

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 17, SERIES 2025**

**A RESOLUTION APPROVING WILDWING TRACT A ACCESS EASEMENT
AGREEMENT – WILDWING METROPOLITAN DISTRICT NO. 1**

WHEREAS, the Town Council of the Town of Timnath (“Town”) pursuant to C.R.S. § 31-15-103, has the power to pass resolutions; and

WHEREAS, attached hereto as Exhibit A is WildWing Tract A Access Easement Agreement–WildWing Metropolitan District No. 1 (the “Easement Agreement”); and

WHEREAS, the Town is the fee simple owner of certain real property in Larimer County, Colorado, legally described as Tract A, WildWing Final Filing No. 2, Timnath, Colorado (“Grantor’s Property”); and

WHEREAS, Grantee owns and maintains improvements located on and within the Town’s Property, consisting of an underground irrigation pipeline, landscape improvements, and monument signage (“Grantee’s Improvements”); and

WHEREAS, the Parties wish to agree that Grantee will be allowed a non-exclusive easement to gain access to a portion of Grantor’s Property to operate, maintain, repair and replace Grantee’s Improvements located on Grantor’s Property; and

WHEREAS, the Town Council is familiar with the Easement Agreement and finds it to be in the best interest of the Town, its residents, and the general public.

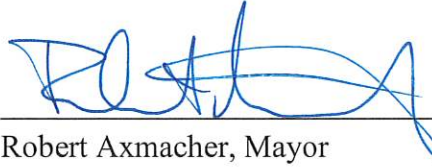
NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO AS FOLLOW:

Section 1. Approval

The Easement Agreement is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications, as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel, and other applicable staff or consultants.

INTRODUCED, MOVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, ON FEBRUARY 25, 2025.

TOWN OF TIMNATH, COLORADO



Robert Axmacher, Mayor

ATTEST:



Milissa Peters-Garcia, MMC

Town Clerk



EXHIBIT A

EASEMENT AGREEMENT

EASEMENT AGREEMENT

This Easement Agreement (“Agreement”) is made and entered into this 25th day of February, 2025, by and between the Town of Timnath, a home-rule municipal corporation of the State of Colorado (“Grantor”), and Wildwing Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (“Grantee”). Grantor and Grantee may be referred to herein as a Party individually and as Parties collectively.

FACTUAL RECITALS

WHEREAS, Grantor is the fee simple owner of certain real property in Larimer County, Colorado, legally described as Tract A, Wildwing Final Filing No. 2, Timnath, Colorado (20160012605) and depicted in **Exhibit A**, attached hereto and incorporated herein by reference (“Grantor’s Property”); and

WHEREAS, Grantee owns and maintains improvements located on and within the Grantor’s Property, consisting of an underground irrigation pipeline, landscape improvements, and monument signage as described and depicted in the locations outlined on **Exhibit B** (“Grantee’s Improvements”); and

WHEREAS, the Parties wish to memorialize rights and obligations of providing operations and maintenance for Grantee’s Improvements, including such right of access to operate and maintain Grantee’s Improvements as outlined in this Agreement; and

WHEREAS, the Parties agree that Grantee will be allowed a non-exclusive easement to gain access to a portion of Grantor’s Property to operate, maintain, repair and replace Grantee’s Improvements located on Grantor’s Property, in the area generally depicted on **Exhibit C** (“Access Easement”); and

WHEREAS, in accordance with the provisions of this Agreement, Grantor desires to convey, and the Grantee desires to accept, a non-exclusive easement that in general provides for access across the Grantor’s Property for the purpose of Grantee’s maintenance, operation, repair, replacement and inspection of the Grantee’s Improvements, subject to the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration the sufficiency of which is hereby acknowledged, including the sum of \$10.00 paid by Grantee to Grantor, the receipt of which is acknowledged, the parties mutually agree as follows:

1. The Factual Recitals set forth above are incorporated as part of this Agreement.
2. Grantor hereby grants to Grantee a perpetual, non-exclusive easement on and across the Access Easement for vehicular or pedestrian right-of-entry and access Grantor’s Improvements, to: allow the operation, maintenance, repair, and replacement of the Grantee’s Improvements and appurtenances necessary to maintain the Grantee’s Improvements. The Access Easement shall be used by Grantee and its agents, contractors, successors, and assigns for the purposes of ingress and

gress, for access to and the maintenance, operation, repair, alteration, and inspection of the Grantee's Improvements, and the Access Easement.

3. The Parties agree that Grantee may construct, own, operate and maintain the Grantee's Improvements within the Access Easement. All expenses related to the construction of Grantee's Improvements shall be paid by Grantee. No new improvements shall be constructed or installed on the Access Easement without the prior written consent of the Parks and Recreation Director of Grantor. After construction, repair, replacement or maintenance of any of Grantee's Improvements on the Access Easement, the general surface of the ground shall be restored as nearly as reasonably can be done, given the existence of the Grantee's Improvements, to the grade and condition it was in immediately prior to construction.
4. Grantor retains the rights of ownership, use and occupancy of the property crossed by or contained within the Access Easement insofar as the ownership, use and occupancy of the property does not materially impair the use and enjoyment of the Access Easement or the ability to operate and maintain the Grantee's Improvements located within or crossing the Access Easement.
5. This Agreement shall be perpetual, unless the Grantee abandons the Access Easement, in which event the Grantee shall be responsible for restoring the Access Easement to its original, undeveloped condition, as much as is reasonably possible, if deemed necessary by the Grantor. No abandonment by Grantee shall be deemed to have occurred unless Grantee provides written notice of its intent to abandon and of the date upon which such abandonment shall take effect. Grantee shall be responsible for the costs of restoring the Access Easement, which is likely to include removing Grantee's Improvements. In the event of abandonment by the Grantee and after a request by the Grantor, if the Grantee fails to properly remove Grantee's Improvements or restore the Access Easement to its original undeveloped condition within a reasonable time period (but no less than 180 days), the Grantor may, at its own option, conduct its own removal and/or restoration and the Grantee shall reimburse the Grantor for the reasonable cost of such work within 180 days.
6. To the extent permitted by law, Grantee shall indemnify and hold Grantor, its successors and assigns, harmless from any and all losses, damages and expenses, including attorneys' fees, arising in connection with the exercise by Grantee of its rights pursuant to this Agreement, including, but not limited to, any personal injuries, deaths, property damage, mechanic's liens or other claims and causes of action of any kind arising out of use of the Access Easement by Grantee or its employees, agents, contractors, or invitees, except to the extent caused by negligence or intentional misconduct of the Grantor.
7. Grantor warrants that it is the sole fee owner of the Grantor's Property and will remain the sole owner until this Agreement is recorded in the county in which Grantor's Property is located. Grantor also warrants that this Agreement does not violate the terms of any existing agreement, encumbrance or lien on Grantor's Property.

8. This Agreement, and any grant by the Grantor, is subject to all restrictions, reservations, rights-of-way, easements, deeds, documents or agreements existing or of record in the Clerk and Recorder's office of the county in which Grantor's Property is located at the time this Agreement is recorded.
9. Any notice required or permitted hereunder shall be deemed effective when deposited in the United States mail, postage prepaid, first class and addressed to the party to whom notice is to be given, as follows:

If to Grantor: Town of Timnath
 Attn: Town Manager
 4750 Signal Tree Drive Timnath, CO 80547
 Office: 970-224-3211

With a Copy To: Carolyn Steffl
 Dietze and Davis, P.C.
 2060 Broadway, Suite 400
 Boulder, CO 80302

If to Grantee: Wildwing Metropolitan District No. 1
 c/o Pinnacle Consulting Group, Inc.
 550 W. Eisenhower Blvd.
 Loveland, CO 80537

With a Copy To: David S. O'Leary, Esq.
 Spencer Fane, LLP
 1700 Lincoln Street, Suite 2000
 Denver, CO 80203

In the event that the person or entity to whom notice shall be given changes, the other notice parties shall be notified in writing pursuant to this paragraph.

10. Time is of the essence, and if any condition, obligation or duty is not timely made, tendered or performed by any party, the non-defaulting party shall have the right to an action for specific performance, damages, or both.
11. Failure of either party to enforce the provisions of the Agreement at any time does not, and shall not, operate as a waiver or estoppel. The waiver by any party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.
12. All exhibits referred to in this Agreement are, by reference, incorporated in this Agreement for all purposes.
13. This Agreement may not be assigned by either party, unless the other party consents, which consent shall not be unreasonably withheld.


14. This document represents the complete agreement of the parties hereto and no oral modification shall be recognized. Any amendments or additions shall be made in writing signed by the parties.
15. If any one or more of the provisions of this Agreement should be ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction: the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable shall be unaffected; the provision(s) held wholly or partly invalid or unenforceable shall be deemed amended, and the court or other government body is authorized to reform the provision(s), to the minimum extent necessary to render them valid and enforceable in conformity with the parties' intent as manifested herein; and if the ruling, and/or the controlling principle of law or equity leading to the ruling, is subsequently overruled, modified, or amended by legislative, judicial, or administrative action, then the provision(s) in question as originally set forth in this Agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity.
16. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.
17. Grantee shall promptly record this Agreement in the Clerk and Recorder's office of the county in which the Property is located and tender the original agreement to the Grantor.
18. Nothing herein shall be deemed to waive any immunities or protections of the parties, including without limitation the Colorado Governmental Immunity Act, sec. 24-10-101, *et seq.*, C.R.S.
19. This Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute over the Agreement's terms and conditions, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of Larimer County, Colorado.

(Remainder of page intentionally left blank)

The Parties hereby execute this EASEMENT AGREEMENT as of the Effective Date.

TOWN OF TIMNATH

a Colorado home rule municipal corporation


_____, Mayor

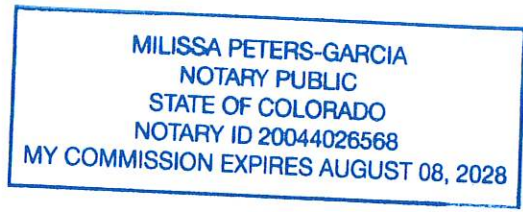
STATE OF COLORADO)
) ss:
COUNTY OF Larimer)

The foregoing instrument was acknowledged before me this 25 day of February, 2025, by Robert Axmacher, as Authorized Agent of the Town of Timnath, a Colorado home rule municipal corporation.

Witness my hand and official seal.


Notary Public

My commission expires: 8/8/28



WILDWING METROPOLITAN DISTRICT NO. 1

a quasi-municipal corporation and political subdivision of the State of Colorado

John Troka
John Troka (Mar 3, 2025 13:36 MST)

John Troka, President

ATTEST:

Barbara Shaw
Barbara Shaw (Mar 10, 2025 06:54 MDT)

Barbara Shaw Secretary

STATE OF COLORADO)
) ss:
COUNTY OF)

The foregoing instrument was acknowledged before me this 10th day of March, 2025, by John Troka, as President and Barbara Shaw as Secretary of Wildwing Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

[Signature]

Notary Public

My commission expires: August 22, 2026



EXHIBIT A

(Grantor's Property)



EXHIBIT B

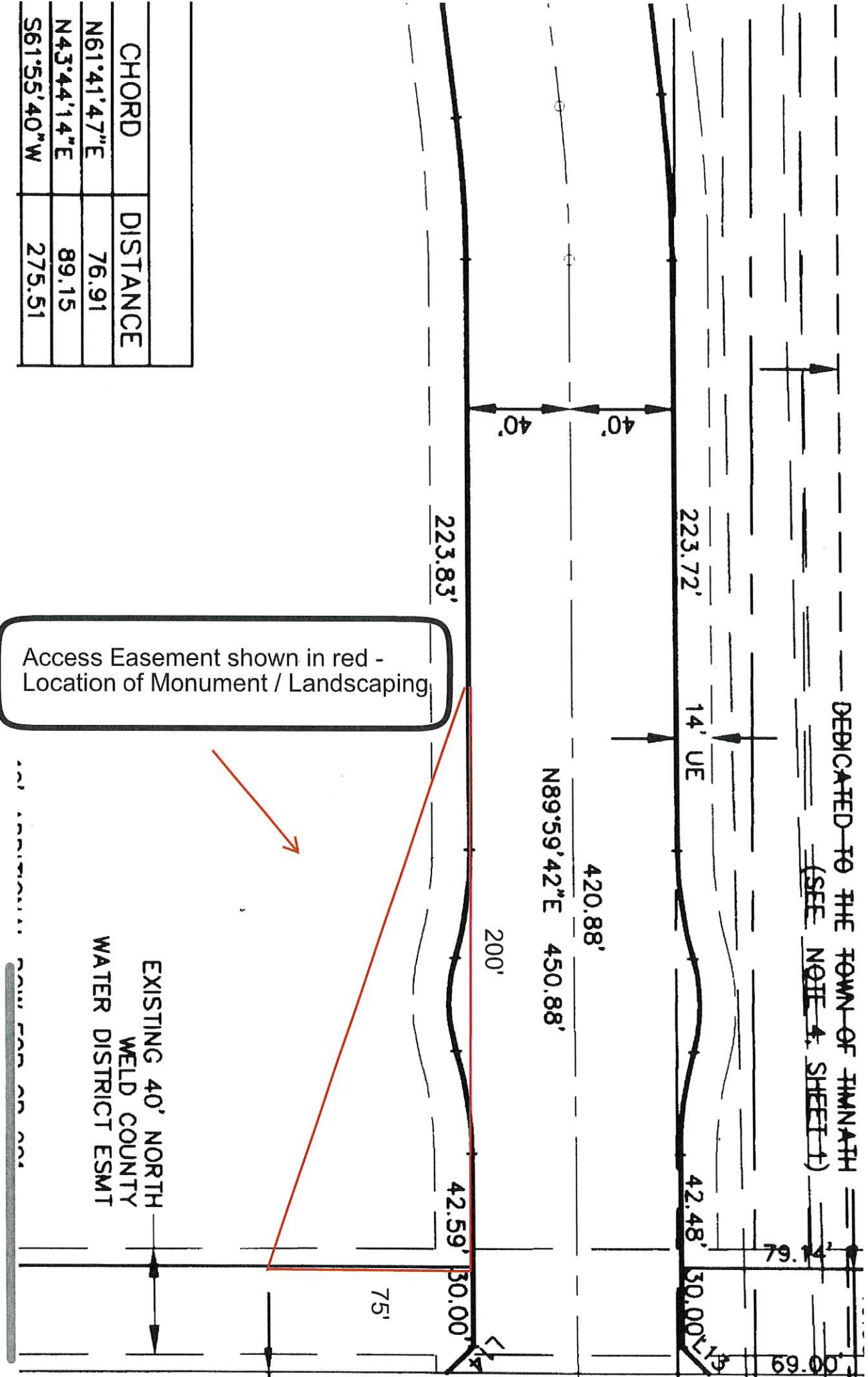
(Grantee's Improvements)

An irrigation pipeline located off Fractus Street and Colorado Blvd, behind the homes, as well as the monument situated on Town property, in the area shown in red on the attached maps.

EXHIBIT C

(Access Easement)

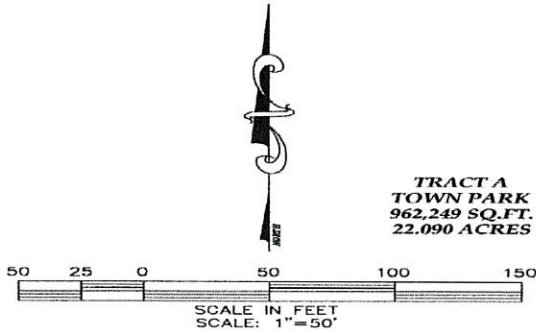
DEDICATED TO THE TOWN OF THINATH
(SEE NOTE 4 SHEET 1)



CHORD	DISTANCE
N61°41'47"E	76.91
N43°44'14"E	89.15
S61°55'40"W	275.51

EXISTING 40' NORTH
WELD COUNTY
WATER DISTRICT ESMT



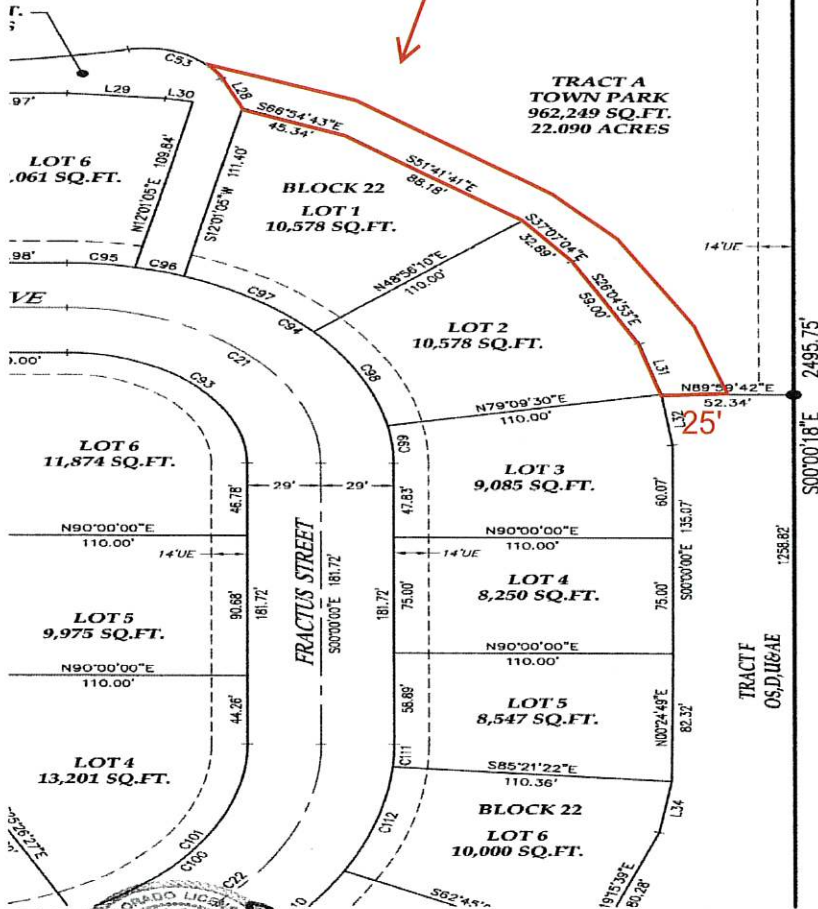


TRACT A
TOWN PARK
962,249 SQ.FT.
22.090 ACRES

SEE SHEET 7 OF 16

**** SEE SHEETS 15 AND 16 FOR
LINE AND CURVE TABLE ****

Access Easement shown in red -
Location of Irrigation line



SEE SHEET 11 OF 16

Steven A. Sanderson
 Steven A. Sanderson, on Behalf of King Surveyors
 Colorado Registered Professional
 Land Surveyor #34995

OWNER: S258 RANCH LLC

LATHAM PARKWAY
 LARIMER COUNTY ROAD 1
 (WELD COUNTY ROAD 13)

OWNER: L ALLEMAND SMITH
 KAREN H & SMITH WILLIAM EDGAR

DATE:	8/6/2015
FILE NAME:	2015096SUB
SCALE:	1"=50'
DRAWN BY:	CSK
CHECKED BY:	SAL

KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
 phone: (970) 686-5011 | email: info@KingSurveyors.com



REVISIONS:	DATE:
REVISED PER TOWN COMMENTS	CSK 11/4/15
REVISED PER TOWN COMMENTS	CSK 1/6/16
COCO CHECK	EWL 1/29/16

WILDWING FINAL PLAT FILING NO. 2
 FOR
 HARTFORD HOMES, INC.
 4801 GOODMAN ROAD
 TIMMATH, CO 80547

PROJECT #:
2015096

10
SHEET 10 OF 16