

TOWN OF WINDSOR

RESOLUTION NO. 2006- 59

BEING A RESOLUTION RATIFYING, APPROVING, AND CONFIRMING THE TERMS AND CONDITIONS OF THE CHAMPION ANNEXATION AGREEMENT BETWEEN THE TOWN OF WINDSOR, COLORADO, AND CC LAND, LLC.

IT IS HEREBY RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

1. That the Town of Windsor hereby ratifies, approves and confirms the terms and conditions of the Champion Annexation Agreement dated the 13th day of November, 2006, between the Town of Windsor and CC Land, LLC a copy of which is attached hereto and made a part hereof.

2. That the Town of Windsor hereby authorizes the Mayor of the Town to execute said Agreement on behalf of the Town.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 13th day of November, 2006.

TOWN OF WINDSOR, COLORADO

By *Edward M. Stiles*  
Mayor

ATTEST:

*Cathy M. Kennedy*  
Town Clerk



## CHAMPION ANNEXATION AGREEMENT

THIS AGREEMENT is made and entered into this 13th day of November, 2006, by and between the TOWN OF WINDSOR, COLORADO, a Colorado municipal corporation, hereinafter referred to as the "Town," and CC Land, LLC, a Colorado limited liability company, hereinafter referred to as the "Annexor."

### WITNESSETH

WHEREAS, Annexor is the owner of said property more fully described in Exhibit "A", attached hereto and incorporated herein by this reference, and shall be known as the Champion Annexation, hereafter referred to as the "Property," and

WHEREAS, Annexor has filed a petition for the annexation of the Property; and

WHEREAS, the Town has approved and accepted the petition for annexation to annex the Property to the Town; and

WHEREAS, by the terms and conditions of this Annexation Agreement, the parties have provided for zoning of the property consistent with the comprehensive plan of the Town and have provided for certain requirements for the subsequent development of the Property.

NOW, THEREFORE, for the benefits to be derived by each, and in exchange of the mutual covenants and performances of the parties hereto,

IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

### I. PREAMBLE

The parties agree that the recitals contained in the preamble set forth above are true and correct and that those recitals are hereby incorporated into the body of this Annexation Agreement.

### II. ZONING

The Town agrees that upon annexation the Property shall be zoned in conformance with the designation set forth on the Champion Annexation Maps filed in the office of the Director of Planning, with said zoning designations and Annexation Maps being incorporated herein by this reference. It is further understood and agreed that the aforesaid zoning designations do not waive the authority of the Annexor or the Town to initiate rezoning of the land in accordance with the ordinances of the Town and the laws of the State of Colorado.

### III. STREETS

**A. Street Standards and Improvements.** Annexor understands and agrees that concurrently with any proposal for re-development of the existing building or new development of the currently vacant Property, the Annexor shall be solely responsible for providing for all necessary rights-of-way for the full width of all proposed streets within the Property. For the purposes of this agreement, "re-development" shall not include internal remodeling of the existing building.

The Annexor shall be solely responsible for the cost to install all streets within the Property. The Annexor further understands and agrees to fully construct and improve all such streets in conformity with the applicable ordinances, rules, regulations, and engineering specifications of the Town in effect at the time of any development proposal.

**B. State Highway 392 and State Highway 257 Improvements.** Annexor understands and agrees that concurrently with any proposal for development or re-development of the Property, the Annexor shall dedicate any rights-of-way necessary for the intersection of SH 392 and SH 257 without any cost to the Town or any other public jurisdiction. As part of the first development or re-development proposal, Annexor further agrees that certain improvements to SH 392 and SH 257 will be required to be constructed and the Annexor shall be solely responsible for the cost of such improvements. The Annexor further understands and agrees to fully construct and improve such streets in conformity with the applicable ordinances, rules, regulations, and engineering specifications in effect at the time of any development proposal.

**C. Access to adjacent properties and roads.** Annexor understands and agrees to work in a good faith effort with the Town, CDOT and the owners of the adjacent properties to the east to ensure that future street connections will be made to and through the Property to allow for efficient and orderly traffic circulation. Such connections may involve the relocation, reconfiguration and/or consolidation of existing access points in order to achieve the optimum access and circulation plan for the Property and neighboring properties.

### IV. PUBLIC IMPROVEMENTS

Prior to the development of the Property, Annexor acknowledges that they will be required to enter into a development agreement for the construction and maintenance of public improvements. The terms and conditions of this Annexation Agreement shall not limit the subject matter of any subsequent development agreement for public improvements and shall not be construed to prohibit or in any way limit the Town from requiring performance of reasonable requirements by the Annexor prior to approving any development application.

### V. FEES

As part of any development or re-development proposal for the Property, Annexor agrees to comply with all of the development requirements of the Town in effect at the time the development proposal is made, including but not limited to, all building permit fees in effect at the time the building permit application is deemed complete, all impact fees, including but not

limited to, fees for roads, storm drainage, and water and sewer plant investment fees. Annexor hereby acknowledges the legality, necessity and validity of the aforesaid development requirements.

## VI. WATER SERVICES

A. The Property is subject to an existing agreement approved with Resolution No. 2003-58 which shall be attached hereto and incorporated herein as "Exhibit B".

B. As part of any development or re-development proposal, Annexor agrees to install, at their sole expense, such water lines and facilities as may be required by the Town. Additionally, and as agreed to by the parties either through the subdivision platting process or by a separate agreement, Annexor further agrees to dedicate all necessary unobstructed rights-of-ways for utility easements needed for water lines and facilities to serve the Property or for transmission through the Property, in sizes and capacities as prescribed by the Town.

C. Upon development, Annexor shall design and install, at their sole expense, water lines and fire hydrants within the Property in accordance with all of the requirements and specifications of the Windsor-Severance Fire Protection District and the Town, and the Annexor shall provide evidence of compliance to the Town prior to the issuance of any building permits for the Property.

## VII. WATER RIGHTS

Except for any building permits for internal remodeling of the existing building for the continued use of new and/or used motor vehicle sales and service, shop and automotive parts sales, Annexor agrees that prior to the issuance of any building permits for the Property, the Annexor shall dedicate to the Town all such raw water rights as may be required by the *Windsor Municipal Code* in effect at the time of application for the first building permit for the Property.

## VIII. SANITARY SEWER EASEMENTS

A. As part of any development or re-development proposal, Annexor agrees to provide utility easements for sanitary sewer lines and facilities which will be located within the Property, with the stipulation that the provision, location and size of said sanitary sewer easements will be acceptable to the Town.

B. Continued Use of Existing Individual Sewage Disposal System (ISDS). The Town and the Annexor understand and agree that the Property shall be allowed to continue to utilize the existing ISDS to serve the existing use subject to the conditions of the existing agreement attached hereto and incorporated herein as "Exhibit B". In the event that the existing ISDS fails, connection to the Town's sanitary sewer system may be required in accordance with rules and regulations of the Weld County Health Department. In the event that the existing use of Lot 1 is proposed to be expanded, or the use of Lot 1 changes from its current use of new and/or used motor vehicle sales and service, shop and automotive parts sales, such expansion or change in use of Lot 1 shall be subject to (1) review by the Water and Sewer Board of the Town in order to determine whether or not connection to the Town's sanitary sewer system is required

at that time; and (2) adequate easements to the Property being in place for such sewer line connection. Upon approval of any development proposal for Lot 2, connection of both Lots 1 and 2 to the Town's sanitary sewer system shall be required in accordance with the existing agreement attached hereto and incorporated herein as "Exhibit B".

#### **IX. STORM DRAINAGE**

A. As part of any development or re-development proposal, Annexor shall construct storm drainage improvements and facilities in full conformity with Town requirements. Additionally, Annexor further agrees to dedicate all necessary rights-of-ways, easements, etc. for storm sewers to serve the Property or for transmission of water through the Property, plus sufficient widths for maintenance of such improvements and facilities.

B. All storm drainage improvements and facilities shall be constructed concurrently with any development or re-development of the Property in a manner that shall minimize flooding in developed areas. Upon review and recommendation by the Town Engineer, the Annexor shall participate in and provide for the required improvements and facilities to implement any regional Drainage Master Plan which includes the Property.

#### **X. BRIDGE POLICY**

Annexor agrees that in the event the Town determines that as part of any development or re-development of the Property, one or more bridges are required to cross any of the water courses within the Property, at their sole expense, the Annexor shall provide for the costs and construction thereof, and said construction shall meet all of the Town's requirements for bridge construction.

#### **XI. PUBLIC LAND DEDICATION**

As part of any development or re-development proposal and as agreed to by the parties of this Agreement, the Annexor agrees to dedicate to the Town such lands within the Property which may be necessary to service the Property for public improvements including, but not limited to, easements or conveyances for storm water drainage ways, water lines and facilities, and sewer lines and facilities. Upon dedication and conveyance of the land as aforesaid, Annexor shall be deemed to have fully satisfied all land dedication requirements under the Town's land dedication ordinance as may then be in effect. It is understood and agreed that the land dedication required hereby is a condition of the annexation and should no land dedication ordinance be in effect at the time Annexor proposes development this condition of annexation shall nonetheless be deemed fully enforceable.

#### **XII. NOTICE TO MINERAL ESTATE OWNERS AND CERTIFICATION THEREOF**

Annexor acknowledges that as a condition of approval of any application for development or re-development, Annexor must comply with the notification requirements of Section 10-11-123, CRS as amended, by providing notification to mineral estate owners, and by

thereafter certifying to the Town, pursuant to Section 24-65.5-103, CRS as amended, that such notice has been provided.

### **XIII. SUBDIVISION REQUIREMENT**

The Annexor understands and agrees that the approval of the Champion Annexation and the Champion Annexation Master Plan will not cause the Property to be subdivided, and the Annexor further understands and agrees that further subdivision of the Property shall require the Annexor to submit a complete subdivision application in accordance with all Town requirements to subdivide the property.

### **XIV. DESIGN CRITERIA AND DEVELOPMENT STANDARDS**

Annexor agrees that, in accordance with the Town's site plan review process, all commercial site plans for development or re-development within the Property shall be reviewed in accordance with the design criteria and development standards set forth in the *Windsor Municipal Code*, the Intergovernmental Agreement (IGA) between Windsor and Severance, and Exhibit "C," attached hereto and incorporated herein by this reference, all as may from time to time be amended and which are in full force and effect at the time of any development or re-development proposal. The Annexor further agrees that the highest and most restrictive design criteria and development standards set forth in the aforesaid site planning requirements shall be applied to the approval of all such commercial site plans within the Property.

### **XV. CURRENT USE OF THE PROPERTY**

A. The parties recognize that portions of the Property are currently being used for agricultural purposes. The Town agrees that Annexor may continue the agricultural activities which are presently being conducted on the Property except that the size and scope of these agricultural activities may not be enlarged, expanded or supplemented in any manner which is not in compliance with the ordinances, rules, regulations, and other applicable codes of the Town in effect at the time of the Annexation.

B. The parties further recognize that portions of the Property are currently being used for a commercial automobile sales and service lot. The Town agrees that Annexor may continue the commercial automobile sales and services activities which are presently being conducted on the Property except that the size and scope of these activities may not be enlarged, expanded or supplemented in any manner which is not in compliance with the ordinances, rules, regulations, and other applicable codes of the Town in effect at the time of the Annexation. Furthermore, certain aspects of the existing commercial automobile sales and service lot are being conducted in manner that is not consistent with the Design Criteria and Development Standards outlined above in Section XIV and, while the Town may allow some of these aspects to continue as pre-existing non-conforming uses in accordance with Section 16-8-50 of the Municipal Code, the following aspects of the current operations are hereby subject to the following requirements:

1. Sales tax license. Upon the effective date of the ordinance annexing the Property, Annexor shall contact the Town Finance Department to complete the appropriate application(s) and pay the related fee(s) necessary to obtain a Town of Windsor sales tax license.

2. Vehicle display areas. Upon the effective date of the ordinance annexing the Property, no vehicles shall be displayed within the SH 257 or SH 392 rights-of-way or the landscape or dirt areas on the perimeter of the property, depicted on Exhibit D as "Area 1". Vehicle display areas shall be limited to those areas that are currently paved with either asphalt or concrete, with the exception of the existing vehicle display area internal to the site that is not paved with asphalt or concrete, included in "Area 2" as depicted on Exhibit D. Said "Area 2" may continue to be used until such time that there is a change in property ownership, which shall require the site to be brought into compliance with the Municipal Code. However, "Area 2" shall be reduced in size to only two (2) rows of vehicles and said area shall be regularly maintained to prevent rutting and tracking of mud and debris off of the Property.

3. Floodlights. The temporary portable floodlights that are currently used on the Property to illuminate the vehicle display areas and the night sky are not consistent with the Design Criteria and Development Standards outlined above in Section XIV, therefore, upon the effective date of the ordinance annexing the Property, all but two (2) of the existing temporary portable floodlights shall be removed from the property and the remaining two (2) temporary portable floodlights shall be setback a minimum of fifty (50) feet from the nearest property line and shall be re-directed downward so as to retain light from spilling beyond the property line of the Property. The remaining two (2) temporary portable floodlights on the Property shall be completely removed from the Property at such time that (1) the property ownership changes; or (2) no later than January 1, 2009, whichever event occurs first in time. Any replacement lighting proposed for the Property shall be submitted to the Town Planning Department for review prior to installation on the Property.

4. Temporary signage. Upon the effective date of the ordinance annexing the Property, all existing temporary signage, banners, streamers, strings of pennants, inflatable devices, or other advertising devices that are prohibited by the Municipal Code, shall be removed. Furthermore, no additional temporary signage or other advertising devices, shall be permitted upon the Property, except as proposed and constructed in accordance with the ordinances and regulations of the Town.

5. Permanent signage. Upon the effective date of the ordinance annexing the Property, no additional permanent signage or other advertising devices, hereinafter collectively referred to as "advertising devices", shall be permitted upon the Property, except as proposed and constructed in accordance with the ordinances and regulations of the Town. Furthermore, Section 16-9-70(j) of the Municipal Code prohibits pole mounted signs, therefore, all existing pole mounted signs on the Property shall be completely removed from the Property at such time that (1) the property ownership changes; or (2) no later than January 1, 2009, whichever event occurs first in time. Upon removal of the pole mounted signs, the property shall be eligible for new "monument-style" signage in accordance with the requirements of the Municipal Code.

6. Future expansion or changes. Any future expansion or change to the existing commercial automobile sales and service operations shall require approval of appropriate site plan applications pursuant to the requirements of the Municipal Code.

7. A complete site plan application and applicable fees which bring the Property into compliance with the Municipal Code and the Design Criteria and Development Standards outlined above in Section XIV shall be submitted to the Town at such time that (1) the property ownership changes; or (2) no later than January 1, 2009, whichever event occurs first in time.

#### XVI. JUDICIAL REVIEW

In the event any persons or entities seek judicial review of the Annexation of the Property pursuant to Section 31-12-116, Colorado Revised Statutes, as amended, Annexor agrees that they shall assume, pay and be responsible for all of the Town's costs in connection with the defense of such petition including, but not limited to, attorney fees and costs.

#### XVII. BINDING EFFECT

This Annexation Agreement shall be jointly and severally enforceable against each of the named annexors and shall inure to the benefit of, and be binding upon each of the named annexors, their respective legal representatives, successors, heirs, and assigns. This Annexation Agreement shall be deemed a covenant running with the land.

#### XVIII. GOVERNING LAW

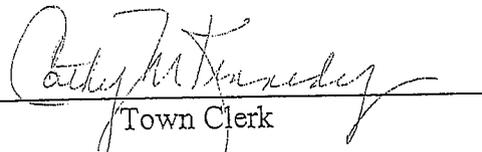
This Annexation Agreement shall be interpreted in accordance with Colorado Law.

IN WITNESS WHEREOF, the parties hereto have executed this Annexation Agreement the day and year first written above.

TOWN OF WINDSOR, COLORADO

By:   
Mayor

ATTEST:

  
Town Clerk



ANNEXOR: CC Land, LLC, a Colorado limited liability company

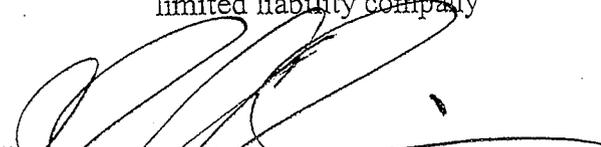
By:   
E. John Chamberlain, its Manager

EXHIBIT "A"

CHAMPION ANNEXATION BOUNDARY LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE WEST HALF OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6TH P.M., WELD COUNTY, COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

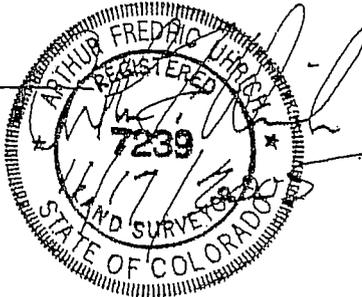
COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 22 AND CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 67 WEST TO BEAR NORTH 89°17'47" EAST, 2611.88' AS MEASURED BETWEEN THE NORTHWEST CORNER OF SECTION 22 AS MONUMENTED BY A 3 1/4" ALUMINUM CAP ON A #6 REBAR IN A MONUMENT BOX AND A WATER VALVE COVER; AND THE NORTH QUARTER CORNER OF SECTION 22 AS MONUMENTED BY A 3 1/4" ALUMINUM CAP ON A 2 3/8" PIPE IN A MONUMENT BOX, WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO; THENCE NORTH 89° 17 '47" EAST, 139.56' THENCE; SOUTH 0° 43'00"EAST, 33.45FT TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89° 35' 12" EAST, 440.37'; THENCE SOUTH 00° 15' 04" EAST, 973.36'; THENCE ALONG AN ARC 303.42' IN LENGTH, CHORD BEARING NORTH 89° 50' 18" WEST, CHORD LENGTH 299.13', RADIUS 520.00', AND DELTA 33° 25' 54"; THENCE SOUTH 18° 54' 48" WEST, 5.00'; THENCE NORTH 71° 05' 14" WEST, 257.52.; THENCE NORTH 00° 00' 00" EAST, 789.5; THENCE NORTH 44° 41' 16" EAST, 142.10' TO THE TRUE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 11.87 ACRES.

EXCEPTING AND RESERVING THE EXISTING EASEMENT ACROSS THE EAST 30-FEET OF THE PARCEL OF LAND DESCRIBED AS LOT A OF RECORDED EXEMPTION NO. 0807-22-2-RE358, RECORDED DECEMBER 22, 1978 IN BOOK 855 AS RECEPTION NO. 1776628 FOR DRIVEWAY PURPOSES AND FOR THE INSTALLATION AND MAINTENANCE OF DRAINAGE FACILITIES AND UTILITIES.

SUBJECT TO EXISTING ZONING AND USE REGULATIONS, INCLUSION WITHIN BOUNDARIES OF ANY SPECIAL IMPROVEMENT DISTRICT, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, AND SUBDISTRICT, EXCEPTIONS, RESERVATIONS, CONDITIONS, COVENANTS AND RESTRICTIONS OF RECORD AND ANY RIGHTS OF WAY AND EASEMENTS CREATED BY INSTRUMENTS OF RECORD OR ESTABLISHED ON THE PREMISES, OIL AND GAS LEASE OF RECORD.

I CERTIFY THAT THIS ANNEXATION BOUNDARY ACCURATELY REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION.

Arthur Uhrich  
Registered Land Surveyor  
Colorado Registration Number 7239



3106709 09/15/2003 04:35P Weld County, CO  
1 of 5 R 26.00 D 0.00 Steve Moreno Clerk & Recorder

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AGREEMENT

THIS AGREEMENT is made and entered into this 28th day of July, 2003, by and between the TOWN OF WINDSOR, COLORADO, a statutory municipality, hereinafter referred to as "the Town," and CC LAND, LLC, hereinafter referred to as "CC Land."

WITNESSETH:

WHEREAS, CC Land is the owner of certain real property located at the intersection of Colorado State Highways 257 and 392 in Weld County, Colorado, said property commonly known as 9050 Highway 392, Windsor, Colorado 80550, and being more fully described in the body of this Agreement; and

WHEREAS, the subject property is adjacent to the Town of Windsor and was annexed to the Town on October 8, 1984, and was subsequently disconnected from the Town on December 8, 1997; and

WHEREAS, by agreement with CC Land, Champion Chevrolet currently operates a motor vehicle dealership on the subject property; and

WHEREAS, the subject property is served by a three-fourth (3/4)-inch water service from the Town of Windsor, pursuant to that certain Water Services Agreement between the Town and Kennedy Chevrolet, Inc., dated January 12, 1998; and

WHEREAS, CC Land has petitioned the Town to expand the 3/4-inch water service to a one (1)-inch service and has further petitioned for an additional one (1)-inch water service to enable Champion Chevrolet to expand its existing automobile dealership; and

WHEREAS, on or about December 11, 2002, the Windsor Water and Sewer Board recommended that CC Land's requests be granted subject to the conditions hereinafter set forth; and

WHEREAS, by the terms of this Agreement, the parties desire to set forth their full agreement with regard to the enlargement of the current water service, the granting of new water service, and the specific conditions to be placed upon such services;

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING RECITALS, THE MUTUAL COVENANTS CONTAINED HEREIN, AND OTHER GOOD AND VALUABLE

to : Frey, Korb, Haggerty & Michaels, P.C.  
318 Canyon Ave., Suite 200  
P.O. Box 2283  
Fort Collins, CO 80522

3106709 09/15/2003 04:35P Weld County, CO  
2 of 5 R 26.00 D 0.00 Steve Moreno Clerk & Recorder

CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, CC LAND AND THE TOWN HEREBY AGREE AS FOLLOWS:

1. Preamble. The parties acknowledge that the recitals set forth above are true and correct, and those recitals are incorporated into the body of this Agreement.

2. Subject Real Property. CC Land warrants that it is the owner in fee simple of the following parcels of real property, which are the subject of this agreement:

PARCEL 1:

LOT A OF RECORDED EXEMPTION NO. 0807-22-2-RE 358, RECORDED DECEMBER 22, 1978, IN BOOK 855 AT RECEPTION NO. 1776628, BEING A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF WELD, STATE OF COLORADO.

For purposes of this Agreement, the aforesaid real property shall be referred to as "Parcel 1."

PARCEL 2:

LOT B OF RECORDED EXEMPTION NO. 0807-22-2-RE 358, RECORDED DECEMBER 22, 1978, IN BOOK 855 AT RECEPTION NO. 1776628, BEING A PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 6 NORTH, RANGE 67 WEST OF THE 6<sup>TH</sup> P.M., COUNTY OF WELD, STATE OF COLORADO.

For purposes of this Agreement, the aforesaid real property shall be referred to as "Parcel 2."

3. Enlargement of Existing Water Service to Parcel 1. CC Land shall be entitled to enlarge its existing 3/4-inch water service to a 1-inch water service on Parcel 1. All costs related to the expansion of this service, including but not limited to all costs of connection, shall be the sole responsibility of CC Land. Prior to connecting to the 1-inch service, CC Land shall pay to the Town the then existing out-of-town plant investment fee for 1-inch water service, less a credit for the then existing in-town plant investment fee for the 3/4-inch water service. For informational purposes, the current out-of-town plant investment fee for 1-inch water service is \$19,440, and the current in-town plant investment fee for 3/4-inch water service is \$6,000. CC Land shall not be required to make any raw water dedication or cash-in-lieu payments to the Town for the enlarged water service.

4. New 1-Inch Water Service for Parcel 2. Pursuant to the terms of this Agreement, CC Land shall be entitled to a new 1-inch water service on Parcel 2. All costs related to this



service, including but not limited to all costs of connection, shall be the sole responsibility of CC Land. At the time of connecting the 1-inch service, CC Land shall pay to the Town the then existing out-of-town plant investment fee for 1-inch water service. Likewise, CC Land shall be required to make such raw water dedication or cash-in-lieu payments to the Town for the water service, in accordance with the rules and regulations of the Town enacted pursuant to the provisions of the Windsor Municipal Code.

5. **Sewer Connection.** The parties acknowledge that the Town's East Side Sewer Interceptor is capable of providing sewer service to Parcels 1 and 2. Upon the approval of any development proposal for Parcel 2, CC Land shall, as a condition of continued water service to Parcel 1 and new service to Parcel 2 and at its sole expense, connect Parcels 1 and 2 to the Town's East Side Sewer Interceptor. CC Land shall be required to pay all costs of connection to the Town's East Side Sewer Interceptor, including but not limited to, out-of-town plant investment fees. It is understood and agreed that upon connection to the Town's East Side Sewer Interceptor, CC Land may be entitled to a reimbursement agreement under the provisions of the Windsor Municipal Code for subsequent connections to the East Side Sewer Interceptor by adjacent properties specially benefited by CC Land's construction of sewer lines necessary to connect Parcels 1 and 2 to the Town's East Side Sewer Interceptor.

6. **Additional Conditions of Continued Water Service.** All water service that the Town agrees to provide to CC Land pursuant to the provisions of this Agreement shall be conditioned upon CC Land's continued compliance with the following specific conditions:

- a. CC Land's payment of all costs and fees and meeting all raw water dedication requirements as set forth in this Agreement;
- b. CC Land's continued payment of monthly out-of-town water service and sewer charges for all connections made pursuant to this Agreement;
- c. The continuous use of Parcel 1, and Parcel 2 upon development, for the principal purpose of selling new or used motor vehicles; and
- d. Upon the development and construction of improvements on Parcel 2, CC Land shall comply with all requirements of the East Main Street Corridor Plan for the Town of Windsor in effect at the time of the first development proposal for Parcel 2.

Upon CC Land's failure to comply with any of the aforesaid conditions, the Town may, in its sole discretion, terminate all water service afforded to CC Land under the provisions of this Agreement, and CC Land shall forfeit all costs and fees paid prior to the date of

termination and shall likewise forfeit all raw water dedications or cash-in-lieu payments made prior to the date of termination of this Agreement

7. **Agreement to Annex.** CC Land agrees that upon the occurrence of the first of the following events, Parcels 1 and 2 shall forthwith be annexed to the Town:

- a. The effective date of any use tax on motor vehicles adopted by the Town;
- b. Cessation of the continuous use of Parcel 1 for the principal purpose of selling new or used motor vehicles; or
- c. After development of Parcel 2, the cessation of the continued use of that parcel for the principal purpose of selling new or used motor vehicles; or
- d. May 1, 2015.

Should it fail to act upon the provisions of this paragraph, CC Land grants to the Town the right to act on its behalf in the preparation and filing of all necessary documents in connection with such annexations, including but not limited to, petitions to annex. This paragraph shall not be construed as relieving CC Land of any obligation to pay any costs and fees in connection with said annexations. Likewise, nothing in this paragraph shall be construed as preventing or otherwise limiting the rights of the Town to annex Parcels 1 and 2 upon such parcels becoming an enclave, in accordance with the powers granted to the Town for the annexation of enclaves by the laws of the State of Colorado.

8. **Entire Agreement of the Parties.** The recitals contained herein represent the entire agreement of the parties and shall be binding upon the parties hereto and their successors.

9. **Assignment.** This Agreement shall not be assigned by either party without the written consent of the other.

10. **Amendments and Modifications.** Any amendments or modifications to this Agreement must be approved by both parties in writing.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

12. **Waiver.** A waiver by either party of a breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or another provision of this Agreement.

13. Severability: If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability shall not affect the validity of any other part, term, or provision, and the rights of the parties shall be construed as if the part, term or provision was never part of this Agreement.

14. Recordation and Binding Effect. This Agreement shall be deemed to run with the land and upon its execution by the parties may be recorded by either party with the Weld County Clerk and Recorder and shall be binding on the parties hereto, their heirs, successors, and assigns.

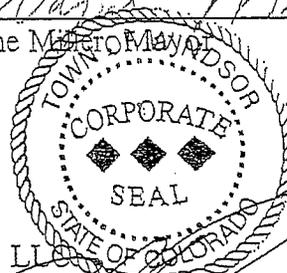
IN WITNESS WHEREOF, the parties hereto have signed this Agreement the day and year first above written.

TOWN OF WINDSOR, COLORADO

By W. Wayne Moreno  
W. Wayne Moreno, Mayor

ATTEST:

Cathy R. Kennedy  
Town Clerk



CC LAND, LLC

By E. John Chamberlain  
E. John Chamberlain, Manager

APPROVED AS TO FORM AND CONTENT:

Roderick L. Wensing  
Roderick L. Wensing  
Town Administrator, Town of Windsor

[Signature]  
[Name and Title]

APPROVED AS TO FORM:

John P. Frey  
John P. Frey  
Town Attorney, Town of Windsor

Richard L. Reichstein  
Richard L. Reichstein  
Attorney for CC Land, LLC

## EXHIBIT "C"

### CHAMPION ANNEXATION DESIGN CRITERIA AND DEVELOPMENT STANDARDS

- I. PURPOSE, INTENT, APPLICATION OF STANDARDS, VARIANCES AND WAIVERS
- A. The Champion Annexation is located in the eastern "gateway" to the Town of Windsor. The visual quality of this gateway is directly related to Windsor's image, and positive community image is essential for economic development and the ability to attract quality developments.
- B. The design criteria, development standards and guidelines contained within the *Windsor Municipal Code*, the IGA between Windsor and Severance, and within this Exhibit B have been prepared in an effort to accomplish both of the following objectives:
1. To protect and enhance property values within the area; and
  2. To increase the opportunities for locating new commercial development and to provide for the expansion of existing businesses within the area.
- C. All commercial site plans for development and re-development within the Property shall be reviewed in accordance with the design criteria and development standards set forth in the *Windsor Municipal Code*, the IGA between Windsor and Severance, and this Exhibit B. The highest and most restrictive design criteria and development standards set forth in the aforesaid site planning requirements shall be applied to the approval of all such commercial site plans within the Property.
- D. Variances and Waivers
1. Variances: If an applicant requests a variance from a standard which is specifically required by the zoning code, any such variance may only be approved by the Board of Adjustment through the normal variance process.
  2. Waivers: If an applicant requests a waiver from a design criterion or development standard included herein but is not specifically required by the zoning code, upon a recommendation from the Planning Commission, the Town Board may approve any such waiver to a design criterion or development standard, subject to the following criteria:
    - a. The applicant can demonstrate that the strict application of the standard would result in either peculiar and exceptional practical

difficulties or exceptional and undue hardship upon the owner of the affected property; or

- b. If, in the opinion of the Town staff, the alternative plan, as submitted, would protect the public interest advanced by the standard for which the waiver is requested equally well or better than would compliance with such standard; or
- c. The Planning Commission determines that in the case of either item a. or item b. above, the approval of any such waiver request would not be substantially detrimental to the public good; and
- d. Documentation being included in the file which (1) outlines the reason(s) why the waiver was approved, and (2) specifies which reviewing body(ies) approved the waiver.

## II. SITE PLAN SUBMITTAL REQUIREMENTS

- A. All proposed commercial development or re-development of the Property shall require the submittal of a specialized site plan as a part of or in addition to site planning submittals otherwise required by the Planning Department of the Town. This specialized site plan shall be submitted in accordance with the requirements of the Planning Department of the Town and shall contain the following information together with such additional information as the Planning Department may deem necessary for the particular development proposed:
  - 1. SITE PLAN drawn to an appropriate scale on a 24" x 36" sheet containing the following information:
    - d. The location of existing and proposed structures with the location of the entries noted.
    - e. The location and dimensions of all driveways, parking areas, loading areas, and pedestrian walkways.
    - f. The location and type of outdoor storage or trash facilities with a description and/or indication of screening materials proposed.
    - g. The type and location of any ground signs.
    - h. The type and location of any accessory appurtenances such as scales, satellite dishes, antenna, gas pumps, etc.
    - i. The type and location of proposed site lighting.



III. LAND USE GUIDELINES. The following land use guidelines are hereby established:

- A. Building coverage on any given site shall not exceed forty percent (40%) of the site area and shall preferably cover less than thirty-three percent (33%) of the site area. This requirement shall be in addition to all open space requirements as set forth in the zoning ordinances of the *Windsor Municipal Code*.
- B. Open landscape area on any site shall be twenty percent (20%) or greater. In appropriate circumstances the landscape area may be reduced to a minimum of fifteen percent (15%) of the site area if the landscaping is of adequate density.
- C. There shall be a thirty-five foot (35') minimum setback for all structures which abut either SH 257 or SH 392; and for all other property lines, all minimum setback distances established by the *Windsor Municipal Code* shall apply.
- D. To allow for landscape buffers, the following paving setbacks are hereby established: for all properties that abut either SH 257 or SH 392, paving shall be set back a minimum distance of thirty-five feet (35') from all such property lines; for all properties that abut any other public or private street or street easement, paving shall be set back a minimum distance of fifteen feet (15') from all such property lines; and for all other property lines, paving shall be set back a minimum distance of five feet (5') from all other such property lines.
- E. All building and landscaping shall be oriented to minimize visual impact of parking areas.
- F. All fences located on the street side of any site shall be recessed a minimum of two feet (2') back from the front building corners of any building elevation facing a street. Such fences shall be designed to be compatible with the styles, materials, and colors of nearby buildings and adjacent fences. No fences shall be constructed within any front yards on any sites which front on SH 392 or SH 257, and no chain link fences shall be visible from SH 392 or SH 257.

IV. SITE PLANNING GUIDELINES. The following site planning guidelines are hereby established:

- A. Parking, Loading and Vehicle Display Standards
  - 1. All parking and drive areas shall be paved and shall have concrete curbs with appropriately radiused corners.
  - 2. Bicycle parking shall be provided near building entries, but shall not encroach into pedestrian walkways.
  - 3. In addition to curbs, gutters and sidewalks that are required for all commercial site plans, all commercial site plans shall provide for well-marked, strategically-located pedestrian connections that provide

connectivity throughout the commercial development, with the initial commercial site plan that is approved for the Property establishing the "pedestrian theme" for these pedestrian connections that will, in turn, be replicated on all of the commercial sites throughout the Property. The use of pattern-stamped terra cotta colored concrete or similar materials shall be required to be utilized for these pedestrian connections due to the enhanced visibility they provide for safety.

4. Parking areas shall be minimized between the street or driveway and building entries. Any parking areas adjoining streets shall be buffered and screened with the use of earth berms and/or parking screen walls constructed of materials that are compatible with the building.
5. All off-street loading and refuse areas shall be designed to include adequate space for ingress, egress and maneuvering and shall be screened from view with appropriate landscape elements or with screenwalls constructed of materials which are compatible with the building.
6. All storage or equipment areas shall be fully enclosed with appropriate landscape elements or with screenwalls constructed of materials which are compatible with the principal buildings on the Property.
7. Each site entrance drive (from collector streets) should be continuously landscaped in conjunction with a pedestrian walk connecting the building entry with the street. Such drive shall not serve as direct vehicular access to the individual parking spaces.
8. Landscape islands a minimum of seventeen feet (17') in length and five feet (5') in width shall occur at ends of all parking rows.
9. Parking lot areas shall be broken into sections of no more than two hundred (200) parking spaces maximum and separated by landscaped buffers ten feet (10') wide or greater.
10. Vehicular display areas pertaining to a dealership's sales inventory shall meet all of the following and guidelines:
  - a. Display areas shall not be elevated more than five feet (5') above the average grade elevation of the main display parking area, and all display areas must be parallel to grade level, that is, no inclined ramping shall be permitted for the display of vehicles, etc. ;
  - b. Display areas that are elevated shall be constructed with building materials that are compatible with the building materials used of the principal buildings on the site;

- c. Display areas for outdoor vehicle sales shall be contained either within a paved parking lot or on display pads constructed of concrete which are connected by a paved drive to a paved parking lot; and
- d. All vehicle display areas shall be clearly defined on the site plan, including the paved circulation pattern to such display areas.

B. Walkways/Hardscape/Site Furniture

- 1. In addition to the pedestrian connections outlined in paragraph IV. A. 3. above, the use of pattern-stamped terra cotta colored concrete or similar materials shall be required to be utilized at building entrances and at other locations where pedestrian crossings occur at vehicular circulation lanes.
- 2. Building entries shall incorporate pedestrian amenities such as benches, planters, and works of art.
- 3. Site furniture shall be consistent of style and size throughout the area.
- 4. Any plazas, patios, courtyards, retaining walls or other hard surfaces shall be compatible with the materials utilized on the building.

V. LIGHTING GUIDELINES. The following lighting guidelines are hereby established:

- A. All lighting shall be compatible and harmonious throughout the area.
- B. Parking lot lighting shall not exceed thirty feet (30') in height, and the design, materials and appearance of all parking lot lighting fixtures shall be consistent throughout all of the commercial developments within the Property. The design, materials, colors and appearance of the parking lot light fixtures that are approved with the initial commercial site plan for the Property shall establish the "lighting theme" for all other parking lot light fixtures that will, in turn, be replicated on all of the commercial sites throughout the Property.
- C. Light sources must minimize contrast with the light produced by surrounding uses, and must produce an unobtrusive degree of brightness in both illumination levels and color rendition. Incandescent and high-pressure sodium light sources all can provide adequate illumination with low contrast and brightness.
- D. Lighting shall be designed to retain light within the property lines of a given building site and not to spill light outside the respective property lines of any individual property, and, where deemed necessary and appropriate based upon either complaints or further evaluations of the lighting intensity of any developed or developing site, additional shielding of parking lot lights may be required to be installed by the property owner solely at the expense of the property owner.

- E. The face of a building or a ground mounted sign may be flood lit from above the ground provided that the fixture is not more than eighteen inches (18") above grade and is screened by low planting materials or other architectural elements.
- F. All exterior and security lighting shall have underground service.
- G. All exterior lighting fixtures shall be permanent appurtenances, with the location and details of all such lighting fixtures being shown on all commercial site plans and being approved by the Town through the normal commercial site plan approval process.
- H. Portable, temporary and/or movable exterior lighting fixtures or equipment, as well as any types of portable, movable and/or temporary bases or chasses upon which these types of portable, temporary and/or movable exterior lighting fixtures or equipment can be mounted, are prohibited.

VI. ARCHITECTURAL GUIDELINES. The following architectural guidelines are hereby established:

- A. The objective of the architectural guidelines is to obtain consistency and quality in architectural character and to provide a "character theme" for projects developed within the Property, and all structures erected within the Property shall reflect and maintain the character theme which is initially established for the Property.
- B. The predominant portion of any building shall not exceed thirty feet (30') in height. Ornamental architectural elements or appurtenances such as clock towers or cupolas shall not exceed forty feet (40') in height.
- C. A relatively wide variety of building materials as described herein shall be permitted. However, it is intended that a basic harmony of architecture prevail.
- D. The primary building materials on all elevations of all principal buildings constructed on the Property shall be masonry and glass, with all such masonry consisting of either brick or architectural grade masonry units such as split-face, ground-face or fluted block which have a maximum exposure of six inches (6") and shall be varied in pattern or shall be combined with other accent materials such as stucco, siding, glass, etc. to provide an aesthetically appealing facade which is consistent with the intent of these design criteria and development standards. Any such accent materials shall not account for more than 25 percent (25%) of the wall area of any elevation of any principal building.
- E. Brick is strongly encouraged both as a major building material and as an accent element to the materials above.
- F. All corners, windows, doors, etc. on all elevations of principal buildings are encouraged to be trimmed with wood, metal, or vinyl trim material with a minimum

width of five and one-half inches (5½"), with all such trim materials being lightly colored in nature.

- G. Roofing consisting of high-profile asphalt or composition shingles is encouraged to be used on the most prominent building elements. Standing seam metal roofs or concrete tile roofs will also be allowed provided that such roofs are compatible with the architecture of the proposed project and surrounding buildings.
  - H. Plain, uninterrupted building walls and rooflines should be broken up with architectural elements that add interest. No blank wall shall face either SH 392 or SH 257, and for all other elevations on all other principal buildings that face public or private streets, street easements, or walkways, no blank wall shall exceed fifty feet (50') in length.
  - I. Metal siding panels are prohibited. The use of architectural grade metal panels which have a horizontal orientation with a maximum exposure of six inches (6") are allowed on building facades which do not face either SH 392 or SH 257. Except as allowed in paragraph F. above for use as trim materials, metal panels of any type are prohibited on any building facades which face either SH 392 or SH 257. Architectural grade composite metal panels are acceptable as an accent material of no more than 25 percent (25%) of any building facade.
  - J. Wood, vinyl, or aluminum windows with decorative divided lights are encouraged.
  - K. Color schemes should primarily consist of sensitive, muted earth tone colors with lightly colored trimwork.
  - L. All mechanical equipment on building exteriors or roofs must be screened from view of all front and side streets and adjoining side properties. Screening walls/elements shall be of a design and material compatible with those of the building.
  - K. All commercial developments are required to construct fully-enclosed trash enclosures constructed of building materials and colors to match the principal buildings on the site. The location and details of all such trash enclosures shall be provided on the commercial site plan.
- VII. LANDSCAPE PLANTING GUIDELINES. In addition to any other landscape requirements and/or guidelines otherwise in effect for the Town, the following additional minimum guidelines for landscaping are hereby established:
- A. The density of landscaping does not need to be so dense as to completely cover or mask the building site, but it may not be so sparse as to be seen to be superficially applied.
  - B. Landscape materials shall be of long living varieties, and shall be permanent in nature. Short lived materials, such as annual flowers, may be used to accent or

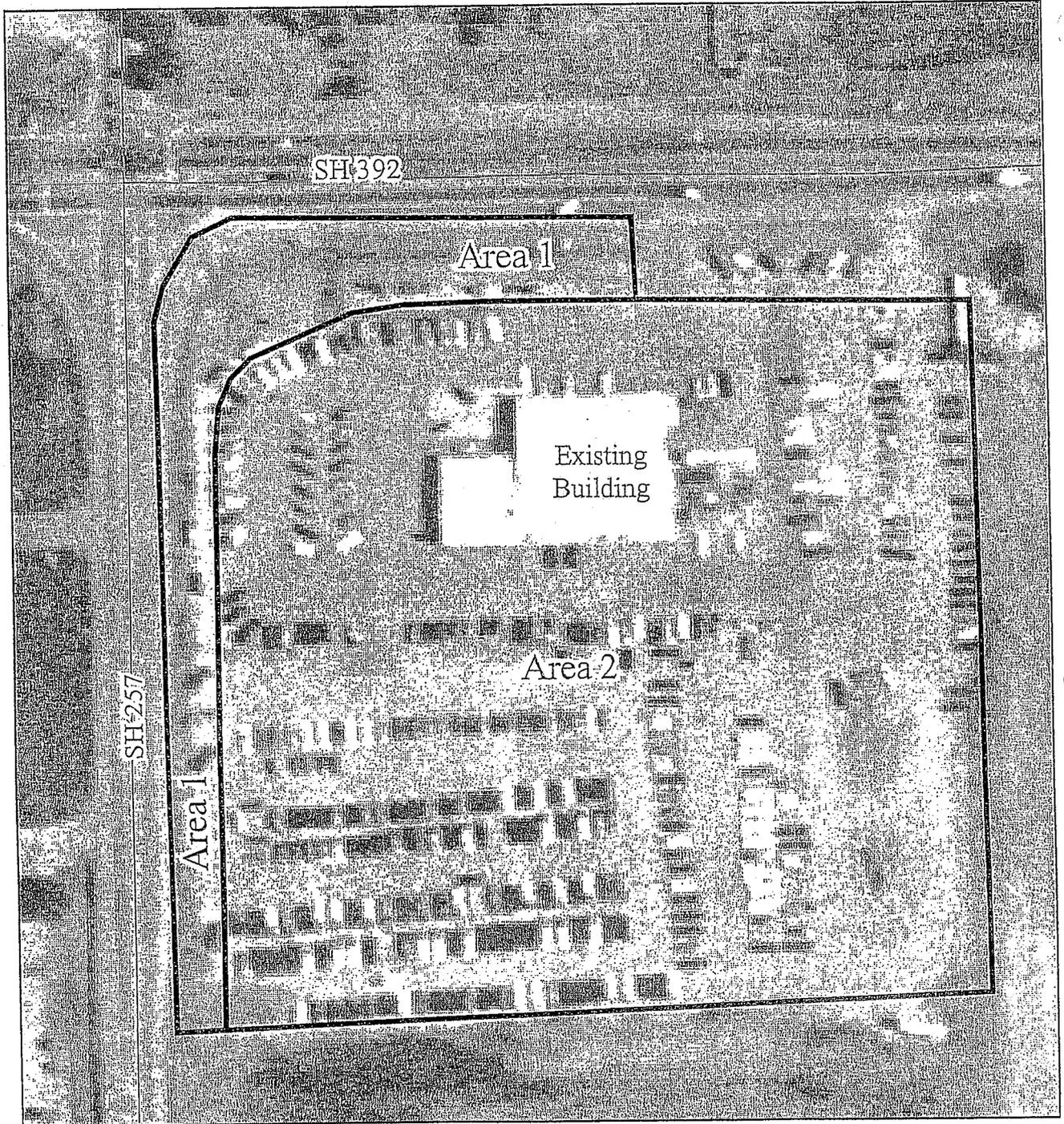
supplement the basic permanent landscape plan. Such flower arrangements are encouraged to be utilized in a bed or planter at each building entry.

- C. Plant material shall be uniform in shape and in good, healthy condition, in accordance with AAN specifications for number one grade, and well adapted to the Windsor area climate zone.
- D. Nothing with invasive roots shall be used.
- E. Artificial plant materials shall be prohibited.
- F. Landscaped elements should relate to and compliment the building's structural elements and be used to break up extensive building surfaces.
- G. There should be an interesting variety of plant materials used. Seasonal colors should be considered.
- H. All parking lot islands shall be landscaped with at least one shade tree and some low ground cover and/or shrubbery, with all such landscaping being reviewed and approved by the Town as part of the commercial site plan review process.
- I. A high quality streetscape treatment is a key element along SH 392 or SH 257 and along all collector streets. The effect desired is one of a street defined by deciduous canopy trees, with the entries to building sites accented by planting beds, identifying signage and walkways.
- J. Deciduous canopy trees should be placed along the street frontage parallel to the public right-of-way. These canopy trees are to be staggered at an average of thirty feet (30') on center.
- K. Spruce or pine trees along south right-of-ways will be discouraged because of ice buildup in winter.
- L. All areas along street frontages which do not utilize planting or tree beds shall be seeded or sodded with bluegrass or other high quality turf blend or other ground covers that are permitted in the Town's landscaping regulations and guidelines.
- M. All landscaped areas, including parking lot islands, shall be irrigated by a fully automatic underground sprinkler system.
- N. The list of plants that are proposed to be used in landscaping of the site shall be included on the landscaping detail sheets of the commercial site plan.

VIII. SIGNAGE DETAILS. In addition to the existing sign regulations in effect for the Town, the following additional sign regulations are hereby established:

- A. In conjunction with the first commercial site plan which is filed for the Property, a detailed "Sign Criteria" packet which establishes the sign theme that will be followed for all commercial developments within the Property shall be submitted to the Town for review and approval.
- B. All commercial site plan submittals shall include sign detail sheets for all signs that are being proposed for the respective site, with all such sign details being reviewed for compliance with the "Sign Criteria" required in paragraph A. above.
- C. All signs shall comply with the Sign Regulations of the *Windsor Municipal Code*.
- D. *In addition to* all of the types of signs, advertising devices and commercial displays which are specifically prohibited in Section 16-9-70 of the *Windsor Municipal Code*, additional types of signs, advertising devices and commercial displays which are also specifically prohibited to be displayed in any fashion on the Property include, but are not limited to, are advertising devices such as flying tubes, air and wind dancing configurations, balloons tethered higher than two feet (2') higher than the roof lines of vehicles, etc.

# Exhibit D



**TOWN OF WINDSOR, CO**  
Champion Annexation  
December 2005

The Town of Windsor is a member of the Colorado and State of Colorado, D.E. Division 2005, 10/00

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00  
1" = 100'