CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Annexation Agreement - Proposed Annexation Moratorium and Subdivision Review Agreement between the City of West Des Moines and the City of Cumming

DATE: October 4, 2021

RESOLUTION: Approval of Agreement

FINANCIAL IMPACT: None

BACKGROUND: On October 14, 2013, the City of West Des Moines and the City of Cumming entered into an annexation moratorium agreement establishing potential boundaries where each city would be able to grow and develop. The maximum term for such agreement by State Law is 10 years.

The City of Cumming recently requested to renew the agreement even though it does not expire until October 14, 2023. Staff has been working with representatives of the City of Cumming to draft a new agreement. That process has now been concluded and the draft map of the annexation line is attached as Attachment II, Exhibit A. There are no changes being proposed to the currently approved boundary line between the two cities. This item had originally been scheduled for the City Council meeting of September 7, 2021, but because of a noticing error it had to be rescheduled.

The City of Cumming will approve the agreement at a Public Hearing on October 11, 2021. The agreement does not go into effect until it is approved by both City Councils and filed with the City Development Board.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Adoption of the resolution approving the Annexation Moratorium and Subdivision Review Agreement with the City of Cumming.

Lead Staff Member: Clyde Evans, AICP, Director

STAFF REVIEWS:

Department Director	Clyde Evans, Community and Economic Development Director
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	September 3, 2021
Letter sent to surrounding property owners	N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	N/A		
Date Reviewed			
Recommendation	Yes	No ☐	Split ☐

\ATTACHMENTS:

Attachment I -	Resolution
Exhibit A -	Notice of Public Hearing
Attachment II -	Annexation Moratorium Agreement
Exhibit A -	Legal Description
Exhibit B-	Map of Annexation Boundary Line

RESOLUTION APPROVING ANNEXATION MORATORIUM AND SUBDIVISION REVIEW AGREEMENT WITH THE CITY OF CUMMING, IOWA

WHEREAS, representatives of the cities of West Des Moines and Cumming have negotiated the terms of an Annexation Moratorium Agreement ("Agreement") which establishes a defined boundary beyond which each city has agreed not to annex land for the ten year term of the Agreement; and,

WHEREAS, the City of West Des Moines desires to affirm the terms and conditions and approve the Annexation Moratorium Agreement with the City of Cumming for a ten-year term pursuant to Iowa Code §368.4; and,

WHEREAS, in addition, the cities of West Des Moines and Cumming have each established their authority to exercise their right under Iowa Code §354.9 to review subdivision plats and plats of survey for divisions or subdivisions in the unincorporated area within two miles of each city's respective boundary; and,

WHEREAS, each city desires to establish a boundary between the areas over which it exercises its extraterritorial jurisdiction to review subdivision plats and plats of survey, so that each city will review only those subdivision plats and plats of survey of land located within its planned future growth areas; and,

WHEREAS, pursuant to Code of Iowa section 368.4, a notice containing a description of the annexation moratorium area and the date and time of this public hearing, attached hereto as Exhibit "A", has been made; and,

WHEREAS, this being the time and place for a public hearing regarding approval of the *Annexation Moratorium and Subdivision Review Agreement;* and,

WHEREAS, the City Council of the City of West Des Moines, Iowa finds that approval of the Agreement is in the best interest of the City.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of West Des Moines, Iowa, as follows:

1. Pursuant to Code of Iowa section 368.4, publication of notice regarding approval of the *Annexation Moratorium and Subdivision Review Agreement* has been properly made.

2. The public hearing regarding approval of the Agreement is hereby closed.

3. The proposed *Annexation Moratorium and Subdivision Review Agreement* is hereby approved.

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

5. Upon execution of the Agreement, the City Clerk shall forward one duplicate original to the City of Cumming for approval and execution, and upon full execution by both Cities, the City Clerk shall provide an original Agreement to the Office of Iowa Secretary of State and to the Office of the Warren County Recorder and the Office of the Madison County Recorder for recording.

PASSED AND ADOPTED this 4th day of October 2021.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson, City Clerk

NOTICE OF PUBLIC HEARINGS

Notice is hereby given that the City Councils of the cities of West Des Moines and Cumming will each hold public hearings to consider a proposed Annexation Moratorium Agreement ("Agreement") between the cities. The purpose of the Agreement is to allow Cumming and West Des Moines to plan for their orderly future growth and for the extension of public infrastructure necessary to serve that growth. The territory under discussion is the unincorporated area between the two cities. The Agreement, which will be in effect for ten years, would establish a line of demarcation between the two cities, which neither may cross through annexation.

Copies of the Agreement are available in the respective City Clerks' office.

The City Council of the City of Cumming, Iowa shall consider approval of the Agreement at a public hearing to be held at 7:00 p.m., on October 11th, 2021, electronically via Zoom. Meeting ID: 864 9156 8057 and Passcode: 821268.

The City Council of the City of West Des Moines will consider approval of the Agreement at a public hearing to be held at 5:35 p.m., on October 4, 2021, in the Council Chambers of the City of West Des Moines' City Hall, located at 4200 Mills Civic Parkway, West Des Moines, Iowa.

At the above designated times and places of the public hearing, persons may express their opinion on the proposed Annexation Moratorium Agreement. Opinions in writing may be submitted to the City Clerk's office within the respective city before the time of the public hearing. Comments may be submitted to the Community Development Department for the City of West Des Moines at PO Box 65320, West Des Moines, Iowa 50265-0320; or to the City of Cumming at PO Box 100, Cumming, Iowa 50061.

It is the responsibility of the individual with a disability requiring accommodations to inform the City Clerk's Office, at least 48 hours in advance, that certain accommodations are requested to allow full participation in the City Council meeting. Please call 515-222-3603 for the City of West Des Moines, or 515-981-9214 for the City of Cumming to have accommodations provided.

CITY OF CUMMING, IOWA, and
CITY OF WEST DES MOINES, IOWA

Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

SPACE ABOVE THIS LINE FOR RECORDER

Annexation Moratorium and Subdivision Review Agreement pursuant to Iowa Code Sections 368 and 28E between the City of Cumming, Iowa and West Des Moines, Iowa

This Annexation Moratorium and Subdivision Review Agreement (hereinafter "Agreement") is made and entered into as of the 11th of October, 2021, by and between the **City of Cumming**, an Iowa municipal corporation (hereinafter "Cumming") and the **City of West Des Moines**, an Iowa municipal corporation (hereinafter "West Des Moines").

WHEREAS, pursuant to Iowa Code Chapter 368, the cities of Cumming and West Des Moines have negotiated the terms of this Annexation Moratorium Agreement for the purpose of establishing boundaries wherein each city would agree that it would not annex land beyond the established boundaries for the ten year term of the Agreement; and,

WHEREAS, in addition to the terms and conditions of the Annexation Moratorium Agreement, and under the authority of Iowa Code Chapter 28E, the cities of Cumming and West Des Moines desire to establish a boundary between the areas over which each city will exercise its extraterritorial jurisdiction pursuant to Iowa Code §354.9 to review subdivision plats and plats of survey so that each city will review only those subdivision plats and plats of survey of land located within each city's planned future growth areas or areas potentially affecting the adjacent city; and,

WHEREAS, the cities of Cumming and West Des Moines have approved this Agreement after notice and public hearing as provided by Iowa Code Section 368.4.

NOW, THEREFORE, the parties to this Agreement hereby covenant and agree as follows:

ARTICLE 1. GENERAL

Section 1. Purpose.

A. The purpose of this Agreement is to allow the cities of Cumming and West Des Moines to each plan for its orderly future growth. By establishing a boundary for the future growth of each city, both cities can plan for the orderly future extension of public infrastructure and services to serve each city's future growth area. Without such an agreement, each city's investment of scarce resources in public infrastructure and services to planned future growth areas may be lost if the area planned to be served by such investment becomes part of the other city.

B. A further purpose of this Agreement is to provide for but avoid duplication in the review of plats of unincorporated land located within two miles of both cities. It is the intent of the two cities that such plats be reviewed only by Warren County or Madison County as the case may be and by the city in whose planning area the land is located or which adjacent city that potentially may be affected.

Section 2. Term.

The term of this Agreement shall commence upon the date this Agreement is approved by the City Council of the City of West Des Moines, or the date this Agreement is approved by the City Council of the City of Cumming, whichever occurs later. This Agreement shall thereafter remain in full force and effect for a term of ten years from the date of its approval but may be amended or terminated prior to the expiration of the ten year term upon mutual agreement of the cities.

Section 3. No Separate Legal Entity or Property Disposition.

No separate legal entity is created by this Agreement and no personal or real property shall be acquired by either city regarding this Agreement.

Section 4. Administrator.

The Community and Economic Development Director of the City of West Des Moines shall be the Administrator of this Agreement.

ARTICLE 2. ANNEXATION MORATORIUM AGREEMENT

Section 1. Annexation Boundary Line.

The cities of Cumming and West Des Moines hereby agree upon and approve the establishment of an Annexation Boundary Line legally described as attached hereto as Exhibit "A",

such Annexation Boundary Line being generally as shown on the map attached hereto as Exhibit "B".

Section 2. Annexation Limitations.

The City of Cumming agrees for the term of this Agreement to refrain from annexing any land which is located north and west of the Annexation Boundary Line described above. The City of West Des Moines agrees for the term of this Agreement to refrain from annexing any land which is located south and east of the Annexation Boundary Line described above. Pursuant to Iowa Code §368.4 and succeeding legislation, the City Development Board shall dismiss any petition, plan or application for a boundary adjustment which would cause either city to annex land in violation of this section.

ARTICLE 3. REVIEW OF PLATS

Section 1. Plat Review Authority.

A. Subdivision plats and plats of survey for land located north and west of the Annexation Boundary Line in the portion of unincorporated Warren County or Madison County as the case may be within two miles of the boundaries of the city of West Des Moines shall be subject to the extraterritorial jurisdiction of the City of West Des Moines pursuant to Iowa Code §354.9. The City of Cumming hereby waives all right to review and approve any subdivision plats and plats of survey within such area.

B. Subdivision plats and plats of survey for land located south and east of the Annexation Boundary Line in the portion of unincorporated Warren County or Madison County as the case may be within two miles of the boundaries of the city of Cumming shall be subject to the extraterritorial jurisdiction of the City of Cumming pursuant to Iowa Code §354.9. The City of West Des Moines hereby waives all right to review and approve any subdivision plats and plats of survey within such area.

C. Both cities agree that they will use their best efforts to ensure that land uses in areas within their review jurisdiction and which are adjacent to the opposing city's corporate boundary or review jurisdiction are compatible with the opposing city's adjacent land uses.

ARTICLE 4. FILING AND RECORDING

Pursuant to Iowa Code §368.4, this Agreement and the Resolution approving the Agreement from each City shall be filed with the City Development Board within ten days of the later date of approval by the approving cities. Pursuant to Iowa Code §28E.8, this Agreement shall also be filed with the Iowa Secretary of State and recorded in the Office of the Warren County Recorder and in the Office of the Madison County Recorder.

IN WITNESS WHEREOF, the City of West Des Moines and the City of Cumming have caused this Agreement to be executed by their respective Mayors, with attestation by their respective City Clerks.

CITY OF WEST DES MOINES, IOWA

ATTEST:

By: _____
Steven K. Gaer, Mayor

By: _____
Ryan T. Jacobson, City Clerk

APPROVED AS TO FORM:

_____
Richard J. Scieszinski
City Attorney

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 4th day of October, 2021, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared STEVEN K. GAER and RYAN T. JACOBSON, to me personally known, and who, being by me duly sworn did state that they are the Mayor and City Clerk, respectively, of City of West Des Moines, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of City of West Des Moines, Iowa, by authority of its City Council, as contained in the Resolution adopted by City Council under Roll Call No. _____ of City Council on the 4th day of October, 2021, and that Steven K. Gaer and Ryan T. Jacobson acknowledged the execution of the instrument to be the voluntary act and deed of City of West Des Moines, Iowa, by it and by them voluntarily executed.

_____
Notary Public in the State of Iowa

CITY OF CUMMING, IOWA

ATTEST:

By:_____
Tom Becker, Mayor

By:_____
Angie Ritchie, City Clerk

APPROVED AS TO FORM:

_____

STATE OF IOWA)
) ss:
COUNTY OF WARREN)

On this 11th day of October, 2021, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared Tom Becker and Angie Ritchie, to me personally known, and who, being by me duly sworn did state that they are the Mayor and City Clerk, respectively, of City of Cumming, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of City of Cumming, Iowa, by authority of its City Council, as contained in the Resolution adopted by City Council in the Resolution No. _____ adopted by City Council on the 11th day of October, 2021, and that Tom Becker and Angie Ritchie acknowledged the execution of the instrument to be the voluntary act and deed of City of Cumming, Iowa, by it and by them voluntarily executed.

Exhibits:
A- Legal Description
B- Map of Annexation Boundary Line

EXHIBIT A

LEGAL DESCRIPTION
OF ANNEXATION BOUNDARY LINE
CITIES OF CUMMING AND WEST DES MOINES, IOWA

A LINE IN SECTIONS 7 AND 8 IN TOWNSHIP 77 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WARREN COUNTY, IOWA, AND SECTIONS 11, 12, 14, 15, 22 AND 27 IN TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA, DELINEATES AN ANNEXATION MORATORIUM LINE BETWEEN THE CITIES OF CUMMING, IOWA, AND WEST DES MOINES, IOWA, THIS LINE IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A LINE BEGINNING AT THE WEST DES MOINES CORPORATE LIMITS WITH SAID POINT BEING LOCATED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 77 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WARREN COUNTY, IOWA;

THENCE WEST, ALONG THE NORTH LINE OF SAID SECTION 8, TO THE NORTHEAST CORNER OF SECTION 7, TOWNSHIP 77 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WARREN COUNTY, IOWA;

THENCE SOUTH, ALONG THE EAST LINE OF SAID SECTION 7, TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7, TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 7, TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA;

THENCE SOUTH, ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12, TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 12;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 12, TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 12;

THENCE WEST, ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12, TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA;

THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 11, TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 11;

THENCE WEST, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 11, TO THE WEST LINE OF THE EAST TWENTY (20) ACRES OF THE SOUTHWEST QUARTER OF SAID SECTION 11;

THENCE SOUTH, ALONG THE WEST LINE OF THE EAST TWENTY (20) ACRES OF THE SOUTHWEST QUARTER OF SAID SECTION 11, TO THE NORTH LINE OF SECTION 14, TOWNSHIP 77 NORTH, RANGE 26 WEST FO THE FIFTH PRINCIPAL MERIDIAN;

THENCE WEST, ALONG THE NORTH LINE OF SAID SECTION 14, TO THE NORTHEAST CORNER OF SECTION 15, TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN;

THENCE WEST, ALONG THE NORTH LINE OF SAID SECTION 15, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 15;

THENCE SOUTH, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 15, TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 15

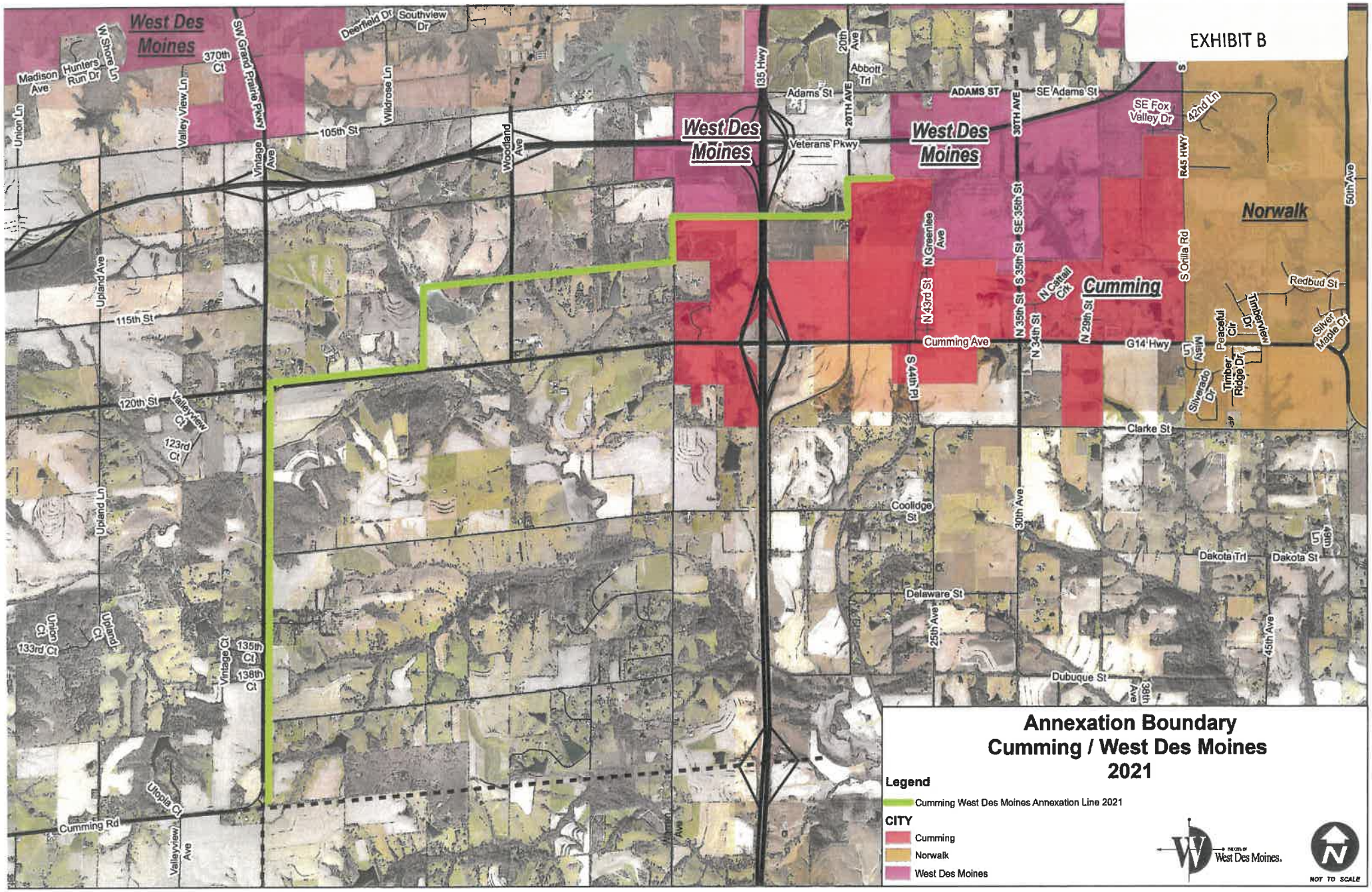
THENCE SOUTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 15, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 77 NORTH RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN;

THENCE SOUTH, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 22;

THENCE SOUTH, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 22, TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 77 NORTH RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN;

THENCE SOUTH, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27, WITH SAID POINT BEING THE TERMINATION POINT OF THE LINE.

EXHIBIT B



Annexation Boundary
Cumming / West Des Moines
2021

Legend

Cumming West Des Moines Annexation Line 2021

CITY

- Cumming
- Norwalk
- West Des Moines

THE CITY OF West Des Moines.

NOT TO SCALE