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**AGREEMENT BETWEEN
IRON MOUNTAIN ASSOCIATES, L. L. C. AND
MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT
FOR THE PURCHASE OF WATER SYSTEM IMPROVEMENTS
PENDING THE NEGOTIATION OF A WATER SERVICE AGREEMENT
AND THE ANNEXATION OF THE COLONY AT WHITE PINE CANYON
INTO THE DISTRICT'S BOUNDARIES**

This agreement ("Agreement") is made and entered into as of May 1, 2000, by and between the Mountain Regional Water Special Service District, a political subdivision of the State of Utah ("District") and Iron Mountain Associates L. L. C., a Utah Limited Liability Company, ("IMA") for the purchase by the District of certain water system improvements and appurtenant facilities to be constructed by IMA.

RECITALS

- A. IMA is constructing a 12-inch diameter and a 16-inch diameter water transmission pipeline from a well (the "Quarry Mountain Well") located on property owned by Quarry Mountain Development, Inc., and Richard L. Clissold Investment Company ("Quarry Mountain"). The pipeline extends from the Quarry Mountain Well to Old Ranch Road, thence West along Old Ranch Road, across Highway 224 to Sun Peak Drive, and thence south through the Canyons SPA development area to IMA's development parcel, The Colony at White Pine Canyon ("The Colony"), for the purpose of providing a water conveyance facility to bring culinary quality water to The Colony and others in the area (the "Pipeline"). The defined term "Pipeline" does not include the Quarry Mountain Well.
- B. IMA has also constructed on its property at The Colony a 500,000-gallon water storage tank and related facilities (the "Storage Facility").
- C. The general location and alignment of the Pipeline and the Storage Facility (collectively the "Water System Facilities") are depicted on Exhibit A attached hereto and incorporated herein by reference.
- D. Both the Pipeline and the Storage Facility have capacity in excess of the requirements of The Colony which excess capacity could be used by the District to serve the needs of other development projects in the general area of The Colony.
- E. The District was organized for the purpose of providing municipal and industrial water service to those residing within its boundaries as they now exist and as they may be extended by annexation in the future. In order for the District to provide culinary water service to developments in the general area of The Colony, it must

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either build its own water transmission lines or purchase existing water transmission lines. It could then use the transmission lines built or purchased to supply water to The Colony as well as other development parcels that are intending to annex to the District in the immediate area of The Colony, which will also require water service from the District.

- F. The District and IMA presently are negotiating the terms and conditions of a water service agreement under which it is anticipated that IMA will annex its land to the District and contract with the District to provide culinary water service to The Colony and for the District to own, operate, maintain, repair and replace the water distribution system IMA has constructed within The Colony (the "Water Service Agreement").
- G. IMA is willing to sell and the District is willing to purchase the Water System Facilities on the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Purchase of the IMA's Main Transmission Pipeline and Storage Facility:**
IMA will provide the District an accounting of its actual costs of design, engineering and construction of the Water System Facilities within 30 days of the completion of the Water System Facilities. If the District agrees with the costs as provided by IMA, it shall indicate its agreement in writing. If the District disputes all or any portion of the costs, the parties agree to: (i) Mediate the dispute and employ at their joint and equal expense a mutually acceptable consulting engineering or other firm to act as mediator in attempting to reach a compromise on the costs to be paid for these facilities; (ii) if mediation is unsuccessful, to submit this dispute or those disputed costs to binding arbitration in accordance with the rules of the American Arbitration Association, and to arbitrate this dispute in Salt Lake City. The arbitration award may be enforced in the District Court for Summit County; (iii) each party will bear their own fees and expenses incurred in

either mediation or arbitration and will share equally in the fees of the arbitrator and of the association. Once all of the costs of all the improvements have been agreed to, the agreed upon cost of the Water System Facilities (the "Water System Costs") shall become the basis for determining the purchase price of the improvements. Initially, IMA will reserve from the sale a peak flow capacity of 620 gallons per minute in the Water System Facilities, which equates to 32% of the flow capacity of all the 12-inch portions of the Pipeline, 18% of the flow capacity of all 16-inch portions of the Pipeline, and shall also reserve 10% (50,000 gallons) of the storage in the Storage Facility (cumulatively, the "Reserved Capacity"). The Reserved Capacity may be used by IMA and its successors to provide water service to The Colony. IMA will use the Reserved Capacity for the purpose of delivering water from the Quarry Mountain Well or the Park City Water Special Service District to The Colony. The amount of the purchase price to be paid by the District for the improvements shall be determined as follows:

- a. **Water Service Agreement Signed.** In the event the parties enter into a Water Service Agreement, the District agrees to purchase and IMA agrees to sell all of its right, title, estate and interest in and to the Water System Facilities for an amount equal to the total amount of the Water System Costs. Payment by the District to IMA shall be according to the terms of the Water Service Agreement.
- b. **No Water Service Agreement Signed.** In the event the parties do not enter into a Water Service Agreement by June 1, 2000, IMA and its successors will continue to use the Reserved Capacity for the purpose of delivering water to The Colony from the Quarry Mountain Well or the Park City Water Special Service District, and the District agrees to purchase as follows:

- i. **Initial District Purchase of Water System Facilities.**

The District hereby agrees to purchase and IMA hereby agrees to sell all of its right, title, estate and interest in and to the Water System Facilities for an amount equal to the Water System Costs

less the proportionate cost of the Reserved Capacity. Thus, the District initially shall pay to IMA 68% of the agreed upon cost of all 12-inch portions of the Pipeline, 82% of the agreed upon cost of all 16-inch portions of the Pipeline, and 90% of the agreed upon cost of the Storage Facility (the "Initial Purchase"). Payment of the Initial Purchase price shall be due and payable after the occurrence of both of the following: (a) the District has entered into binding water sales contracts after March 31, 2000, either for Willow Spring LLC surplus water, or failing the implementation of the District's agreement with Willow Spring, the District's development of other sources which intend to utilize the Water System Facilities (including IMA), for a minimum of 325 acre feet of water for new water service, and the passage of 90 days thereafter; and (b) the passage of 90 days from the District's receipt of an invoice from IMA.

ii. **Subsequent District Purchase.** If IMA determines that the Reserved Capacity exceeds the capacity needed to serve The Colony (the "Excess Reserved Capacity"), IMA or its successors shall have the option, but not the obligation, to sell the Excess Reserved Capacity to the District and the District shall purchase the Excess Reserved Capacity in cash within ninety (90) days of IMA's written notice of its intent to exercise the option, provided the option is exercised by IMA within seven (7) years of the date of the Initial Purchase. The purchase price of the Excess Reserved Capacity shall be the total amount of the Water System Costs times the percentage of the total flow capacity of the Pipeline represented by the Excess Reserved Capacity.

iii. **Quarry Mountain Well Improvements.** The parties acknowledge that IMA is paying the full cost of outfitting the Quarry Mountain Well. IMA, the District and Quarry Mountain

may enter into agreements after the signing of this agreement concerning the use of and sharing of costs for the Quarry Mountain Well Improvements. Those subjects are left for future negotiations and agreements and are not dealt with in this Agreement.

1. **Transfer of Title and Assumption of Possession, Operation, Maintenance, Repair and Replacement of the Water System Facilities:** IMA agrees that upon execution of this Agreement, the District shall own and assume possession and control of the portions of the Water System Facilities that have been completed including and subject to the Reserved Capacity, and is entitled to immediate ownership, possession and control of the remaining portions of the Water System Facilities, including and subject to the Reserved Capacity, as they are completed. Although this Agreement acts as evidence for the transfer of title, if requested by the District, IMA shall execute and deliver a bill of sale to the Water System Facilities to the District within 10 days of such request. The District shall also assume all operation, maintenance, repair and replacement responsibilities for these Water System Facilities. Thereafter, the Water System Facilities shall be considered District facilities, subject to the District's obligations as set forth herein to pay for these facilities and to transport water for The Colony and for Quarry Mountain.
 - a. IMA shall pay its proportionate share of all costs of operation, maintenance, repair and replacement of the Water System Facilities, calculated in the normal, standard manner by the District under its Rules and Regulations, within 30 days of its receipt of an invoice for these expenses from the District. These expenses will be billed in accordance with the District's Rules and Regulations.
 - b. If the parties enter into a Water Service Agreement, IMA shall transfer title to the internal water distribution system and all its appurtenances by appropriate instruments of transfer to the District and the District will take title thereto and assume all obligations for operation, maintenance, repair and replacement as provided in its Rules and Regulations. IMA will assign to the District any warranty rights of IMA obtained from

contractors or suppliers in connection with the internal water distribution system. Thereafter, the costs of operation, maintenance, repair and replacement of the internal water distribution system will be billed as part of the water service fees and charges to the customers of the District in accordance with the District's Rules and Regulations.

- c. Until such time as the parties enter into a Water Service Agreement, the District agrees to transport IMA's culinary water from the Quarry Mountain Well to The Colony utilizing the Reserved Capacity in the Water System Facilities to make these water deliveries.
- d. The District acknowledges that the IMA has agreed to provide storage capacity to Quarry Mountain development in consideration for the interim use by IMA of the Quarry Mountain Well and water rights as the interim culinary water source and water rights for The Colony. The District will abide by that agreement and reserve from the available Storage Facility capacity and main transmission pipeline capacity such capacity as is necessary to provide service to 36 platted lots in Quarry Mountain.
- e. All remaining capacity in the Water System Facilities not required to provide service to The Colony or to Quarry Mountain, will be available for use by the District in providing municipal water service to other development areas seeking water service from the District; provided, however, that at no time will the District allow connections to be made to these facilities that oversubscribe their capacity or that would in any way impair the ability and obligation of the District to provide municipal water service to The Colony based on its Reserved Capacity or to Quarry Mountain as provided herein.
- f. The District will enter into separate agreements with Quarry Mountain, IMA regarding the use, operation, maintenance, repair and replacement of the Quarry Mountain Well.

2. **Completion of Construction of Water System Facilities:** The parties acknowledge that the Water System Facilities are not fully constructed. IMA

shall complete the construction of the Water System Facilities as expeditiously as possible at its sole expense. To facilitate the completion of the construction, the District will secure at its cost all easements or rights of way needed for construction of the Pipeline from third party land owners and provide necessary permits from Summit County to enable IMA to construct the remaining Pipeline across land in the Canyons Resort, including land owned by the Municipal Building Authority of Summit County, and along County-owned rights of way. Upon substantial completion of the Water System Facilities and their inspection and acceptance by the District, IMA will assign to the District any warranty rights of IMA obtained from contractors or suppliers in connection with the Water System Facilities.

3. **Annexation and Negotiation of a Water Service Agreement:** The parties acknowledge that IMA desires to annex its development into the boundaries of the District and to become a municipal water customer of the District in accordance with its Rules and Regulations. In that regard, the parties agree to negotiate in good faith to achieve a mutually acceptable Water Service Agreement no later than June 1, 2000. Pending the negotiation of a Water Service Agreement, the District will reserve for IMA and The Colony 500 acre feet of water from its available inventory of water rights and water source capacity for use at The Colony. The water will be reserved only until June 1, 2000. Any water that is not contracted for by IMA on or before June 1, 2000, will go back into the general water supply pool of the District for allocation to others on a first come, first serve basis. The District and IMA agree that any Water Service Agreement shall include the essential requirements of the District to purchase 100% of the Water System Facilities (including the Reserved Capacity) and of IMA immediately to annex The Colony development into the boundaries of the District and to reimburse the District for its standard costs, fees and expenses incurred in the annexation of The Colony. Both parties reserve the right to negotiate all other terms of the Water Service Agreement in good faith. The following is a statement of some of the issues they have

discussed in detail and which may become part of The Water Service Agreement:

- a. IMA shall agree to a take down schedule for payment of impact fees related to the acquisition of the water rights and water source development required to provide municipal water service to The Colony.
- b. Payments for the Water System Facilities shall be made in installments and timed so that these payments may be credited or off-set against IMA's required payments under its take-down schedule for the water rights and water source development.
- c. Payments for the water rights would be conditioned upon the District's receipt of all required State Engineer approvals to use the water rights to serve The Colony as a point of use.

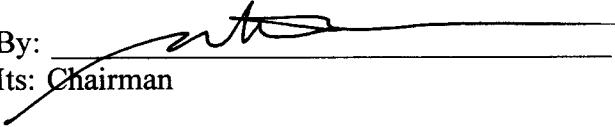
4. **IMA Purchase Option.** In the event the parties do not enter into a Water Service Agreement by June 1, 2000, and as the District completes other pipeline and water transmission facilities in the Snyderville Basin, IMA or its successor shall have the option to purchase up to 620 gallons per minute of flow capacity in those pipeline extensions and facilities (the "Additional Capacity"), provided IMA or its successor have given written notice of its intention to exercise the option within three (3) years of the Initial Purchase. IMA shall be entitled to purchase capacity in as much of the District pipeline extensions and facilities as may be necessary to enable IMA or its successor to connect to Park City Water Special Service District. The purchase price to be paid to the District by IMA or its successor shall be determined utilizing the same formula utilized by the parties to determine the purchase price paid by the District for the Water System Facilities set forth in Paragraph 1. IMA shall pay the District in cash within 90 days of the date IMA exercises its option to purchase the Additional Capacity. However, if the District has not paid IMA in full for the purchase of the Water System Facilities, then IMA may offset what the District still owes IMA against the purchase price of the Additional Capacity and IMA shall pay any remaining balance within 90 days of the date it exercises its option to purchase the Additional Capacity.

5. Miscellaneous Provisions.

- a. **Attorney's Fees.** In the event of any dispute arising out of this Agreement, except as provided in Paragraph 1 above, the prevailing party in any arbitration or related legal proceedings shall be entitled to recover its reasonable attorney's fees, costs and expenses from the losing party.
- b. **Arbitration.** In any dispute arising under this Agreement, the parties agree to submit the dispute to binding arbitration by the American Arbitration Association of Salt Lake City, Utah, or the next closest available office. The only exception to the foregoing shall be the proceedings under Paragraph 1 where the parties have already agreed that mediation will precede arbitration. Any award or determination of the arbitration may be entered as a judgment in the District Court of Summit County, Utah.
- c. **Amendments.** No amendment, change or modification of this Agreement shall be valid unless in writing and signed by the parties.
- d. **Integration.** This Agreement is the entire agreement between the parties and supercedes all prior understandings, representations or agreements.
- e. **Binding Agreement.** This Agreement is binding on the parties hereto and their successors and assigns.
- f. **IMA and District Water Applications.** The District shall not oppose any change application(s) of IMA, Quarry Mountain, and/or Park City, including the Park City Water Special Service District, for the purpose of providing water service to The Colony at White Pine Canyon which may be related to (i) the interim use of the Quarry Mountain Well, and/or (ii) failing the consummation of a Water Service Agreement between the District and IMA, the long-term use of Quarry Mountain or Park City water rights. Similarly, IMA shall not oppose any change applications filed by the District for development of its water system.

IN WITNESS WHEREOF, the parties have set their hands the day and year first set forth above.

MOUNTAIN REGIONAL WATER SPECIAL SERVICE DISTRICT
A Political Subdivision of the State of Utah

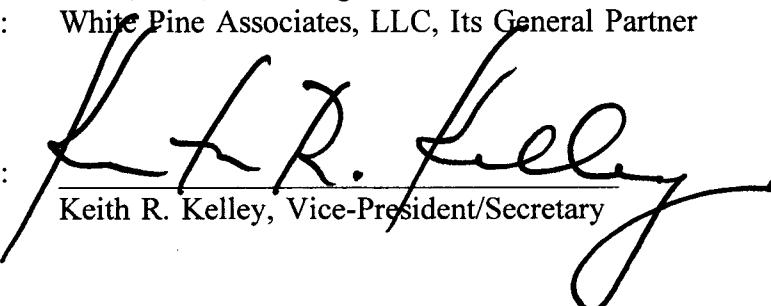
By: 

Its: Chairman

IRON MOUNTAIN ASSOCIATES, L. L. C.
A Utah Limited Liability Company

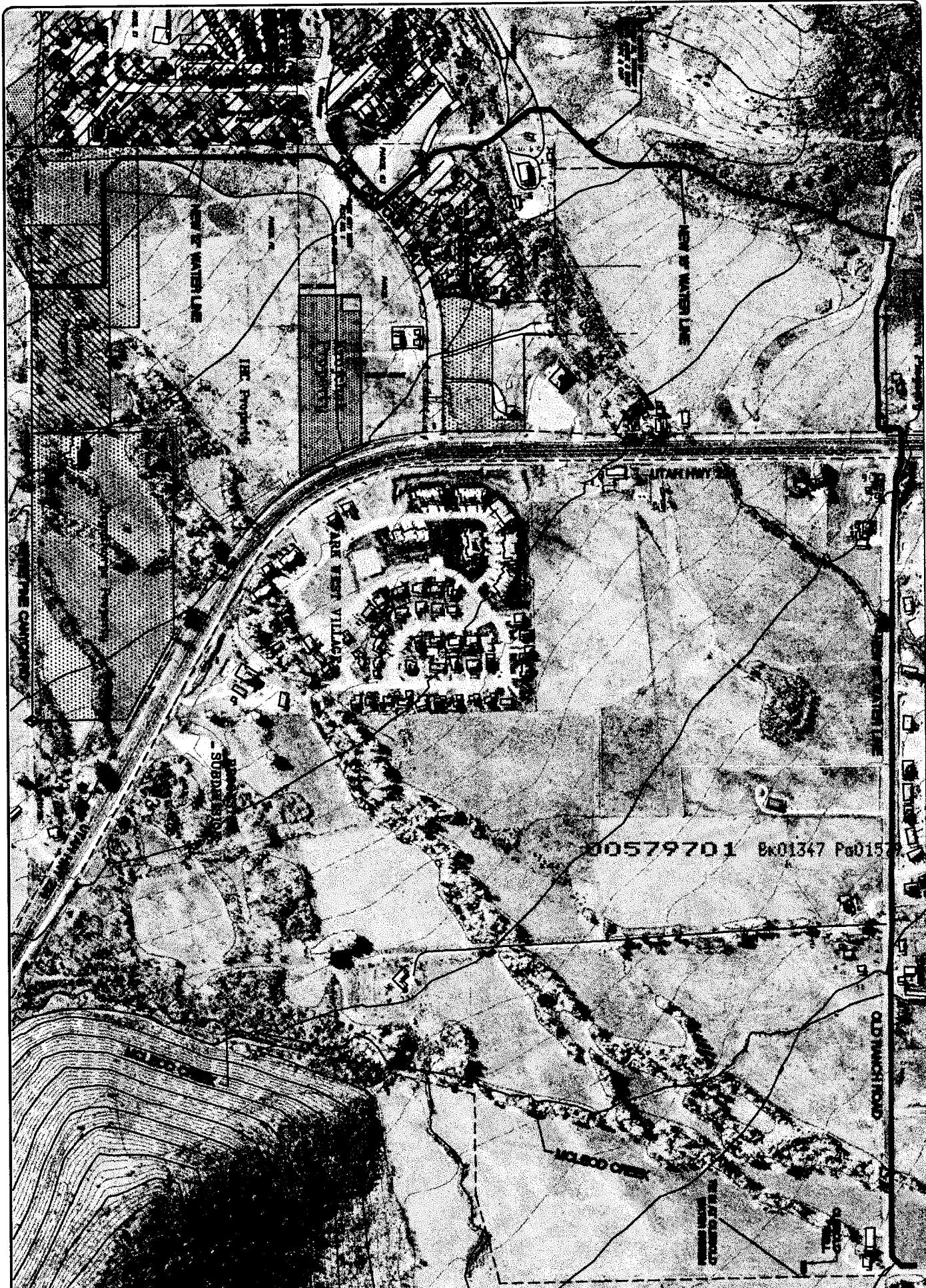
By: WPA, Ltd., Its Manager

By: White Pine Associates, LLC, Its General Partner

By: 

Keith R. Kelley, Vice-President/Secretary

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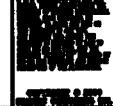


THE COLONY
IRON MOUNTAIN ASSOC.
NEW WATER LINE ALIGNMENT
OVERALL PLAN



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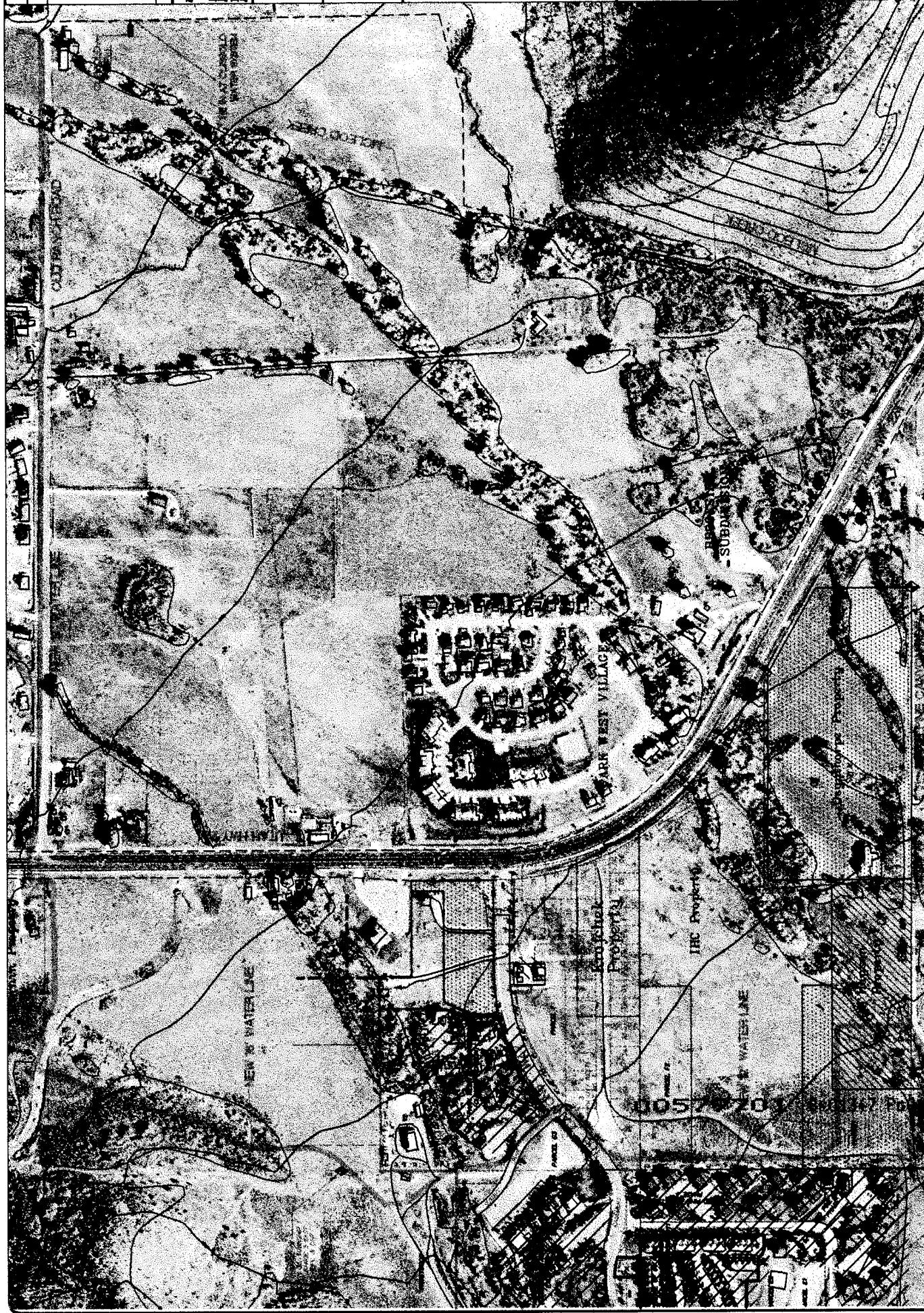
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