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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

CHEK

Pre-Annexation Agreement

Type of Document

PREPARER INFORMATION: (name, address, phone number)

JD Dalton  
2521 128th Street  
Windsor, IA 50323

515-229-9078

TAXPAYER INFORMATION: (name and mailing address)

N/A

RETURN DOCUMENT TO: (name and mailing address)

JD Dalton  
2521 128th Street  
Windsor, IA 50323

GRANTOR: (name)

See page 3.

GRANTEE: (name)

See page 3.

LEGAL DESCRIPTION: (if applicable)

See page: 4-5

Document or instrument of associated documents previously recorded:  
(if applicable)

## PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (hereinafter referred to as ("Agreement")) is entered into by and between the City of Cumming, Iowa, a municipal corporation (hereinafter referred to as the "City") and by K Bar S Partnership No. 1 (hereinafter referred to as "Owner"), being the owner of the following described real estate to wit:

See Exhibit A

(hereinafter referred to as "Subject Property").

### WITNESSETH:

WHEREAS, the Subject Property is presently located entirely within Madison County, Iowa, and outside the corporate limits of any other city; and,

WHEREAS, the Owner has requested the approval of a plat of survey and the City of Cumming, Iowa, has consented to and approved said plat of survey for the above described real estate;

WHEREAS, Owner is making application for voluntary annexation into the City of Cumming, Iowa this date. Said application for voluntary annexation to be acted upon under the terms and conditions as set out herein; and,

NOW THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, it is agreed between City and Owner, as follows:

1. **Plat of Survey.** The Plat of Survey presented by the Owner to the City of Cumming, Iowa has been consented to and approved by the City Council of the City of Cumming, Iowa.
2. **Annexation Covenants.** In exchange for rights granted to it hereunder to annex the Subject Property at its sole discretion, the City of Cumming hereby agrees to the following covenants:
  - a. The Subject Property shall qualify for a 5-year tax abatement, commencing the fiscal year following the year of annexation;
  - b. The Owner and any heirs, successors in interest, or assigns of each may continue to use the Subject Property for any use permitted in an agricultural district of the Madison County Zoning Ordinance in effect at the time of annexation or

amended thereafter, provided, however, the Subject Property may not be used as a consolidated animal feeding operation, e.g. hog confinement, chicken confinement, etc.;

- c. And the City of Cumming shall not count the Subject Property towards an 80/20 annexation of any adjacent parcel sharing a boundary with the Subject Property.

These covenants shall run with the land.

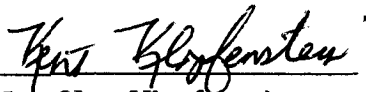
3. **Irrevocable.** This Pre-Annexation Agreement shall become irrevocable upon execution by the Owner.
4. **Severability.** If any provisions, conditions, or covenants of this Agreement, or the application thereof to any circumstances of either Party, shall be held invalid or unenforceable, the remainder of this Agreement or the application of such provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

The City of Cumming agrees to annex the property at a time of the City's choosing.


Dated this 17 day of March, 2021.

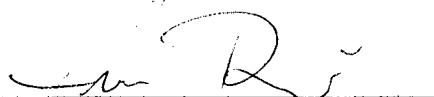
OWNER(S)

K Bar S Ranch Partnership No. 1

  
By: Kent ~~Kent~~ Klopfenstein  
Its: Authorized Representative

CITY OF CUMMING, IOWA

  
Mayor, Tom Becker

  
City Clerk, Angie Ritchie

## EXHIBIT A

The property subject to this Pre-Annexation Agreement is identified as Parcel "AD", Outlot "A", and Parcel "AE" on that certain Plat of Survey recorded contemporaneously with the recording of this document, more fully described as:

**Parcel "AD"** being a part of the NE 1 / 4 SW 1 / 4, lying Easterly of Badger Creek, in Section 13, Township 77 North, Range 26 West of the 5th P.M., Madison County, Iowa, described as follows: Beginning at a 1 / 2" iron rod at the SE corner of the NE 1 / 4 SW 1 / 4 of said Section 26; thence S 83.08' 17" W, along the South line of said NE 1 / 4 SW 1 / 4, a distance of 457.33' more or less to a point in the center of Badger Creek; thence Westerly and Northerly along said center of Badger Creek to a point on the South line of the North 539 feet of said NE 1/4 SW 1/4; thence N 83.14'19" E, along said South line, a distance of 776.02' more or less to a 1 / 2" iron rod on the East line of said NE 1 / 4 SW 1 / 4; thence S 00°07'20" W, along said East line, a distance of 781.64' to the point of beginning.

Containing 14.134 acres more or less. Subject to a 20.00' wide Easement for Ingress and Egress over Parcel "AB" being a part of the NW 1 / 4 SE 1 / 4 of said Section 13, Township 77 North, Range 26 West of the 5th P.M., Madison County, Iowa.

**Outlot "A"** being the North 539.00' of the NE 1 / 4 SW 1 / 4, lying Easterly and Northerly of Badger Creek, in Section 13, Township 77 North, Range 26 West of the 5th P.M., Madison County, Iowa, more particularly described as follows:

Beginning at a 1 / 2" iron pin at the Center of said Section 26; thence S 00°07'20"W, along the East line of said NE 1 / 4 SW 1 / 4, a distance of 542.87'; thence S 83. 14' 19"W, a distance of 776.02' more or less to the center of Badger Creek; thence Northerly and Westerly along said centerline to a point on the West line of said NE 1 / 4 NW 1 / 4; thence N 00° 13' 44" E, along said West line, a distance of 342.04' more or less to a 1 / 2" iron rod at the NW corner of said NE 1 / 4 NW 1 / 4; thence N 83. 14' 19"E, along the North line thereof, a distance of 1,301.44' to the point of beginning.

Containing 14.129 acres more or less.

**Parcel "AE"** being a part of the NW 1/4 SW 1/4 EXCEPT Parcel "A" recorded in Book 2 Page 683; the NE 1/4 SW 1/4, lying South and West of Badger Creek; and the SE 1/4 SW 1/4. All in Section 13, Township 77 North, Range 26 West of the 5th P.M., in Madison County, Iowa, more particularly described as follows:

Beginning at a 3/4" iron pipe at the West 1/4 corner of said Section 13; thence N 83°14'19" E, along the North line of the NW 1/4 SW 1/4, a distance of 1301.44' to a 1/2" iron rod at the NE corner thereof; thence S 00°13'44" W a distance of 342.04' more or less to a point in the center of Badger Creek; thence Easterly and Southerly along said center of Badger Creek to a point on the North line of said SE 1/4 SW 1/4, thence N 83°08'17" E, along said North line, a distance of 457.33' more or less to a 1/2" iron rod at the NE corner thereof; thence S 00°07'20" W, along the East line of said SE 1/4 SW 1/4, a distance of 1323.29' to a 1/2" iron rod at the S 1/4 corner of said Section 13; thence S 83°03'00" W, along the South line of said SE 1/4 SW 1/4, a distance of 700.99' to a 1/2" iron rod; thence N

11°37'03" W, a distance of 354.21' to a 1/2" iron rod; thence N 11°37'03" W, along an existing fence, a distance of 398.48' to a 1/2" iron rod; thence N 16°23'40" E, along said fence, a distance of 80.60' to a 1/2" iron rod; thence N 18°42'47" W, along said fence, a distance of 426.24' to a 1/2" iron rod; thence N 85°08'44" W, along said fence, a distance of 46.41' to a 1/2" iron rod; thence N 19°55'49" W, along said fence, a distance of 65.56' to a 1/2" iron rod on the North line of the SE 1/4 W 1/4 of said Section 13; thence S 83°07'17" W, along said North line, a distance of 263.93' to a 1/2" iron pin at the SW corner of said NE 1/4 SW 1/4 of said Section 13; thence S 83°08'17" W, along the South line of the NW 1/4 SW 1/4 of said Section 13, a distance of 833.56' to a 1/2" iron rod; thence N 00°19'03" E, along the East line of said Parcel "A" a distance of 695.89' to a 1/2" iron rod at the NE corner thereof; thence S 84°55'18" W, along the North line of said Parcel "A", a distance of 468.81' to a 1/2" iron rod at the NW corner thereof; thence N 00°20'06" E, along the West line of said NW 1/4 SW 1/4 A distance of 612.73' to the point of beginning. Containing 68.093 acres including 0.533 acres of county road right of way easement.