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E# 2772219 PG 1 OF 12  
Leann H. Kilts, WEBER COUNTY RECORDER  
04-Jan-16 0115 PM FEE \$34.00 DEP DAK  
REC FOR: STEWART TITLE INSURANCE AGENCY OF  
ELECTRONICALLY RECORDED

EXECUTION VERSION

PROPERTY DIVISION AND PROPERTY DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 22nd day of December, 2015, by and between LARRY WILSON POULTER (hereinafter "LARRY") and ROGER STEPHEN POULTER (hereinafter "ROGER"), both of whom are Trustees of the Dorothy S. Poulter Family Trust (hereinafter "Trust").

R E C I T A L S :

A. LARRY and ROGER are Trustees of the Trust which owns 66.41 acres of real property located at approximately 3700 South 4000 West, West Haven City, Weber County, Utah (hereinafter the "Trust Property").

B. LARRY and ROGER are the sole beneficiaries of the Trust.

C. LARRY and ROGER are desirous of distributing the Trust Property so that they each receive real property of approximately equal value.

D. To assure an orderly distribution of the Trust Property and a mutually beneficial plan for development of the Trust Property following distribution to the parties, the parties desire to put their agreement in writing.

NOW, therefore, in consideration of the mutual covenants made in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LARRY and ROGER agree as follows:

Section One

Distribution of Trust Property

1. ROGER will receive 36.10 acres of the Trust Property, the legal description for which is set forth on Exhibit "A" attached hereto and made a part hereof (hereinafter "Roger's Property").

2. LARRY will receive 30.31 acres of the Trust Property, the legal description for which is set forth on Exhibit

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"A" attached hereto and made a part hereof (hereinafter "Larry's Property").

3. Larry's Property includes the existing Poulter Family home.

4. Irrigation Shares. There are 31 Wilson Irrigation Company water shares that run with the Trust Property. The parties agree to divide such shares, with 17.1 shares distributed to ROGER and 13.9 shares distributed to LARRY.

5. Deeds, Titles and Conveyancing. The parties agree that all deeds, titles and other ownership interests in connection with the division of the Trust Property (including irrigation shares) shall be conveyed and recorded as follows:

(i) For ROGER, to and in the name of "Roger S. and Mary Jane T. Poulter March 15, 1996 Family Trust".

(ii) For LARRY, to and in the name of "Larry W. and Flora Ann Poulter Revocable Living Trust".

#### Section Two

##### Title

Both LARRY and ROGER will accept title to their respective properties as noted above as distribution from the Trust subject to any title encumbrances. Each agrees to be responsible for any title deficiencies or encumbrances on the property they receive.

#### Section Three

##### Disclosures

1. The parties acknowledge that there are three unrecorded field drains under the Trust Property which need to be maintained to prevent flooding and other damage to Larry's Property and Roger's Property. These field drains are located approximately as follows and drain west under the Hooper Canal discharging into the pasture area:

a) Diagonally South to north starting at the existing Poulter Family home;

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- b) East to west (centrally located; and
- c) East to west (northern boundary).

2. The parties acknowledge that a two-sectioned, hinged metal gate presently located at 3700 South is the personal property of Lessee Larry McFarland and tenants Alfred (Rick) and Linda Bottiger and is excluded from transfer with the Trust Property.

3. The parties acknowledge that the Trust Property is presently under the Utah Farmland Assessment Act (FAA).

#### Section Four

##### Development of Property

1. The parties understand that ROGER intends to take steps to develop Roger's Property and will farm a portion on an interim basis.

2. The parties understand that LARRY intends to maintain Larry's Property as farmland with possible development in the future.

3. To assure an orderly process of development and to allow development to occur while maintaining rights of access to roads, utilities, and features common to both properties, the parties agree to the following terms of development:

a. Field Drains. The parties agree that when either LARRY or ROGER develop their respective properties they will either (i) tie in the existing field drains, if encountered during the development of their respective properties, to a newly designed land drain system that may be installed during the development of either property; or (ii) if not encountered, leave the existing field drains and discharge of the field drain water on to the pasture land to the west of Larry's Property and Roger's Property via the existing discharge points.

b. Roads and Utilities. All roads and utility lines installed by either party shall be of sufficient size and quality to accommodate the full development of lots on both of the parties' properties.

c. Sewer. It is agreed by the parties that the main sewer lines running through the Trust Property will be the source for either party to tie into in the event they develop their respective property. These sewer lines are described in a West Haven Special Service District Easement Agreement. One sewer line runs from north to south along the projected extension of White Rail Lane. The second sewer line runs east to west along 3700 South and north to south along 3950 West. Neither party shall be liable to the other for any additional sewer improvements. It is further agreed, that when either party develops their respective property, they will do nothing to reduce the capacity of the existing sewer lines running through the Trust Property.

d. Future Access. The parties acknowledge the need for Roger's Property to have a second access (independent of 3700 South) of sufficient size and quality to allow for the full development of Roger's Property as follows:

(i) if LARRY elects to develop Larry's Property, LARRY will include in his development and subdivision plan a second independent access road from White Rail Lane to connect with Roger's Property; and

(ii) if, when a second independent access is required to continue development of Roger's Property, Larry's Property has not been fully developed and the second independent access referred to in (i) above has not yet been granted, then LARRY agrees to provide a temporary, limited easement meeting city and fire marshal requirements, extending from White Rail Lane, north along the Hooper Canal fence line to Roger's undeveloped property, as described in Exhibit "B". This easement will be for a private unpaved road, fenced (if required by the city), gated at both north and south ends, with the minimum required width and no through traffic allowed. This road is intended to provide a second independent access for emergency vehicles to Roger's Property. ROGER agrees to assume full responsibility for the cost of road construction, fencing (if any), gates and maintenance. This easement

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will terminate if and when LARRY fully develops his property and extends White Rail Lane to Roger's Property.

LARRY agrees that he will not encumber Larry's Property with any easement or other restriction that would prevent the development and provision of the second independent access to Roger's Property described above.

e. Farming. Both parties intend to farm all or a portion of their respective properties.

(i) LARRY agrees to cooperate and provide on a temporary basis (x) access from the 3700 South extension across his undeveloped property on Parcel (08-035-007) to ROGER's undeveloped property, Parcel (08-035-0008), for tractors and farm equipment. This temporary access will terminate if and when either Roger's Property or Larry's Property is fully developed.

(ii) Both parties agree to comingle their available irrigation shares in order to provide continued irrigation water for farming on a portion of each of their respective properties and agree that LARRY shall initially have access to a minimum of 15.5 irrigation shares for use on his property as part of this comingling agreement. This 15.5 minimum shall be reduced incrementally one irrigation share per acre of Larry's Property that is developed. Neither party shall sell or otherwise transfer any comingled irrigation shares except in connection with the development of their respective properties. This comingling will terminate when Roger's Property or Larry's Property is completely developed. If Roger's Property is completely developed, and any part of Larry's Property is being used for farming, and ROGER has remaining irrigation shares available, ROGER agrees to give LARRY a right of first refusal to purchase up to 1.6 irrigation shares at the then current market price.

f. Fences/Security. Both parties agree to maintain existing gates and fences around their respective properties in order to maintain existing security and

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preclude trespassers from obtaining access to either party's property. Both parties agree to provide and maintain new fencing along all boundaries of any development of their respective property that border with farmland. Specifically, new fencing required to support Roger's development will include, but not be limited to, the south side of the planned 3700 South extension and along the west boundary line of Roger's Property to be developed. The existing two-sectioned, hinged metal gate located at 3700 South (or an equivalent) will be relocated by ROGER as part of the initial development of Roger's Property from its present location to the west end of the planned 3700 South extension. All fencing will be constructed of chain link. Installation of all fencing must be completed prior to the commencement of construction of the development of either party's respective property in order to provide/maintain security.

g. Irrigation Ditches. LARRY agrees to allow ROGER access across Larry's Property to the existing irrigation distribution box, located on LARRY's parcel 08-035-0020. LARRY specifically agrees to cooperate and provide Wilson Irrigation Company water conveyance from the existing irrigation distribution box, north to 3700 South and west to 3950 West on a permanent basis. The means of conveyance will be a planned underground concrete pipe line. Both parties agree to share installation and maintenance costs of the pipe line, or other means of conveyance as required and mutually agreed. LARRY further agrees to cooperate and provide Wilson Irrigation Company water conveyance access further north across his undeveloped property on parcel (08-035-007) to Roger's Property, Parcel (08-035-0008), not developed initially in a 29-lot, two-phase development project only on a temporary basis. The means of conveyance will be an above ground, flexible plastic pipe line, an open ditch or equivalent. This temporary access will terminate if and when either Roger's Property or Larry's Property is fully developed. LARRY will cooperate in providing water to ROGER's undeveloped property across ROGER's developed property on a permanent basis. The parties agree that as they develop their respective properties, they will take into consideration the need to line the irrigation

ditches or install pipelines to assure reasonable distribution of irrigation water to the parties' respective properties. Each party is responsible to realign irrigation ditches and/or pipes as necessary to accommodate development of his own respective property.

h. Pasture Easement. LARRY agrees to allow ROGER access by foot or on horseback and allow livestock across his pasture land, Parcel 08-035-0007, west of the canal to allow access to Parcel 08-035-0008, but there is to be no trail, path, road, utilities or sewer lines. Mechanized vehicles and equipment are prohibited. Roger agrees to protect and maintain the environment, wild life and resident livestock while using this easement. If and when LARRY elects to develop his pasture property, Parcel 08-035-0007, LARRY will include in his development and subdivision plan an access road from the existing Kanessville Meadows Lane to Roger's Property west of the canal, Parcel 08-035-0008, for ingress/ egress and utilities. Routing and description of the access road will be compatible with West Haven City's planned trail system and therefore subject to approval by West Haven City.

i. Regulatory Requirements. The parties agree to cooperate in meeting all state and local regulatory and utility requirements applicable to the development and subdivision of real property.

j. Taxes. Each party agrees to be responsible for any taxes assessed (including any roll-back taxes) or other liabilities relating only to their respective properties following the closing and settlement of this Agreement.

k. Closing Costs. The parties agree to share equally the costs of closing the transaction transferring the Trust Property to the parties.

Section Five  
Closing and Settlement

1. The parties agree that in connection with the closing and settlement of this Agreement, the following shall be carried out by an attorney or other agent mutually agreeable to

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the parties:

a. Deeds and titles in respect of Roger's Property and Larry's Property shall be recorded as soon as reasonably possible after this Agreement is executed by both parties.

b. This Agreement shall be recorded on all affected parcels as soon as reasonably possible after this Agreement is executed by both parties.

c. The water shares referred to in Section One, paragraph 4 will be divided as indicated therein and new shares issued as soon as reasonably possible after this Agreement is executed by both parties.

2. 2015 Tax Returns. Final federal and state tax returns for the Trust for the calendar year 2015 will be prepared and submitted by LARRY by April 15, 2016.

3. Attorney's Fees and other Liabilities. Any attorney's fees or other liabilities related to the division of the Trust Property shall be paid out of the Trust's available funds. In the event that such attorney's fees and/or other liabilities are in excess of the Trust's available funds, they shall be paid equally by both parties.

Section Six  
General Provisions

1. Entire Agreement. This Agreement contains all of the agreements of the parties with respect to the matters contained herein.

2. Incorporation of Exhibits. All Exhibits attached hereto and referred to herein are incorporated in this Agreement.

3. Governing Law. This Agreement and each and every related document are to be governed by and construed in accordance with the laws of the State of Utah.

4. Waiver of Covenants, Conditions, or Remedies. The waiver by one party of the performance of any provision or of the time for performing any act under this Agreement shall not invalidate this Agreement, nor shall it be considered a waiver by



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such party of any other provision or of the time for performing any other act required under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any consistent remedy provided by law. The provision of this Agreement for any remedy shall not exclude any other consistent remedies unless they are expressly excluded.

5. Time is of the Essence. Time shall be of the essence as to all dates and times of performance unless specified as a business day. All references herein to the term day shall mean a calendar day.

6. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties and is intended to run with the land.

7. Notices. All notices shall be in writing and may be delivered in person to either party or may be sent by registered or certified mail with postage prepaid, return receipt requested, and addressed as follows:


TO LARRY:


1034 East 425 North  
Ogden, UT 84404

TO ROGER:

402 Wilshire Road  
Oceanside, CA 92057

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

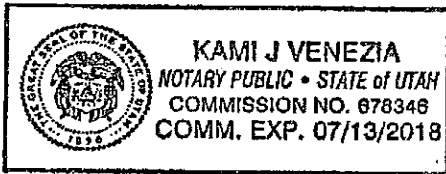
  
LARRY WILSON POULTER

  
MATTHEW S. POULTER  
Attorney-in-fact for  
ROGER STEPHEN POULTER

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State of Utah        )  
                          )    ss.  
County of Weber     )

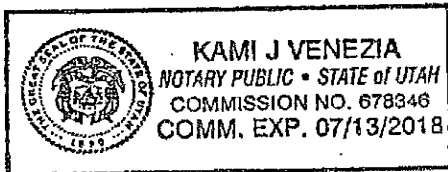
On the 22nd day of December, 2015, personally appeared before me LARRY WILSON POULTER, one of the signers of the foregoing instrument, who duly acknowledged to me that he executed the same.



*Kami J. Venezia*  
\_\_\_\_\_  
Notary Public

State of Utah        )  
                          )    ss.  
County of Weber     )

On the 22nd day of December, 2015, personally appeared before me MATTHEW S. POULTER, attorney-in-fact for ROGER STEPHEN POULTER, one of the signers of the foregoing instrument, who duly acknowledged to me that he executed the same.



*Kami J. Venezia*  
\_\_\_\_\_  
Notary Public



**ROGER POULTER, 08-035-0008**

A PART OF THE SW QUARTER OF SECTION 4, TOWNSHIP 5 NORTH RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

AS BEGINNING AT THE NORTH EAST CORNER OF THE SW QUARTER OF SECTION 4; THENCE S00°40'37"W 1293.93 FEET; THENCE N89°04'49"W 345.00 FEET; THENCE N00°40'37"E 335.32 FEET; THENCE N79°05'03"W 193.73 FEET; THENCE N64°14'50"W 184.72 FEET; THENCE N57°25'23"W 353.62 FEET; THENCE N31°59'12"E 81.73 FEET; THENCE N89°15'59"W 1019.31 FEET; THENCE N00°40'40"E 588.68 FEET; THENCE S89°15'59"E 1980.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 36.10 ACRES

**LARRY POULTER, 08-035-0020**

A PART OF THE SW QUARTER OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN U.S. SURVEY DESCRIBED AS FOLLOWS;

AS BEGINNING AT A POINT WHICH LIES S00°40'37"W 1293.93 FEET FROM THE NORTH EAST CORNER OF THE SW QUARTER OF SECTION 4; THENCE S00°40'37"W 239.65 FEET; THENCE N88°45'11"W 223.42 FEET; THENCE N01°10'18"E 238.37 FEET; THENCE S89°04'49"E 221.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.22 ACRES

**LARRY POULTER, 08-035-0007**

A PART OF THE SW QUARTER OF SECTION 4, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN U.S. SURVEY DESCRIBED AS FOLLOWS;

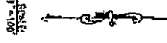
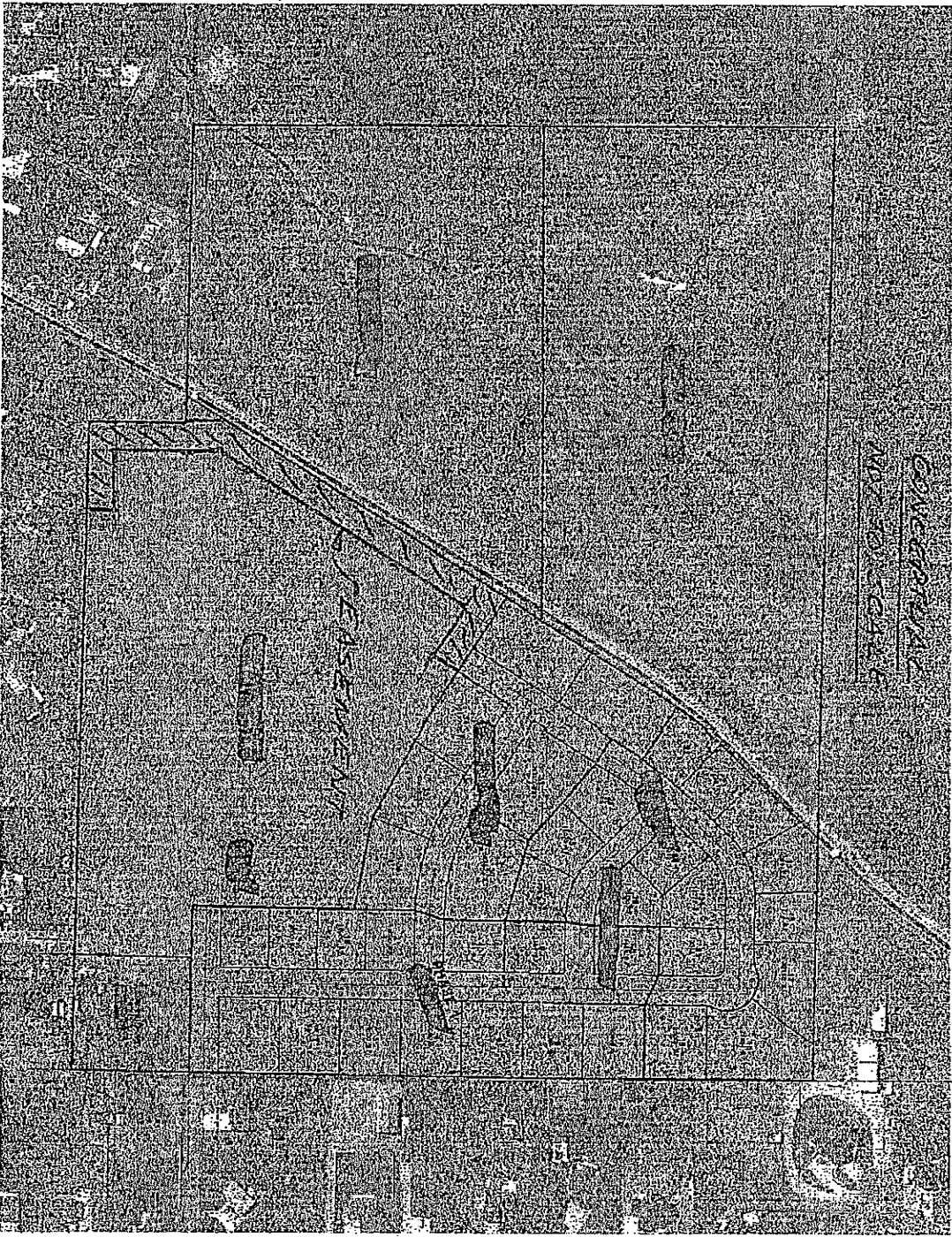
AS BEGINNING AT A POINT WHICH LIES S00°40'37"W 1293.93 FEET AND N89°04'49"W 221.35 FEET FROM THE NORTH EAST CORNER OF THE SW QUARTER OF SECTION 4; THENCE S01°10'18"W 238.37 FEET; THENCE N88°45'11"W 1116.80 FEET; THENCE N00°35'14"E 197.94 FEET; THENCE N88°53'28"W 639.56 FEET; THENCE N00°40'36"E 730.76 FEET; THENCE S89°15'59"E 1019.31 FEET; THENCE S31°59'12"W 81.73 FEET; THENCE S57°25'23"E 353.62 FEET; THENCE S64°14'50"E 184.72 FEET; THENCE S79°05'03"E 193.73 FEET; THENCE S00°40'37"W 335.32 FEET; THENCE S89°04'49"E 123.65 FEET TO THE POINT OF BEGINNING.

CONTAINING 29.09 ACRES

08-035-0007 ✓ A  
08-035-0008 ✓ A  
08-035-0020 ✓ A SPJ

Solutions You Can Build On™

EXHIBIT 'B'




Poulter Property

West Haven City, Weber County, Utah

Property Owners:  
 Roger Poulter  
 Lorry Poulter  
 1024 E. 725 N.  
 Ogden, UT 84403  
 801-792-8289

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Revised: August 21, 2015

<p>RECEIVED                  DATE: _____                  TIME: _____</p>	<p><b>Poulter Property</b>                  PART OF THE SW 1/4 OF SECTION 4, T28N, R27E, S12E &amp; NE 1/4 SURVEY                  4520 HAZARD RD, WEST HAVEN, UTAH</p> <p><b>Sketch Plan</b></p>	<p>DATE: _____                  TIME: _____</p>	 <p><b>Reeve &amp; Associates, Inc.</b>                  1000 SOUTH 1000 WEST, SUITE 100                  OGDEN, UTAH 84403                  801-792-8289</p>
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