVE, CITY OF URBANDALE AND CITY OF WEST DES MOINES, IOWA

WHEREAS, on June 24, 2014 the Cities of Clive, Urbandale and West Des Moines entered into an Intergovernmental Agreement for the Ownership and Operation of a Consolidated Animal Shelter for Animal Welfare and Control Services pursuant to Iowa Code Chapter 28E; and

WHEREAS, the Agreement provides for its termination upon mutual agreement of the parties; and

WHEREAS, following proper notice as provided by the Agreement, the parties have mutually agreed to terminate the Agreement, effective June 30, 2022.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

1. Termination of Chapter 28E Agreement by and Between the City of Clive, City of Urbandale and City of West Des Moines, Iowa is approved, effective June 30, 2022 ("Termination Agreement").

2. The City of West Des Moines agrees to abide by the terms and conditions set forth in the Termination Agreement regarding the City's rights and responsibilities under the Intergovernmental Agreement for the Ownership and Operation of a Consolidated Animal Shelter for Animal Welfare and Control Services between the Cities of Clive, Urbandale and West Des Moines dated June 24, 2014.

3. The Mayor is authorized to sign the Termination Agreement and the City Clerk is directed to attest to the Mayor's signature.

4. Proper filing with the Iowa Secretary of State shall occur as set forth in the Termination Agreement.

PASSED AND APPROVED on the 21st day of March, 2022.

_____
Russ Trimble, Mayor

Attest: _____
Ryan T. Jacobson, City Clerk

Return To: City Clerk, City of Urbandale, 3600 86th Street, Urbandale, IA 50233
Prepared by: Robert H. Laden, 8410 Hickman Rd., Ste. 102, Clive, IA 50325

TERMINATION OF CHAPTER 28E AGREEMENT BY AND BETWEEN THE CITY OF CLIVE, CITY OF URBANDALE, AND CITY OF WEST DES MOINES, IOWA

This TERMINATION of Chapter 28E Agreement ("28E Agreement") by and between the City of Clive, Iowa ("Clive"), the City of Urbandale, Iowa ("Urbandale") and the City of West Des Moines, Iowa ("West Des Moines") made as of the date set forth below:

WHEREAS, the Cities of Clive, Urbandale and West Des Moines are municipal corporations of the State of Iowa; and

WHEREAS, on July 1, 2014, Clive, Urbandale, and West Des Moines, entered into an Intergovernmental Agreement for the Ownership and Operation of a Consolidated Animal Shelter for Animal Welfare and Control Services pursuant to Iowa Code Chapter 28E, ("28E Agreement"); and

WHEREAS, the initial term of the 28E Agreement was until June 30, 2019. Pursuant to the 28E Agreement, thereafter, the 28E Agreement was to continue until terminated by an Authority Member by giving written notice to the other parties not later than December 31 of any given year, whereupon this 28E Agreement shall then terminate with respect to the notice-giving Authority Member(s) eighteen (18) months thereafter as of June 30;

WHEREAS, Clive, Urbandale and West Moines mutually agree to terminate the 28E Agreement effective June 30, 2022.

NOW, THEREFORE, in consideration of the mutual undertakings hereby provided, Clive, Urbandale and West Des Moines hereby agree as follows:

1. The 28E Agreement shall terminate at 11:59:59 p.m. on June 30, 2022. This Termination

Agreement shall be enforceable upon its approval and execution by all parties and its filing with the Secretary of State, but its effective date shall be 11:59:59 p.m. on June 30, 2022. Urbandale shall cause the executed Termination Agreement to be recorded and filed and shall send Clive and West Des Moines a copy with the recording and filing data shown. Each such copy shall be considered an original of this Agreement.

2. The cities of Clive, Urbandale, and West Des Moines shall do the following:

(A) Clive and Urbandale shall forfeit all claims against the existing WestPet equipment and vehicles;

(B) All three cities agree to fulfill their budgetary requirements for FY21/22. Ending on June 30, 2022;

(C) Beginning July 1, 2022, each city will be responsible for their own animal control services. This would include but not be limited to licensing, collection of stray animals, boarding of animals, generating any statistical reports desired, issuance of citations and all liability for such activities;

(D) Regardless of this termination, any liabilities that occurred prior to the termination effective date shall be paid pursuant to the 28E Agreement.

(E) Any equipment replacements funds existing at the time of termination of the 28E Agreement shall be divided pursuant to the prior 28E agreement.

CITY OF CLIVE, IOWA

_____
Mayor

_____
City Clerk

ATTEST:

CITY OF WEST DES MOINES, IOWA

_____
Mayor

_____
City Clerk

ATTEST:

CITY OF URBANDALE, IOWA

_____
Mayor, Robert Andeweg

_____
City Clerk, Nicole Lunders

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this ___ day of _____, 2022, before me, a Notary Public in and for the State of Iowa, personally appeared _____ and _____, to me personally known, and, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Clive, Iowa, that no seal has been procured by the entity; that the instrument was signed on behalf of the entity by authority of its City Council as contained in the resolution adopted by the City Council on the ____ day of _____, 2022, and that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the City of Clive, Iowa, by it and by them voluntarily executed.

_____

Notary Public in and for the State of Iowa

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this ___ day of _____, 2022, before me, a Notary Public in and for the State of Iowa, personally appeared _____ and _____, to me personally known, and, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of West Des Moines, Iowa, that no seal has been procured by the entity; that the instrument was signed on behalf of the entity by authority of its City Council as contained in the resolution adopted by the City Council on the ____ day of _____, 2022, and that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the City of West Des Moines, Iowa, by it and by them voluntarily executed.

_____

Notary Public in and for the State of Iowa

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this ___ day of _____, 2022, before me, a Notary Public in and for the State of Iowa, personally appeared _____ and _____, to me personally known, and, who being by me duly sworn, did say that they are the Mayor and City Clerk of the City of Urbandale, Iowa, that no seal has been procured by the entity; that the instrument was signed on behalf of the entity by authority of its City Council as contained in the resolution adopted by the City Council on the ____ day of _____, 2022, and that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the City of Urbandale, Iowa, by it and by them voluntarily executed.

_____

Notary Public in and for the State of Iowa