

10373379

10373379
3/14/2008 11:52:00 AM \$43.00
Book - 9582 Pg - 2582-2595
Gary W. Ott
Recorder, Salt Lake County, UT
LANDMARK TITLE
BY: eCASH, DEPUTY - EF 14 P.

When Recorded Return to:
Stephen M. Tumblin
Chapman & Cutler
201 South Main Street #2000
Salt Lake City, Utah 84111

CLOSING AGREEMENT

LTC#40836-HOLD

CLOSING AGREEMENT

This Closing Agreement (this "Agreement") is made and entered into as of the 20th day of November, 2007 (the "Effective Date"), by and between Littleton, Inc., a Delaware corporation ("Littleton"), Arbor Gardner, L.C. ("Parent") and Arbor Gardner Bingham Junction Holdings, L.C. ("Purchaser"). Littleton, Parent and Purchaser are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

- A. Littleton and Parent entered into a Purchase and Sale Agreement dated April 19, 2006 (the "Purchase Agreement") (the terms of which are incorporated herein by reference) pursuant to which Parent agreed to purchase certain real property located at approximately 7200 South 700 West, Midvale, Utah, as more particularly described in Exhibit "A" attached hereto (the "Property").
- B. Purchaser is an affiliate of Parent formed for the purpose of taking title to the Property pursuant to the Purchase Agreement.
- C. As a condition to Closing of the Purchase Agreement, Parent and the Purchaser are required to deliver this Closing Agreement to Littleton.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Assumption of Obligations. Parent and Purchaser hereby agree to assume and to be bound by all of the terms of the documents identified on Exhibit "B" attached hereto (the "Development Policies"), which are applicable to owners of the Property or to purchasers from, and successors in interest to, Littleton with respect to the Property.

2. Acknowledgment of Receipt and Review. Parent and Purchaser acknowledge that (i) Parent and Purchaser have received copies of the Development Policies; (ii) Parent and Purchaser have had an adequate period of time to review the Development Policies; (iii) Parent and Purchaser have made such independent investigations and inquiries with all applicable federal, state and local governmental authorities with respect to the Development Policies as Parent and Purchaser have deemed necessary or advisable and (iv) neither Parent nor Purchaser is relying on any statements, documents or representations of Littleton in connection with the meaning, scope, binding nature of the Development Policies or the applicability of the Development Policies to Parent, Littleton, Purchaser, any third party or the Property. Parent and Purchaser further acknowledge that all Property Documents (as defined in the Purchase Agreement) were provided for the convenience of Parent and Purchaser, and Littleton makes no representation or warranty as to the accuracy or completeness of any of such Property Documents, or as to the possible existence of any additional documents, records or reports which may be material to Parent's or Purchaser's decision to purchase the Property. Parent and Purchaser acknowledge and agree that Parent and Purchaser have made their own independent investigation of the Property, and of the accuracy and completeness of all documents provided by Littleton, and Parent and Purchaser shall conclusively be presumed to have knowledge of all matters referred to in or disclosed by the Property Documents.

3. Indemnification by Parent and Purchaser. Parent and Purchaser hereby jointly and severally agree to indemnify, defend and hold Littleton harmless from any claims, liabilities, demands, orders, governmental requirements or directives, judgments, penalties, damages, losses and costs, including reasonable attorneys' fees and costs (collectively, "Claims"), arising out of or in connection with a failure by Parent or Purchaser to comply with the provisions of the Development Policies applicable to Parent and/or the Purchaser.

4. "AS IS" Purchase. Parent and Purchaser acknowledge and agree that the Purchaser is acquiring the Property in its "AS IS" condition, WITH ALL FAULTS, IF ANY, AND WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED. Neither Littleton nor any of Littleton's agents, representatives, or employees have made any representations or warranties, direct or indirect, oral or written, express or implied, to Parent, Purchaser or their consultants, representatives, agents, contractors and employees ("Purchaser's Agents") with respect to the condition of the Property, its fitness for any particular purpose, or its compliance with any laws, and neither Parent nor Purchaser is aware of and does not rely upon any such representation of any other person. Purchaser acknowledges that, prior to the Closing Date, (i) Parent, Purchaser and Purchaser's Agents have had the right and opportunity to enter the Property and to conduct and carry out any and all inspections, tests and studies as Parent and Purchaser deemed appropriate in connection with Purchaser's acquisition of the Property, including, without limitation, the condition of soils and subsurfaces, and the status of all zoning, permitting and other entitlements relevant to the use or contemplated use of the Property, (ii) Parent and Purchaser have had a full and complete opportunity to satisfy themselves with respect to, and Parent and Purchaser have approved, all matters relating to the Property; and (iii) Parent and Purchaser have reviewed the Property Documents (as defined in the Purchase Agreement) and have had the opportunity to ask questions and satisfy themselves with respect to any issues related to such documents. Parent and Purchaser acknowledge that the Development Policies impose significant restrictions on the development of the Property, including, but not limited to, requirements to (i) maintain minimum areas of open space, (ii) dedicate certain property to Midvale City; (iii) build a minimum number of affordable housing units; and (iv) comply with certain environmental restrictions.

5. Release of Claims. From and after the Closing, Parent and Purchaser, on behalf of themselves and their affiliates, officers, directors, representatives, employees, successors and assigns, hereby completely waive and release, and forever discharge Littleton and Littleton's affiliates, officers, directors, representatives, employees, successors, and assigns from and against all Claims arising from or related to the following: (i) any Hazardous Materials in, on, beneath, discharged from, migrating from, discharged to or migrating to the Property, including the soil or groundwater thereof, at any time; (ii) any use, generation, handling, treatment, storage, transportation or disposal of Hazardous Materials at or from the Property or any adjoining at any time; (iii) any compliance or noncompliance of any of the Property or any adjoining property with any Environmental Law; (iv) any hydrological, storm water, wetlands, flood plain, water rights, water quality or other water problems affecting the Property; (v) the availability of water to the Property; (vi) any subsurface conditions; or and (vii) any other latent or patent defect affecting the Property (collectively, the "Released Matters"). In connection with such release, Parent and Purchaser acknowledge that they are aware that they hereafter may discover Claims or facts in addition to or different from those which they now know or believe to exist with respect

to the Released Matters, but that it is their intention to fully, finally and forever waive and release all of the Released Matters in accordance with the provisions of this Section 5, and the release set forth herein shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any such additional or different Claims or facts. The foregoing release of Claims shall be binding on Parent, Purchaser and their successors and assigns, and all subsequent owners, lessees and other transferees of any or all of the Property.

5.1 As used in this Agreement, the term "Hazardous Materials" means any material, waste, chemical or byproduct that is or hereafter is defined or designated under Environmental Laws (as defined below) as a pollutant or as a contaminant, a hazardous or toxic substance, waste or material, or any other unwholesome, hazardous, toxic, or radioactive substance, waste, material, chemical or byproduct, or which is listed, regulated or restricted by any Environmental Law (including without limitation, petroleum hydrocarbons and any distillates or factions thereof, polychlorinated biphenyls, ACM and other asbestos).

5.2 As used herein, the term "Environmental Laws" means any applicable federal, state, local or foreign law (including common law), statute, regulation, rule, ordinance, permit, license, order, requirement, agreement or approval, or any determination, judgment, directive or order of any administrative or judicial authority at any federal, state or local level (whether now existing or subsequently adopted or promulgated) relating to pollution or the protection of the environment, natural resources, flora, fauna, or public or worker health and safety.

6. Assignment. Littleton's rights under this Closing Agreement may be assigned by Littleton to any of Littleton's successors and assigns without the consent of Parent or Purchaser.

7. Run with Property. The representations, warranties, covenants, releases, obligations and liabilities of Parent and Purchaser under this Closing Agreement shall be deemed appurtenant to the Property, shall run with the land and be binding on all subsequent legal and equitable holders of any portion of the Property.

8. Notices. Unless otherwise provided herein, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be served on the Parties at the following addresses:

If to Littleton:

Robert L. Soehnen, President
2100 East Bengal Blvd.
#F203
Salt Lake City, Utah 84121
Facsimile (801) 943-3095

With a copy to:

Kevin R. Murray, Esq.
Chapman and Cutler LLP
201 South State Street, Suite 2000
Salt Lake City, Utah 84111
Facsimile (801) 359-8256

If to Parent and Purchaser:

Christian Gardner
90 South 400 West, Suite 360
Salt Lake City, Utah 84101
Facsimile (801) 366-7194

With a copy to:

Arbor Commercial Residential
10000 South 45 West, Suite 301
Sandy, Utah 84070
Facsimile (801) 561-8647

Any such notices shall be either (i) sent by certified mail return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the United States Mail, (ii) sent by overnight delivery using a nationally recognized courier, in which case notice shall be deemed delivered one (1) business day after deposit, prepaid, with such courier, (iii) sent by facsimile, in which case notice shall be deemed delivered upon transmission of such notice as evidenced by the facsimile transmission report, or (iv) by personal hand delivery, in which case notice shall be deemed delivered at the time of the personal hand delivery.

9. Entire Agreement. This Agreement, including any exhibits attached hereto, constitutes the entire agreement between the Parties relative to the subject matter hereof. Any other negotiations, correspondence, or understandings relative to the subject matter hereof shall be deemed to be merged in this Agreement and shall be of no force or effect. This Agreement may not be amended or modified except in writing executed by all Parties hereto.

10. Interpretation. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the term "person" shall include an individual, partnership, corporation, limited liability company, trust or other entity or association, and the term "Purchaser" shall include Purchaser and any and all assignees or successors of Purchaser and their assignees and successors. The section headings contained in this Agreement are for purposes of reference only and shall not affect the construction of any provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. Time is of the essence. Any exhibits attached hereto are by this reference incorporated herein and made a part hereof.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which shall together constitute one and the same instrument.

12. No Waiver. Acceptance by any Party of any performance less than required hereby shall not be deemed to be a waiver of the rights of such Party to enforce all of the terms and conditions hereof. No waiver of any such right hereunder shall be binding unless reduced to writing and signed by the Party to be charged therewith.

13. Severability. If any provisions of this Agreement as applied to any Party or to any circumstances shall be adjudged by a court of competent jurisdiction or other qualified tribunal to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permitted by applicable law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of the Agreement as a whole.

14. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah, and the Parties hereto (i) agree that any action or proceeding that is brought to enforce or interpret this Agreement or that concerns or is in any way related to this Agreement shall only be commenced in the Third Judicial District Court of Salt Lake County, State of Utah, and (ii) consent to venue and personal jurisdiction in such court.

15. Attorneys' Fees. If any action is brought because of any breach of, or to interpret, or that concerns or is in any way related to, any of the provisions of this Agreement, the Party prevailing in such action shall be entitled to recover from the other Parties all attorneys' fees, expenses and costs incurred in connection with such action, and the amount of such fees, expenses and costs shall be fixed by the court and made a part of any judgment rendered.

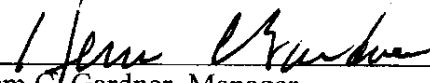
16. Survival. All of the Parties' covenants, agreements, duties, liabilities, and obligations contained in the Development Policies and this Agreement shall survive, and shall not be deemed to have merged into any of the documents executed or delivered in connection with the Purchase Agreement.

17. Preparation of Agreement. The Parties each represent and agree that this Agreement has been prepared by all Parties, with each having equal input with respect to the terms hereof, and that this Agreement shall not be construed against any Party by reason of them having been responsible for its preparation.


18. Recordation. The Parties expressly agree that Littleton may record this Agreement in the public record of the Property.

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

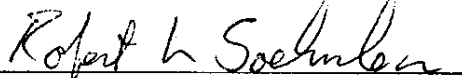
ARBOR GARDNER, L.C., A UTAH LIMITED LIABILITY COMPANY

By: 
Kem C. Gardner, Manager

ARBOR GARDNER BINGHAM JUNCTION HOLDINGS, L.C., A UTAH LIMITED LIABILITY COMPANY, BY ITS MANAGER, KC GARDNER COMPANY, L.C., A UTAH LIMITED LIABILITY COMPANY

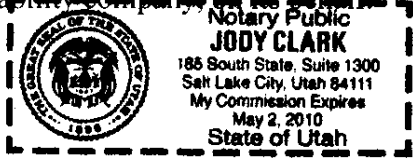
By: 
Kem C. Gardner, Manager


LITTLESON, INC., A DELAWARE CORPORATION

By: 
Robert L. Soehnlen, President

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

The foregoing Closing Agreement was acknowledged before me this 10th day of November, 2007, by Kem C. Gardner, the Manager of Arbor Gardner, L.C., a Utah limited liability company, on its behalf.



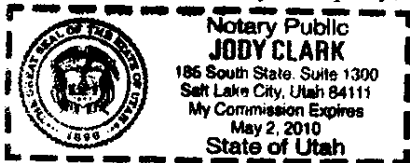



NOTARY PUBLIC

Residing at _____

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

The foregoing Closing Agreement was acknowledged before me this 19th day of November, 2007, by Kem C. Gardner, the Manager of KC Gardner Company, L.C., a Utah limited liability company, the Manager of Arbor Gardner Bingham Junction Holdings, L.C., a Utah limited liability company, on its behalf.



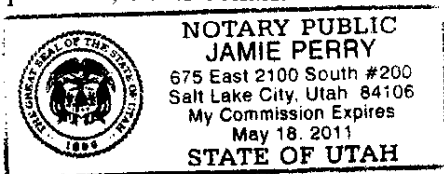


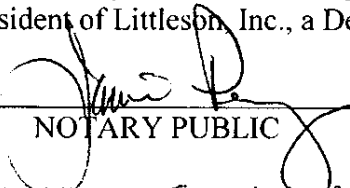
NOTARY PUBLIC

Residing at _____

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

The foregoing Closing Agreement was acknowledged before me this 20th day of November, 2007, by Robert L. Soehnlén, the President of Littleton, Inc., a Delaware corporation, on its behalf.





NOTARY PUBLIC

Residing at Salt Lake City, Utah

EXHIBIT "A"

PROPERTY DESCRIPTION

PARCEL 1:

Beginning at a point North $00^{\circ}17'30''$ East 36.96 feet along the Section line and West 1731.21 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point being also on the Westerly right-of-way line of Bingham Junction Boulevard and the Northerly line of the UTA right-of-way; and running thence along said Northerly line the following two (2) courses: (1) South $83^{\circ}51'00''$ West 143.99 feet, (2) Southwesterly 1223.27 feet along the arc of a 1482.40 foot radius curve to the left, chord bears South $60^{\circ}12'35''$ West 1188.86 feet, to a point which is said to be on the East bank of the Jordan River; thence along said East bank the following eleven (11) courses: (1) South $83^{\circ}00'00''$ West 40.06 feet, (2) North $25^{\circ}19'00''$ West 38.60 feet, (3) North $16^{\circ}07'00''$ East 62.20 feet, (4) North $30^{\circ}53'00''$ East 101.90 feet, (5) North $27^{\circ}10'00''$ East 175.60 feet, (6) North $18^{\circ}42'00''$ East 35.60 feet, (7) North $23^{\circ}22'00''$ East 96.20 feet, (8) North $05^{\circ}23'00''$ East 96.60 feet, (9) North $06^{\circ}25'00''$ East 234.30 feet, (10) North $13^{\circ}20'00''$ West 131.18 feet, (11) North $02^{\circ}00'00''$ West 14.87 feet; thence departing from said East bank North $25^{\circ}00'00''$ East 132.00 feet; thence North $44^{\circ}00'00''$ East 99.00 feet; thence North $37^{\circ}00'00''$ West 132.00 feet; thence North $29^{\circ}00'00''$ West 131.07 feet, to a point which is said to be on the East bank of the Jordan River; thence along said East bank the following nine (9) courses: (1) North $05^{\circ}54'00''$ West 151.08 feet, (2) North $02^{\circ}42'00''$ West 215.90 feet, (3) North $04^{\circ}40'00''$ West 258.30 feet, (4) North $02^{\circ}28'00''$ West 267.00 feet, (5) North $04^{\circ}31'00''$ West 129.50 feet, (6) North $04^{\circ}23'00''$ West 3.63 feet, (7) North $05^{\circ}36'01''$ West 211.68 feet, (8) North $00^{\circ}01'31''$ West 40.00 feet, (9) North $04^{\circ}03'48''$ West 362.43 feet to the Southerly right-of-way line of 7200 South Street (also known as "Jordan River Boulevard" per some instruments of record); thence along said Southerly right-of-way line the following nine (9) courses: (1) North $89^{\circ}20'39''$ East 275.46 feet, (2) Southeasterly 662.78 feet along the arc of a 1369.90 foot radius curve to the right, chord bears South $76^{\circ}47'44''$ East 656.33 feet, (3) South $16^{\circ}21'22''$ East 34.70 feet, (4) South $60^{\circ}18'00''$ East 76.00 feet, (5) North $75^{\circ}45'23''$ East 34.70 feet, (6) Southeasterly 369.94 feet along the arc of a 1369.90 foot radius curve to the right, chord bears South $49^{\circ}55'42''$ East 368.82 feet, (7) South $42^{\circ}11'31''$ East 215.55 feet, (8) Southeasterly 265.85 feet along the arc of a 1335.74 foot radius curve to the left, chord bears South $47^{\circ}53'37''$ East 265.41 feet, (9) South $10^{\circ}51'59''$ East 37.13 feet to the said Westerly right-of-way line of Bingham Junction Boulevard; thence along said Westerly right-of-way the following three (3) courses: (1) South $33^{\circ}11'04''$ West 524.08 feet, (2) Southeasterly 984.86 feet along the arc of a 1433.00 foot radius curve to the left, chord bears South $13^{\circ}29'43''$ West 965.60 feet, (3) South $06^{\circ}11'37''$ East 169.56 feet to the point of beginning.

EXCEPTING FROM SAID PARCEL 1 any portion lying below the mean high water mark of the Jordan River.

PARCEL 2:

Beginning on the West right-of-way line of 700 West Street at a point North 00°17'30" East 174.76 feet along the Section line and West 53.00 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point also being on the Northerly line of the UTA right-of-way and running thence along said Northerly line the following five (5) courses: (1) South 86°33'00" West 311.03 feet, (2) Southwesterly 136.18 feet along the arc of a 2889.79 foot radius curve to the left, chord bears South 85°12'00" West 136.17 feet, (3) South 83°51'00" West 188.15 feet, (4) North 06°09'00" West 25.00 feet, (5) South 83°51'00" West 943.05 feet to the Easterly right-of-way line of Bingham Junction Boulevard; thence along said Easterly right-of-way line the following four (4) courses: (1) North 06°11'37" West 169.64 feet, (2) Northeasterly 912.01 feet along the arc of a 1327.00 foot radius curve to the right, chord bears North 13°29'43" East 894.17 feet, (3) North 33°11'04" East 524.32 feet, (4) North 76°58'02" East 37.23 feet to the Southerly right-of-way line of 7200 South Street (also known as "Jordan River Boulevard" per some instruments of record); thence along said Southerly right-of-way line the following three (3) courses: (1) Southeasterly 687.58 feet along the arc of a 1335.74 foot radius curve to the left, chord bears South 75°06'20" East 680.01 feet, (2) South 89°51'08" East 383.77 feet, (3) South 44°46'48" East 35.31 feet to the West right-of-way line of 700 West Street; thence along said West right-of-way line South 00°17'30" West 1158.07 feet to the point of beginning.

PARCEL 3:

Beginning at a point South 00°08'36" West 62.46 feet along the Section line and West 1720.07 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point being on the Southerly line of the UTA right-of-way, and on the Westerly right-of-way line of Bingham Junction Boulevard and running thence, along said Westerly right-of-way line the following eight (8) courses: (1) South 06°11'37" East 150.04 feet, (2) Southeasterly 204.96 feet along the arc of a 953.00 foot radius curve to the left, chord bears South 12°21'17" East 204.56 feet, (3) South 18°30'57" East 170.29 feet, (4) Southwesterly 349.04 feet along the arc of a 947.00 foot radius curve to the right, chord bears South 07°57'26" East 347.07 feet, (5) South 02°36'06" West 844.85 feet, (6) Southerly 363.86 feet along the arc of a 3053.00 foot radius curve to the left, chord bears South 00°48'45" East 363.65 feet, (7) South 04°13'37" East 222.12 feet, (8) Southwesterly 35.70 feet along the arc of a 23.00 foot radius curve to the right, chord bears South 40°14'11" West 32.22 feet to the Northerly right-of-way line of 7800 South Street; thence along said Northerly right-of-way line the following six (6) courses: (1) South 84°41'58" West 124.50 feet, (2) South 81°39'53" West 50.15 feet, (3) South 85°21'15" West 199.02 feet, (4) North 85°48'46" West 103.29 feet, (5) Southwesterly 447.60 feet along the arc of a 2936.90 foot radius curve to the left, chord bears South 79°09'58" West 447.17 feet, (6) South 74°48'00" West 559.22 feet, to a point which is said to be on the East bank of the Jordan River; thence along said East bank the following fifteen (15) courses: (1) North 02°17'00" East 175.33 feet, (2) North 00°51'00" West 218.40 feet, (3) North 01°40'00" East 75.10 feet, (4) North 03°47'00" East 150.60 feet, (5) North 05°44'00" East 142.60 feet, (6) North 11°16'00" East 74.10 feet, (7) North 43°20'00" East 285.40 feet, (8) North 18°52'00" East 78.80 feet, (9) North 01°48'00" East 77.70 feet, (10) North 25°02'00" West 52.20 feet, (11) North 20°02'00" West 99.00 feet, (12) North 00°50'00" East 338.80 feet, (13) North 05°12'00" East 160.10 feet, (14) North 05°34'00" West 88.00 feet, (15) North 27°07'00" West 52.02 feet to said Southerly line of the UTA right-of-way; thence along said Southerly line the following two (2) courses: (1)

Northeasterly 1182.62 feet along the arc of a 1382.40 foot radius curve to the right, chord bears North 59°20'32" East 1146.88 feet, (2) North 83°51'00" East 144.07 feet to the point of beginning.

EXCEPTING FROM SAID **PARCEL 3** any portion lying below the mean high water mark of the Jordan River.

FURTHER EXCEPTING THEREFROM any portion lying within the bounds of the following three (3) tracts of land:

PARCEL 3 - EXCEPTED TRACT 1:

Beginning at a point North 00°08'36" East 131.37 feet along the Section Line and West 2867.33 feet from the Southeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point being also on the Northerly Right-of-Way Line of 7800 South Street; and running thence North 05°03'12" West 59.29 feet; thence North 05°45'16" West 99.00 feet; thence North 10°26'27" East 86.19 feet; thence North 14°55'02" East 110.85 feet; thence North 14°30'17" East 117.25 feet; thence North 15°15'07" East 71.25 feet; thence North 18°42'49" East 58.21 feet; thence North 08°50'53" East 118.18 feet; thence North 06°44'55" East 78.14 feet; thence North 20°28'56" East 106.61 feet; thence North 21°18'59" East 51.15 feet; thence North 21°03'07" East 165.83 feet; thence North 13°32'31" East 148.55 feet; thence North 03°25'32" West 111.49 feet; thence North 01°39'06" West 71.28 feet; thence North 11°07'25" West 46.72 feet to the Southerly Right-of-Way Line of a proposed road; thence, along said Southerly Right-of-Way Line, North 77°27'29" East 424.38 feet; thence Southeasterly 26.18 feet along the arc of a 15.00 foot radius curve to the right, chord bears South 52°32'31" East 22.98 feet to the Westerly Right-of-Way Line of a proposed road; thence along said Westerly Right-of-Way Line the following seven (7) courses: (1) South 02°32'31" East 44.34 feet, (2) Southeasterly 7.99 feet along the arc of a 167.00 foot radius curve to the right, chord bears South 01°10'17" East 7.99 feet, (3) South 00°11'56" West 447.92 feet, (4) Southwesterly 328.24 feet along the arc of a 767.00 foot radius curve to the right, chord bears South 12°27'32" East 325.74 feet, (5) South 24°43'09" West 116.69 feet, (6) Southwesterly 385.51 feet along the arc of a 633.00 foot radius curve to the left, chord bears South 07°16'18" West 379.58 feet, (7) South 10°10'32" East 75.16 feet; thence Southwesterly 30.75 feet along the arc of a 20.00 foot radius curve to the right, chord bears South 33°52'27" West 27.81 feet to the said Northerly Right-of-Way Line of 7800 South Street; thence along said Northerly Right-of-Way Line the following two (2) courses: (1) Southwesterly 160.11 feet along the arc of a 2936.90 foot radius curve to the left, chord bears South 76°21'42" West 160.09 feet, (2) South 74°48'00" West 377.02 feet to the point of beginning. [The foregoing, at the Date hereof, being the boundary description for proposed **Lot 1 of The Junction At Midvale-West Residential Plat**, a proposed subdivision.]

PARCEL 3 - EXCEPTED TRACT 2:

Beginning at a point South 00°08'36" West 953.07 feet along the Section Line and West 1651.52 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running thence South 02°36'06" West 804.12

feet; thence Southerly 375.07 feet along the arc of a 3147.00 foot radius curve to the left, chord bears South 00°48'45" East 374.85 feet; thence South 04°13'37" East 246.46 feet to the Northerly Right-of-Way Line of 7800 South Street; thence along said Northerly Right-of-Way Line the following five (5) courses: (1) South 84°41'58" West 53.06 feet, (2) South 81°39'53" West 50.15 feet, (3) South 85°21'15" West 199.02 feet, (4) North 85°48'46" West 103.29 feet, (5) Southwesterly 182.19 feet along the arc of a 2936.90 foot radius curve to the left, chord bears South 81°45'18" West 182.16 feet to the Easterly Right-of-Way Line of a proposed street; thence along said Easterly Right-of-Way Line the following nine (9) courses: (1) Northwesterly 31.36 feet along the arc of a 20.00 foot radius curve to the right, chord bears North 55°05'56" West 28.25 feet, (2) North 10°10'32" West 73.55 feet, (3) Northeasterly 345.32 feet along the arc of a 567.00 foot radius curve to the right, chord bears North 07°16'18" East 340.00 feet, (4) North 24°43'09" East 116.69 feet, (5) Northwesterly 356.49 feet along the arc of a 833.00 foot radius curve to the left, chord bears North 12°27'32" East 353.77 feet, (6) North 00°11'56" East 447.92 feet, (7) Northwesterly 11.15 feet along the arc of a 233.00 foot radius curve to the left, chord bears North 01°10'17" West 11.14 feet, (8) North 02°32'31" West 61.27 feet, (9) Northeasterly 20.94 feet along the arc of a 15.00 foot radius curve to the right, chord bears North 37°27'29" East 19.28 feet to the Southerly Right-of-Way Line of a proposed street; thence along said Southerly Right-of-Way Line the following three (3) courses: (1) North 77°27'29" East 238.49 feet, (2) Northeasterly 123.43 feet along the arc of a 467.00 foot radius curve to the right, chord bears North 85°01'48" East 123.07 feet, (3) South 87°23'54" East 99.50 feet to the point of beginning. [The foregoing, at the Date hereof, being the boundary description for proposed **Lot 2 of The Junction At Midvale-West Residential Plat**, a proposed subdivision.]

PARCEL 3 - EXCEPTED TRACT 3:

Beginning at a point South 00°08'36" West 132.18 feet along the Section Line and West 1806.89 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running thence South 06°11'37" East 90.11 feet; thence Southeasterly 225.17 feet along the arc of a 1047.00 foot radius curve to the left, chord bears South 12°21'17" East 224.74 feet; thence South 18°30'57" East 170.29 feet; thence Southwesterly 289.11 feet along the arc of a 853.00 foot radius curve to the right, chord bears South 08°48'22" East 287.73 feet to the Northerly Right-of-Way Line of a proposed street; thence along said Northerly Right-of-Way Line the following three (3) courses: (1) North 87°23'54" West 99.12 feet, (2) Southwesterly 140.87 feet along the arc of a 533.00 foot radius curve to the left, chord bears South 85°01'48" West 140.47 feet, (3) South 77°27'29" West 758.96 feet; thence North 12°01'19" West 93.39 feet; thence North 04°02'14" West 85.08 feet; thence North 08°32'51" West 130.41 feet; thence North 01°21'28" West 84.08 feet; thence North 01°48'48" East 89.68 feet; thence North 03°06'20" East 40.57 feet; thence Northeasterly 928.76 feet along the arc of a 1322.40 foot radius curve to the right, chord bears North 63°43'47" East 909.79 feet; thence North 83°51'00" East 50.12 feet to the point of beginning. [The foregoing, at the Date hereof, being the boundary description for proposed **Lot 3 of The Junction At Midvale-West Residential Plat**, a proposed subdivision.]

PARCEL 4:

Beginning at a point South 00°08'36" West 51.10 feet along the Section line and West 1614.71 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian, said point being on the Easterly right-of-way of Bingham Junction Boulevard, and on the Southerly line of the UTA right-of-way, and running thence, along said Southerly line, North 83°51'00" East 446.44 feet; thence South 07°50'31" West 257.24 feet; thence South 80°29'54" East 369.39 feet; thence South 11°11'31" East 11.60 feet; thence South 84°51'35" East 168.82 feet; thence South 01°43'31" West 1016.34 feet; thence South 89°52'31" West 526.00 feet; thence South 00°07'29" East 983.65 feet to the Northerly right-of-way line of 7800 South Street; thence along said Northerly right-of-way line the following two (2) courses: (1) North 89°34'30" West 45.63 feet, (2) South 85°46'23" West 196.69 feet to the Easterly right-of-way line of Bingham Junction Boulevard ("South Triangle Description"); thence along said Easterly right-of-way line North 04°13'37" West 16.06 feet; thence North 33°13'37" East 47.33 feet; thence North 56°46'23" West 36.25 feet, to the Easterly right-of-way line of Bingham Junction Boulevard ("South Legal Description"); thence along said Easterly right-of-way line the following seven (7) courses: (1) North 04°13'37" West 168.98 feet, (2) Northeasterly 351.23 feet along the arc of a 2947.00 foot radius curve to the right, chord bears North 00°48'45" West 351.02 feet, (3) North 02°36'06" East 844.85 feet, (4) Northwesterly 388.11 feet along the arc of a 1053.00 foot radius curve to the left, chord bears North 07°57'26" West 385.91 feet, (5) North 18°30'57" West 170.29 feet, (6) Northeasterly 182.16 feet along the arc of a 847.00 foot radius curve to the right, chord bears North 12°21'17" West 181.81 feet, (7) North 06°11'37" West 149.96 to the point of beginning.

EXCEPTING THEREFROM any portion lying within the bounds of the following tract of land:

PARCEL 4 - EXCEPTED TRACT:

Beginning at a point South 00°08'36" West 345.59 feet along the Section Line and West 670.49 feet from the East Quarter Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian and running thence South 01°43'31" West 462.60 feet to the Northerly Right-of-Way Line of a proposed street; thence along said Northerly Right-of-Way Line the following five (5) courses: (1) North 88°16'29" West 137.58 feet, (2) Southwesterly 189.67 feet along the arc of a 533.00 foot radius curve to the left, chord bears South 81°31'51" West 188.67 feet, (3) South 71°20'10" West 145.48 feet, (4) Southwesterly 173.33 feet along the arc of a 467.00 foot radius curve to the right, chord bears South 81°58'08" West 172.34 feet, (5) North 87°23'54" West 4.27 feet; thence North 01°45'37" East 24.64 feet; thence Northwesterly 386.02 feet along the arc of a 1182.78 foot radius curve to the left, chord bears North 09°09'59" West 384.31 feet; thence North 18°30'57" West 170.70 feet; thence North 71°18'22" East 243.61 feet; thence South 80°29'54" East 369.39 feet; thence South 11°11'31" East 11.60 feet; thence South 84°51'35" East 168.82 feet to the point of beginning. [The foregoing, at the Date hereof, being the boundary description for proposed **Lot 6 of The Junction At Midvale-Northeast Residential Plat**, a proposed subdivision.]

Tax Parcel Numbers: Parcel No. 1=21-26-201-002
Parcel No. 2=21-26-200-016
Parcel No. 3=21-26-401-004
21-26-451-004
Parcel No. 4=21-26-426-018
21-26-426-019 & 21-26-426-021

EXHIBIT "B"

DEVELOPMENT POLICIES

RD/RA Consent Decree effective as of November 16, 2004 by the United States District Court for the District of Utah in Case 2:99-CV-757TS, and all documents and agreements attached thereto or referred to therein.

Agreement, Grant of Access to UDEQ and Covenant Not to Sue Decree effective as of November 16, 2004 by and between the State of Utah, Department of Environmental Quality and Littleton, Inc. and all documents and agreements attached thereto or referred to therein.

Development Agreement between Littleton, Inc. and Midvale City respecting the Property and all documents and agreements attached thereto or referred to therein.

Reimbursement Agreement between Littleton, Inc. and Midvale City respecting the Property and all documents and agreements attached thereto or referred to therein (the "Reimbursement Agreement")

Record of Decision and all documents and agreements attached thereto or referred to therein.

Bingham Junction Community Declaration and all documents and agreements attached thereto or referred to therein (the "POA").