

AGENDA

CITY OF CLARKSBURG

AGENDA FOR **REGULAR MEETING OF COUNCIL OF THE CITY OF CLARKSBURG TO BE HELD **THURSDAY, OCTOBER 6, 2022**** AT THE CLARKSBURG MUNICIPAL BUILDING – COUNCIL CHAMBERS, 222 WEST MAIN STREET, CLARKSBURG, WEST VIRGINIA AT **6:00 P.M.**

PRIOR TO THE REGULAR COUNCIL MEETING, COUNCIL WILL BE MEETING IN THE CITY MANAGER’S CONFERENCE ROOM AT 5:30 P.M. FOR A CONFERENCE SESSION. (NOTE: THIS SESSION IS ALSO OPEN TO THE PUBLIC). IN ADDITION TO THE AGENDA, COUNCIL WILL HAVE THE OPPORTUNITY TO ASK QUESTIONS TO THE CITY MANAGER AND/OR ATTENDING STAFF.

ORDER OF BUSINESS

1. ROLL CALL
2. PRAYER (*to be given by Vice Mayor Junkins*) & PLEDGE
3. APPROVAL OF MINUTES:
REGULAR SESSION-SEPTEMBER 1, 2022
CONFERENCE (WORK) SESSION – SEPTEMBER 12, 2022
4. PETITIONS, COMMUNICATIONS AND PUBLIC HEARINGS
5. CITY MANAGER’S REPORT/UPDATE
6. UNFINISHED BUSINESS:
 - A. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND RE-ENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY SEWERAGE SYSTEM AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES, FOR RESIDENTS OF THE CITY OF CLARKSBURG**
 - B. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE OF THE CITY OF CLARKSBURG, WEST VIRGINIA, AMENDING AND RE-ENACTING SECTION 933.02 OF ARTICLE 933 OF CHAPTER 3 OF THE CODE OF THE CITY OF CLARKSBURG**

RELATING TO THE IMPOSITION OF RATES FOR THE USE OF THE SERVICES RENDERED BY SEWERAGE SYSTEM AND ESTABLISHING STANDARDS FOR THE USE OF SUCH SYSTEM AND THE COMPUTATION OF SUCH RATES, FOR NON-RESIDENTS OF THE CITY OF CLARKSBURG

- C. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE** AMENDING SECTION 1707.08, RE-NUMBERING AND AMENDING SECTION 1707.09 AND CREATING A NEW SECTION 1707.09
- D. CONSIDERATION OF **SECOND AND FINAL READING AND PUBLIC HEARING OF AN ORDINANCE** CREATING A FIRE DEPARTMENT COST RECOVERY ORDINANCE

7. NEW BUSINESS:

- A. CONSIDERATION OF A **RESOLUTION** TO BECOME A PARTICIPATING EMPLOYER OF THE WEST VIRGINIA POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM FOR MUNICIPAL POLICE OFFICERS
- B. CONSIDERATION OF A **RESOLUTION** TO BECOME A PARTICIPATING EMPLOYER OF THE WEST VIRGINIA POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM FOR MUNICIPAL PAID PROFESSIONAL FIREFIGHTERS
- C. CONSIDERATION OF A LETTER OF SUPPORT FOR A *RECONNECTING CLARKSBURG* U.S. DOT GRANT IN THE AMOUNT OF \$125,000
- D. CONSIDERATION OF A PETITION FILED BY PINK INVESTMENTS, LLC REQUESTING THE ABANDONMENT OF A PORTION OF PROPERTY LOCATED BETWEEN THE ELK VIEW CEMETERY AND HARDEE'S ON MARSHALL STREET AND EAST MAIN STREET
- E. CONSIDERATION OF APPOINTMENT TO THE SANITARY BOARD
- F. DISCUSSION REGARDING ELECTION-RELATED CHARTER AMENDMENTS AND PERSONNEL MATTERS

8. COUNCIL COMMENTS

9. ADJOURNMENT



CITY OF CLARKSBURG

222 WEST MAIN STREET • CLARKSBURG, WV 26301 • PH. (304) 624-1673 • FAX (304) 624-6135
E-MAIL: awright@cityofclarksburgwv.com

OFFICE OF CITY CLERK

TO: HONORABLE MAYOR AND MEMBERS OF COUNCIL

FROM: ANNETTE WRIGHT, CITY CLERK

DATE: OCTOBER 3, 2022

RE: REQUEST FOR ABANDONMENT

Attached please find a petition filed by Pink Investments, LLC, requesting the abandonment of the unnamed portion of property owned by the City and located along Marshall Street & East Main Street. This is a portion/piece of property located between Hardee's and the Cemetery.

Should Council be in agreement, this petition should be forwarded to the Planning & Zoning Commission for their review, public hearing and recommendation. This matter is included on the Agenda under "New Business."

Should you have any questions, please contact the Code Department at 304-624-1633.

Thank you!

Attachment

cc w/attachment to:
Code Enforcement Department

**PETITION FOR ABANDONMENT OF A PORTION OF CITY PROPERTY,
HARRISON COUNTY, WEST VIRGINIA**

I. INTRODUCTION

Pink Investment, LLC, a California limited liability company ("Pink") submits this Petition for Abandonment ("Petition") to the City of Clarksburg ("City") requesting the abandonment of a portion of City property adjoining property owned by Pink and property owned by Elk View Cemetery A F & A M, as also may be known as Hermon Lodge #6 AF & AM ("Elk View").

II. FACTS AND REASONS FOR ABANDONMENT

Pink acquired certain property from Mountain Water Investments, LLC and MLS Properties, located in Clark-Clarksburg District, being Tax Map 27, Parcels 130, 131, 132, 133, 135, and 137, by that deed recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia ("Clerk's Office"), in Deed Book 1726 at Page 831 ("Pink Property"). A Hardee's restaurant is located on said Pink Property and is now owned by Pink. Adjoining the Pink Property is property owned by Elk View, identified as Clark-Clarksburg District, Tax Map 27 Parcel 36 ("Elk View Property"). Located between the Pink Property and the Elk View Property is a piece of property, which does not have assessment records or a history of title and based on the lack of records, is owned by the City ("City Property"). A recent survey prepared by Bradley D. Miller, P.S. 2167, Professional Surveyor, shows the City Property as being a 14' x 84' strip or parcel of property ("Survey"). The Survey identifies the City Property as the Gap Area shaded in red. The Survey is attached hereto and incorporated herein by reference as Exhibit A. The City Property is bounded to the North by Parcel 131 of the Pink Property; to the East by the Elk View Property; and to the South and West by Parcel 133 of the Pink Property.

Based on the title history, public records and other information publically available, it appears a city street may have been planned or drawn between the Pink Property and the Elk View Property; however, the street was never utilized or developed and only existed on paper ("Paper Street"). Further it appears that the entirety of the Paper Street, except for the City Property was abandoned at some point in time, with half of the Paper Street being granted or given to Elk View or its predecessors in title and half of the Paper Street given to Pink's predecessors in title. The Survey shows the City Property was inadvertently not abandoned or not included in the half of the Paper Street that was to be given or granted to Pink's predecessors in title.

The City Property is currently being and has been utilized by Pink and its predecessors in title, to operate a Hardee's restaurant, and has been utilized as a Hardee's for as long as Hardee's has operated at this location, in excess of thirty years. The continued use of the property, the location of the City Property, and how it lines up with the Pink Property is clear evidence that the City Property was intended to be abandoned and made a part of the Pink Property. In addition, Elk View has consented to this abandonment by the Letter dated August 3, 2022 and attached hereto as Exhibit B. Lastly, Deed Book 1726 at Page 831 ("Vesting Deed") referenced above contains a quitclaim provision wherein Pink's predecessor in title quitclaimed all of its right, title, and interest it may have had in the City Property to Pink. This quitclaim provision can be found on Page 833 of the Vesting Deed and is attached hereto as Exhibit C, referenced as Title Records.

III. CONCLUSION AND REQUEST FOR ABANDONMENT

An abandonment of the City Property and subsequent grant of said City Property to Pink should be completed in order to effectuate, on paper, what was already done in reality. The City Property is a left-over portion of the half Paper Street which was previously abandoned and granted to Pink's predecessors in title. Because Elk View already received its full half of the Paper Street

and because Pink's predecessors in title have acted as the rightful owners and operated a Hardee's on the City Property, an approval of the abandonment will finalized what was intended to be done with the Paper Street and clear any potential clouds on title to the Pink Property. It is hereby requested that the City approve the abandonment of the City Property and cause a deed to be executed and recorded granting the City Property to Pink.

Respectfully Submitted,

Pink Investments, LLC,
a California limited liability company

By Counsel:



Drew A. Cather (WVSB#13328)
Matthew P. Heiskell (WVSB#10389)
Spilman Thomas & Battle, PLLC
48 Donley Street, Suite 800 (Zip: 26501)
P.O. Box 615
Morgantown, WV 26505-0615
(T): 304.291.7948
(F): 304.291.7979
E-mail: dcather@spilmanlaw.com

STATE OF WEST VIRGINIA,
COUNTY OF MONONGALIA, to-wit:

The foregoing instrument was acknowledged before me this the 22nd day of September, 2022, by Drew A. Cather.

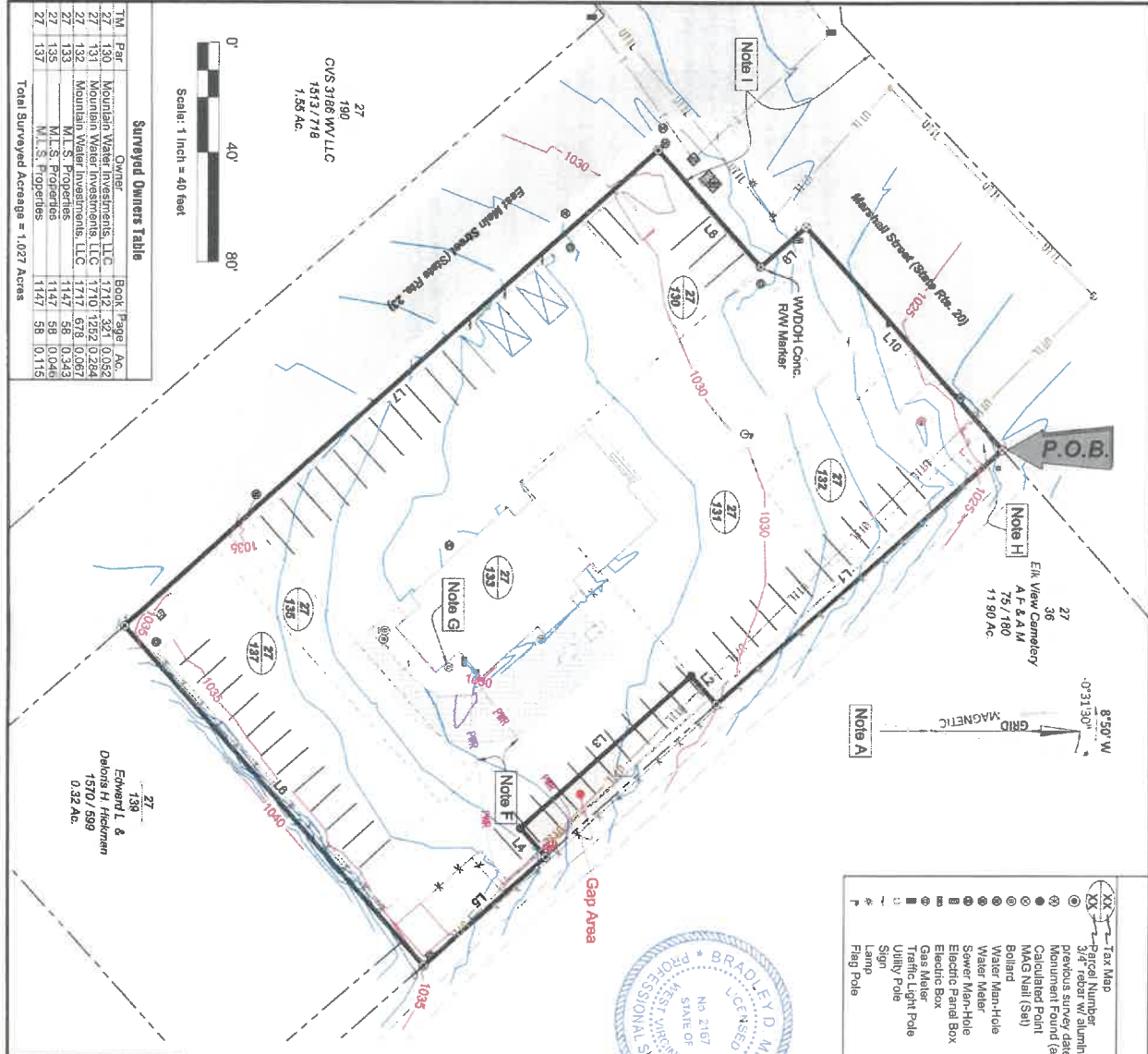
My commission expires: February 15, 2024

[SEAL]



Notary Public

EXHIBIT A
SURVEY



Surveyed Owners Table

TM	Per	Owner	Book	Page	Ac.
27	130	Mountain Water Investments, LLC	1712	321	0.052
27	131	Mountain Water Investments, LLC	1710	029	0.294
27	132	Mountain Water Investments, LLC	1147	58	0.046
27	133	Mountain Water Investments, LLC	1147	58	0.046
27	134	M.L.S. Properties	1147	58	0.046
27	135	M.L.S. Properties	1147	58	0.046
27	137	M.L.S. Properties	1147	58	0.115

Total Surveyed Acreage = 1.027 Acres

LINE TABLE

Line	Bearing	Distance
L1	S 41°41'14" E	139.89'
L2	S 48°13'00" W	14.00'
L3	S 41°41'12" E	84.00'
L4	S 48°13'02" E	64.00'
L5	S 41°41'01" W	186.30'
L6	S 48°13'01" W	186.30'
L7	N 41°41'16" W	281.39'
L8	N 48°18'42" E	57.30'
L9	N 41°41'20" W	22.00'
L10	N 48°18'57" E	108.99'

ALLEGHENY COUNTY SURVEYS

Bratley, Miller, P.S. 2167
Date

172 Thompson Drive
Martinsburg, WV 25730

Phone: (304) 348-5035
Fax: (304) 848-5037

Party Chief: Bradley
Surveyor: J. Smith
Date: January 18, 2021

Project No.: 03-22-CC-22
Drawing No.: 03-22-PRK

Sheet 1 of 1

LEGEND

- XXX Tax Map
- Parcel Number
- 3/4" rebar w/ aluminum cap set
- Monument Survey dated July 1, 2021
- Monument Point (as noted)
- Marked Point
- Marked Point (Set)
- Rebar Man-Hole
- Water Man-Hole
- Sewer Man-Hole
- Electric Panel Box
- Electric Box
- Gas Meter
- Traffic Light Pole
- Utility Pole
- Lamp
- Flag Pole

Surveyed Boundary
Interior Parcel Lines
Adjoiner Lines
Temp. Corral, Encasement
Building Structure
Dressing Porch
Crawling Utility Lines
Buried Electric Lines
Major Conduit Lines
Minor Conduit Lines
Siderawk
Paved Road
Gap Area
Drive-Thru Area

I certify that the information contained on this plat is, to the best of my knowledge, correct, and in accordance with the laws of this state governing the profession of land surveying.

Bradley, Miller, P.S. 2167
Date

VICINITY MAP (Not To Scale)

NOTES:

- The orientation of this survey is based on the Grid north Meridian. Its coordinate base is derived from the West Virginia Coordinate System of 1983, North Zone, based upon post-processed static GPS observations taken on site June 17, 2021. Distances shown hereon are ground distances.
- The purpose of this survey was to perform a re-encasement survey of the tanks utilized by the Hardee's Restaurant, conveyed to Mountain Water Investments, LLC as recorded in the Office of the County Clerk of Harrison County, West Virginia in Deed Book 1712 on Page 321, conveyed to Mountain Water Investments, LLC as recorded in the Office of the County Clerk of Harrison County, West Virginia in Deed Book 1710 on Page 122, conveyed to Mountain Water Investments, LLC as recorded in the Office of the County Clerk of Harrison County, West Virginia in Deed Book 1711 on Page 976, conveyed to M.L.S. Properties as recorded in the Office of the County Clerk of Harrison County, West Virginia in Deed Book 1147 on Page 58.
- The adjacent data shown hereon is for information purposes only and is only as accurate as the Public Records available at the time of this survey as found in the county of the survey, Allegheny Surveys, Inc. was not supplied with a title prior to the time of this survey.
- Reference Plat used - WVDDH RIV Plans, Federal Project No. APD-282(67).
- Rebar Box (899) on Page 188.
- Gap Area located between building and the driveway as shown on Page 1141.
- Temporary Conduit in building and the driveway as shown on Page 1141.
- Non-Consented Access Right-of-Way, referenced Deed Book 1031 on Page 252 and Deed Book 1036 on Page 1106.

LINE TABLE

Line	Bearing	Distance
L1	S 41°41'14" E	139.89'
L2	S 48°13'00" W	14.00'
L3	S 41°41'12" E	84.00'
L4	S 48°13'02" E	64.00'
L5	S 41°41'01" W	186.30'
L6	S 48°13'01" W	186.30'
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L8	N 48°18'42" E	57.30'
L9	N 41°41'20" W	22.00'
L10	N 48°18'57" E	108.99'

Plat of Retracement
for
Pink Investments, LLC
along Marshall Street & East Main Street
in Clark-Clarksburg Corp District,
Harrison County, West Virginia

EXHIBIT B

**CONTACT INFORMATION FOR ABUTTING PROPERTY OWNERS AND CONSENT
LETTER**

Elk View Cemetery
C/O Trustees of the Herman Lodge #6 AF & AM,
P. O. Box 147
Clarksburg, WV 26302

Herman Lodge #6 AF & AM
427 West Pike Street
Clarksburg, WV 26301

EXHIBIT C
TITLE RECORDS

Elk View Cemetery
C/O Trustees of the Hermon Lodge #6 AF & AM,
P. O. Box 147
Clarksburg, WV 26302

Hermon Lodge #6 AF & AM
427 West Pike Street
Clarksburg, WV 26301

August 3, 2022

The City of Clarksburg
c/o Tom Brown

Re: Petition to Abandon - Hardee's Property

To whom it may concern:

Hermon Lodge #6 AF & AM (the "Lodge") owns property known as the Elk View Cemetery, identified as Clark-Clarksburg District, Tax Map 27 Parcel 36 ("Elk View Property"). The Elk View Property adjoins property owned by Pink Investments, LLC, located in Clark-Clarksburg District, being Tax Map 27, Parcels 130, 131, 132, 133, 135, and 137 ("Pink Property"). Located between the Pink Property and the Elk View Property is a piece of property, which does not have assessment records or a history of title and based on the lack of records, is owned by the City of Clarksburg ("City Property").

As the adjoining property owner, please let this Letter serves as the consent for the City of Clarksburg to proceed with the abandonment of the City Property, as defined in the Petition for Abandonment ("Petition") submitted to the City of Clarksburg by Pink Investment, LLC.

We are the acting Trustees for the Lodge, vested with authority to make this consent on behalf of the Lodge and do hereby consent to the abandonment described above and in the Petition. The Lodge also consents to the subsequent granting of the City Property to Pink Investments, LLC, by the City of Clarksburg.

If you have any questions or require additional information regarding this matter, please do not hesitate to reach out.

Very truly yours,

Hermon Lodge NO. 6, AF & AM


Jonathan D. Adams, Trustee


Steven D. Pulice, Trustee

SPILMAN THOMAS AND BATTLE
P O BOX 615
MORGANTOWN WV 26507-0615

Harrison County
John R Spires, Clerk
Instrument 202200004774
02/07/2022 @ 03:12:41 PM
DEED
Book 1726 @ Page 831
Pages Recorded 8
Recording Cost \$ 50.00
Transfer Tax \$ 18370.00
Farm Land Tax \$ 5010.00

THIS DEED, made and entered into this 28th day of January, 2022, by and between **MOUNTAIN WATER INVESTMENTS, LLC**, a Colorado limited liability company, and **GRANTORS**, and **PINK INVESTMENT, LLC**, a California limited liability company, party of the second part, **GRANTEE**.

WITNESSETH: That, for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the said GRANTOR, **MOUNTAIN WATER INVESTMENTS, LLC**, a Colorado limited liability company, does hereby GRANT and CONVEY, with covenants of GENERAL WARRANTY, unto the said GRANTEE, **PINK INVESTMENT, LLC**, a California limited liability company, all those certain lots or parcels of real estate, together with the improvements thereon and appurtenances thereunto belonging, situate in Clark-Clarksburg District, Harrison County, West Virginia, and more particularly described as follows, to-wit;

First: - Tax Map 27, Parcel 130

BEGINNING at a point in East Main Street, said point being sixty (60) feet southeast along the line of East Main Street, from an iron pin set in the concrete side walk six (6) inches west of the southwest corner of the store building on the northeast corner of East Main and Marshall Streets, said pin being eight feet and ten inches (8' 10") east of the street side of the east curb of Marshall Street and said pin being also seven feet and nine inches (7' 9") north of the street side of the north curb of East Main Street on a line parallel to Marshall Street, fifty-seven and one-tenth feet (57.1'), more or less, to the northern line of the property of Joseph S. Umberger and Sallie Cassell Umberger; thence with said northern line in a northwesterly direction to Marshall Street; thence with Marshall Street fifty-seven and one-tenth feet (57.1'), more or less, to East Main Street, and thence with East Main Street to the beginning.

And being the same real estate conveyed unto Mountain Water Investments, LLC, a Colorado limited liability company, by deed from Victoria Marie Lacy and Gregory Lacy, her husband, dated June 4, 2021, recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 1712, at Page 321.

Second: - Tax Map 27, Parcel 131

Beginning at a point in the southeasterly line of Marshall Street, 57.1 feet from the corner of Marshall Street and East Main Street, and corner to lot conveyed by Corbin B. Bradford and Lizzie P. Bradford, his wife, to Joseph S. Umberger and Sallie Cassell Umberger, his wife, by deed dated December 9, 1905, of record in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 158, at Page 425; thence running with the line of said Umberger lot, S. 38° 50' E. 140 feet to a stake corner to another lot conveyed by said Corbin B. Bradford and Lizzie P. Bradford, his wife, to Sallie Cassell Umberger and Joseph S. Umberger, by deed dated February 2, 1915, of record in said Clerk's Office in Deed Book No. 241, at Page 420; thence running with the line of said last mentioned lot, N. 50° 50' E. 95 feet to a stake in the line of the strip of land hereafter described, and 14 feet from the line of Elk View Masonic Cemetery; thence running with the southwesterly line of said strip of land, with a line parallel to and 14 feet from the said Elk View Masonic Cemetery line, N. 38° 50' W. 65 feet to a stake in the line of a lot conveyed by Lizzie P. Bradford and Corbin B. Bradford, her husband, to the Trustees of Hermon Lodge No. 6, A. F. & A. M., by deed dated November 16, 1918, of record in said Clerk's Office in Deed Book No. 285, at Page 352; thence running with two lines of said last mentioned lot, S. 50° 10' W. 34.9 feet to a stake; thence N. 39° 32' W.

EX 1726 : 60831

75.7 feet to a stake in the line of Marshall Street, corner to said last mentioned lot; thence running with the southeasterly line of Marshall Street, S. 50° 50' W. 60.3 feet to the place of beginning.

There is further hereby granted and conveyed all of Grantor's right, title, and interest in and to the following described strip or parcel of land northeast of the parcel of land hereinabove described, and bounded and described as follows:

Beginning at a stake in the southeasterly line of Marshall Street, corner to said lot conveyed by said Lizzie P. Bradford and Corbin B. Bradford, her husband, to the Trustees of Herman Lodge No. 6, A. F. & A. M., said point bearing S. 50° 50' W. 9.9 feet from the corner of the Elk View Masonic Cemetery, and bearing N. 50° 50' E. 157.2 feet from the corner of Marshall Street and East Main Street; thence running with two lines of said lot so conveyed to the Trustees of Herman Lodge No. 6, A. F. & A. M., S. 39° 10' E. 75 feet to a stake, corner to said lot; thence S. 50° 10' W. 4.1 feet to a stake in the line of the lot hereinabove described and 14 feet southwest of the line of Elk View Masonic Cemetery; thence running with the line of lot hereinabove described and parallel to and 14 feet from the line of Elk View Masonic Cemetery, S. 38° 50' E. 65 feet to a stake in the line of Sallie Cassell Umberger and Joseph S. Umberger property; thence running therewith, N. 50° 50' E. 14 feet to the line of Elk View Masonic Cemetery line; thence running with said Cemetery line, N. 38° 50' W. 140 feet to a stake in the southeasterly line of Marshall Street; thence with said line of Marshall Street, S. 50° 50' W. 9.9 feet to the place of beginning.

And being the same real estate conveyed unto Mountain Water Investments, LLC, a Colorado limited liability company, by deed from River Valley Restaurants, LLC, a Colorado limited liability company, dated April 19, 2021, recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 1710, at Page 1252.

Third: Tax Map 27, Parcel 132

Beginning at a stake, on the South side of a post, on the South side of Marshall Street; thence with same, N. 50° 50' E. 39.8 feet to a stake, within 9.9 feet to an iron post, corner to the Masonic Cemetery; thence with a line, parallel to said Cemetery line, and 9.9 feet from same, S. 39° 10' E. 75 feet to an iron stake; thence S. 50° 10' W. 39 feet to an iron pin; thence N. 39° 32' W. 75.7 feet to the beginning, and containing 2968.8 square feet. Together with all right, title, and interest, if any, in and to an alleyway which adjoins said lot or parcel of land along its boundary and which now provides access to an adjoining property owned by the Stacy Family.

And being the same real estate conveyed to Mountain Water Investments, LLC, a Colorado limited liability company, by deed from Jonathan D. Adams and Joshua W. Zickefoose, Trustees of Hermon Lodge No. 6, A.F. & A.M., dated July 14, 2021, recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 1717, at Page 678.

EX 1726 60832

WITNESSETH: That, for and in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt of all of which is hereby acknowledged, the said GRANTOR, **MLS PROPERTIES**, a West Virginia partnership, does hereby GRANT and CONVEY, with covenants of GENERAL WARRANTY, unto the said GRANTEE, **PINK INVESTMENT, LLC**, a California limited liability company, all those certain lots or parcels of real estate, together with the improvements thereon and appurtenances thereunto belonging, situate in Clark-Clarksburg District, Harrison County, West Virginia, and more particularly described as follows, to-wit;

Fourth: - Tax Map 27, Parcels 135 and 137

Being Lot Nos. 769, and "D" upon a map or plat entitled "Clarksburg Industrial Company's Map of East Clarksburg" made by Hornor and Davis Engineers, dated June, 1903, and of record in the Office of the County Clerk of Harrison County, West Virginia, in Deed Book No. 206, at page 132.

Fifth: - Tax Map 27, Parcel 133

Beginning at a point in the northerly line of East Main Street, which point is S. 38° 50' E. 60 feet from the easterly line of Marshall Street, and running thence N. 50° 50' E. 57.10 feet to an iron pin; thence S. 38° 50' E. 80 feet to an iron pin; thence N. 50° 50' E. 95 feet to an iron pin in the southwesterly line of a private alley; thence therewith S. 38° 50' E. 84 feet to an iron pin; thence N. 50° 50' E. 14 feet to an iron pin; thence S. 38° 50' E. 60 feet to an iron pin; thence S. 50° 50' W. 40 feet to an iron pin; N. 38° 50' W. 60 feet to an iron pin; thence S. 50° 50' W. 126.10 feet to an iron pin in the northeasterly line of East Main Street; thence therewith N. 38° 50' W. 164 feet to the place of beginning, as shown on the plat entitled "Plat to Accompany Deed C. Joseph Umberger, et al, to Joseph M. Stacy, et ux," which plat is attached to and made a part of that certain deed dated November 30, 1964, and recorded in said Clerk's office in Deed Book 899 at page 182.

And being part of the same real estate conveyed unto **MLS Properties**, a West Virginia partnership, by deed from Joseph M. Stacy, Jr. and Tina Marie Bucci-Stacy, his wife, and Susan L. Lores and Michael Lores, her husband, dated February 20, 1985, recorded in the Office of the Clerk of the County Commission of Harrison County, West Virginia, in Deed Book No. 1147, at Page 58.

The Grantor, **MLS Properties**, a West Virginia partnership, does hereby quitclaim unto the Grantee, **Pink Investments, LLC**, a Colorado limited liability company, all of its right, title and interest in and to that certain 14' x 84' strip parcel of real estate which is located between other property of the Grantor identified on Tax Map 27, as Parcel 133, and the Elk View Cemetery identified on Tax Map 27, as Parcel 36.

A recent survey of the above-described parcels of real estate was recently performed by Bradley D. Miller, P.S. 2167, Professional Surveyor, and is now described by the following metes and bounds description:

A group of parcels of land situate along Marshall Street (WV State Rte. 20) and East Main Street (WV State Rte. 23), in Clark-Clarksburg Corp. District, Harrison County, West Virginia, and being more particularly described as follows:

5K1725 101833

Beginning at Mag-nail set previous survey dated July 1, 2021, on a corner to Elk View Cemetery A.F. & A.M.'s 11.90 acre tract (Tax Map 27, Parcel 36) and along the southeasterly right-of-way line of Marshall Street (WV State Rte. 20), thence leaving said right-of-way and with Elk View Cemetery's 11.90 acre tract for one line, S. 41° 41' 14" E. 139.99' to a ¾" rebar with 2-1/2" aluminum cap set previous survey dated July 1, 2021, (hereafter referred to as ¾" rebar with cap) on line to said Elk View Cemetery and on a corner to a Gap Area, thence leaving said Elk View Cemetery line and with said Gap Area for three lines, S. 48° 19' 00" W. 14.00' to a calculated point, thence S. 41° 41' 12" E. 84.00' to a calculated point, thence N. 48° 19' 46" E. 14.00' to a ¾" rebar with cap on line to said Elk View Cemetery and on a corner to said Gap Area, thence leaving said Gap Area and with said Elk View Cemetery line for one line, S. 41° 41' 35" E. 60.00' to a ¾" rebar with cap on line to said Elk View Cemetery, thence leaving said Elk View Cemetery and with the Edward L. & Deloris H. Hickman's 0.32 acre tract (TM 27, Parcel 139) for one line, S. 48° 19' 09" W. 166.10' to a ¾" rebar with cap on a corner to said Hickman and on the northeasterly right-of-way line of East Main Street (WV State Rte. 23), thence leaving said Hickman and with said East Main Street right-of-way line for one line, N. 41° 41' 16" W. 261.99' to a ¾" rebar with cap on intersection of said East Main Street right-of-way line and said Marshall Street right-of-way line, thence leaving said East Main Street and with said Marshall Street for three lines, N. 48° 18' 42" E. 57.10' to a WVDOH concrete R/W marker, found, thence N. 41° 41' 20" W. 22.00' to a Mag-nail set previous survey dated July 1, 2021, thence N. 48° 18' 47" E. 108.99' to the place of beginning, containing 1.027 acres, as surveyed by Allegheny Surveys, Inc. of Bridgeport, West Virginia in January 2022 and shown on a plat entitled "Plat of Retracement Survey for Bison Property Services".

The Grantors warrant that they have no knowledge or reason to believe that the subject property or its substrata contains an underground storage tank which is regulated by the provisions of the West Virginia Underground Storage Tank Act, W.Va. Code §22-17-19.

This conveyance is made subject to all covenants, conditions, restrictions, exceptions, reservations, agreements, assessments, easements, rights-of-way, mineral severances, and other encumbrances as have been imposed upon such property by Grantors or their predecessors in title, affecting the title to the property hereby conveyed that are of record in the Clerk's Office and the covenant of general warranty set forth and contained in this deed is limited by the same; provided, however, that any such covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, marital status, ancestry, disability, handicap, familial status or national origin is hereby deleted to the extent such covenants, conditions or restrictions violated 42 USC §3604(c).

The property is assessed for the year 2021 on the Land Books for Clark-Clarksburg District, Harrison County, West Virginia, as follows:

First:

LACY VICTORIA L
C/O MOUNTAIN WAVER INVEST LLC
1 LOT PT 770 E MAIN ST
40X57
Map 27, Parcel 0130 0000 0000
2021 Ticket #7685
2021 Account #06022083

EX 1726 150834

Second:

RIVER VALLEY RESTAURANTS, LLC
C/O MOUNTAIN WATER INVESTMENTS LLC*22
1 LOT MARSHALL ST
(57.1 NE OF MAIN ST)
HARDEES BUILDING
10/26/21 COT-TO
Map 27, Parcel 0131 0000 0000
2021 Ticket # 9194
2021 Account # 06551661

Third:

TRUSTEES HERMON LODGE #6 AFAM
C/O MOUNTAIN WATER INVESTMENT, LLC
1 LOT MARSHALL ST
(L-HOLD GUARDIAN CORP ASSESSED
ON PP#6656754)
Map 27, Parcel 0132 0000 0000
Ticket #10302
Account #06551698

Fourth:

M L S PROPERTIES
C/O CAPSTONE RESTAURANTS
1 LOT PT D #769 E CLARKSBURG
(L-HOLD GUARDIAN CORPORATION
ASSESSED ON PP#6656772)
Tax Map 27, Parcel 0135 0000 0000
2021 Tax Ticket #7969
2021 Account #06224622

M L S PROPERTIES
C/O CAPSTONE RESTAURANTS
1 LOT PT D #769 E CLARKSBURG
(L-HOLD GUARDIAN CORPORATION
ASSESSED ON PP#6656781)
Tax Map 27, Parcel 0137 0000 0000
2021 Tax Ticket #7970
2021 Account #06025473

Fifth:

M L S PROPERTIES
C/O CAPSTONE RESTAURANTS
1 LOT EAST MAIN ST
(L-HOLD GUARDIAN CORPORATION
ASSESSED ON PP#6656763)
Tax Map 27, Parcel 0133 0000 0000
2021 Ticket #7968
2021 Account #06025428

DECLARATION OF RESIDENCY: The Grantor, Mountain Water Investments, LLC, a Colorado limited liability company, declares that it is not a resident entity of the State of West Virginia as defined by W.Va. Code §11-21-71b and intends this declaration to satisfy the requirement thereof.

PK1726 60835

DECLARATION OF RESIDENCY: The Grantor, MLS Properties, a West Virginia partnership, declares that it is a resident entity of the State of West Virginia as defined by W.Va. Code Section 11-21-71b and intends this declaration to satisfy the requirements thereof.

DECLARATION OF CONSIDERATION OR VALUE: In compliance with Article 22, Chapter 11 of the Code of West Virginia, the undersigned hereby declare that the total consideration paid for the property conveyed by the document to which this declaration is appended is Three Million, Three Hundred Thirty-Nine Thousand, Five Hundred Twenty Dollars (\$3,339,520.00).

Signature pages to follow

EX1726:60836

DEED TO PINK INVESTMENT, LLC
722 EAST MAIN STREET
SIGNATURE PAGE

WITNESS the following signatures and seals:

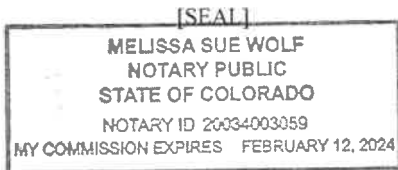
MOUNTAIN WATER INVESTMENTS, LLC,
a Colorado limited liability company

By: *Todd Pahl*
Todd Pahl, Manager

STATE OF Colorado,
COUNTY OF Boulder, to-wit:

The foregoing instrument was acknowledged before me this the 2nd day of February, 2022, by Todd Pahl, in his capacity as Manager of Mountain Water Investments, a Colorado limited liability company, on behalf of said entity.

My commission expires: 2/12/2024.



Melissa S Wolf
Notary Public

EX 1726 860837

DEED TO PINK INVESTMENT, LLC
722 EAST MAIN STREET
SIGNATURE PAGE

MLS PROPERTIES,
a West Virginia general partnership

By: [Signature] / Tina M. Buccini Stacy
Name: Joseph Stacy Jr TINA M BUCCINI STACY
Its: Partner Partner

STATE OF PA,
COUNTY OF Allegheny, to-wit:

The foregoing instrument was acknowledged before me this the 5 day of February, 2022, by JOSEPH STACY JR + TINA BUCCINI, in his capacity as Partner of MLS Properties, a West Virginia general partnership, on behalf of said partnership.

My commission expires: 11 5 25

[SEAL]

[Signature]
Notary Public

Commonwealth of Pennsylvania - Notary Seal
Lisa A. Moretti, Notary Public
Allegheny County
My commission expires November 5, 2025
Commission number 1001855
Member, Pennsylvania Association of Notaries

PK1726 1001838

This document prepared by:
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Attorney at Law
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