



SITE ADDRESS: 2010 Spillman Drive

Office Use Only:

DATE SUBMITTED: 2/28/18

HEARING DATE: 3/28/18

PLACARD: Green 2/28/18

FEE: \$500

ZONING CLASSIFICATION: R

LOT SIZE: 12.35 ac.

**APPLICATION FOR APPEAL TO THE CITY OF BETHLEHEM ZONING HEARING BOARD,
10 E. CHURCH STREET, BETHLEHEM, PA 18018**

1. Return one (1) original and seven (7) copies of this application and all supporting documentation to the Zoning Officer, along with the filing fee. Include site plans and/or floor plans as necessary.

2. **THE APPLICATION IS DUE BY 4 PM THE LAST WEDNESDAY OF THE MONTH FOR THE NEXT MONTH'S ZONING HEARING BOARD MEETING. MEETINGS ARE GENERALLY THE FOURTH WEDNESDAY OF THE MONTH. ONLY COMPLETE SUBMISSIONS WILL BE ADDED TO THE AGENDA FOR HEARING.**

Appeal/Application to the City of Bethlehem Zoning Hearing Board is hereby made by the undersigned for: (check applicable item(s)):

- Appeal of the determination of the Zoning Officer
- Appeal from an Enforcement Notice dated _____
- Variance from the City of Bethlehem Zoning Ordinance
- Special Exception permitted under the City Zoning Ordinance
- Other: _____

SECTION 1

APPLICANT:

Name	Triple Net Investments XIII LP
Address	171 Route 172, Suite 201 Asbury, NJ 08802
Phone:	
Email:	

OWNER (if different from Applicant): Note. If Applicant is NOT the owner, attach written authorization from the owner of the property when this application is filed.

Name Lehigh Valley Industrial Park, Inc.

Address 1720 Spillman Drive, Suite 150

Bethlehem, PA 18015

Phone: [REDACTED]

Email: [REDACTED]

ATTORNEY (if applicable):

Name Thomas J. Schlegel, Esquire

Address Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, PO Box 219

Center Valley, PA 18034

Phone: [REDACTED]

Email: [REDACTED]

SECTION 2. INFORMATION REGARDING THE REAL ESTATE

1. Attach a site plan, drawn to scale, of the real estate. Include existing and proposed natural and man-made features.
2. If the real estate is presently under Agreement of Sale, attach a copy of the Agreement.
3. If the real estate is presently leased, attached a copy of the present lease.
4. If this real estate has been the object of a prior zoning hearing, attach a copy of the Decision.

SECTION 3.

THE RELIEF SOUGHT:

If the Applicant seeks a dimensional variance for any setback, lot coverage, distance between certain uses, etc., please state the following:

Section of Code	Dimension Required by Code	Dimension Proposed by Applicant	Variance Sought
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If the Applicant seeks a use or other variance, please state the **specific section(s)** of the Zoning Ordinance applicable and describe the variance sought.

If the Applicant seeks a Special Exception, please state the **specific section (s)** of Zoning Ordinance applicable:

1305.e. Multiple Uses - See Attached Supplemental Statement.

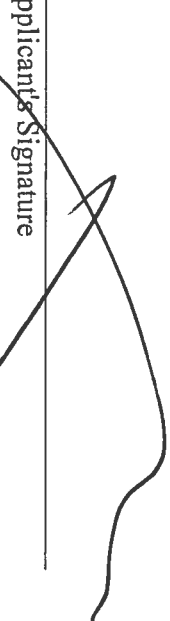
If the Applicant seeks an appeal from an interpretation of the Zoning Officer, state the remedy sought in accordance with Sec. 1325.11 (b):

NARRATIVE

A brief statement reflecting why zoning relief is sought and should be granted must be submitted.

CERTIFICATION

I hereby certify that the information contained in and attached to this application is true and correct to the best of my knowledge and belief.

Applicant's Signature  _____ Date 2/26/18

Property Owner's Signature  _____ Date 2-26-18

Received by _____ Date _____

**BEFORE THE ZONING HEARING BOARD
CITY OF BETHLEHEM, NORTHAMPTON COUNTY, PENNSYLVANIA**

SUPPLEMENTAL STATEMENT

IN RE: APPLICATION OF TRIPLE NET INVESTMENTS XII LP

I. BACKGROUND

Triple Net Investments XII LP (the “Applicant”) is equitable owner of certain real estate known as 2010 Spillman Drive [Northampton County Tax Parcel ID No. P7 6 6-13 0204] in the City of Bethlehem (the “Property”). The Property is 12.35 acres and located in the IR zoning district. The Property is Lot 13 in the industrial development to the east of the Sands casino known as LVIP VII at the Bethlehem Commerce Center.

The current fee title owner is Lehigh Valley Industrial Park, Inc. In April 2012, Ashley Development Corp., as equitable owner of the Property, obtained conditional, preliminary-final land development approval from the City of Bethlehem Planning Commission for a warehouse use at the Property. At the time, the proposed warehouse use was permitted by right in an IR zoning district.

Ashley Development Corp. did not proceed with its approved warehouse plan and never acquired title to the Property. The City of Bethlehem adopted a new Zoning Ordinance in June 2012, which changed certain uses previously permitted by right in the “IR” zoning district to be permitted by special exception.

Applicant now proposes to build a 195,000 SF facility at the Property (the “New Facility”). Applicant has received interest from several potential tenants and intends to commence construction for the New Facility upon site plan approvals. Interested tenants have end uses that are permitted by special exception, specifically:

1. Distribution as a principal use (other than Trucking Company Terminal);
2. Trucking Company Terminal; and
3. Warehouse or Storage as a principal use.

Applicant requests a determination that the Property is suitable for these special exception uses. While not determinative, Applicant’s affiliate, Triple Net Investments XXVIII LP, received substantially similar special exception relief to construct a 243,200 SF facility on the adjacent Lot 14 in LVIP VII.

II. ZONING RELIEF

Section 1325.07 of the Zoning Ordinance empowers the Board as follows:

Powers and Duties - Special Exceptions.

- (a) The Zoning Hearing Board shall have the power to approve special exceptions for any uses for which this Ordinance requires the obtaining of such exceptions and for no other use or purpose.
- (b) General Requirements and Standards Applicable to all Special Exceptions. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements, as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location be:
 - (1) In accordance with the City of Bethlehem Comprehensive Plan and consistent with the spirit, purposes, and intent of this Ordinance.
 - (2) In the best interest of Bethlehem, the convenience of the community, the public welfare, and be a substantial improvement to property in the immediate vicinity.
 - (3) Suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
 - (4) In conformance with all applicable requirements of this Ordinance.
 - (5) The proposed use shall not substantially change the character of any surrounding residential neighborhood, after considering any proposed conditions upon approval such as limits upon hours of operation.
 - (6) Suitable in terms of effects on street, traffic and safety with adequate sidewalks and vehicular access arrangements to protect streets from undue congestion and hazard.
 - (7) The proposed use shall not create a significant hazard to the public health and safety, such as fire, toxic or explosive hazards.
 - (8) The proposed use shall be suitable for the site, considering the disturbance of steep slopes, mature woodland, wetlands, floodplains, springs and other important natural features.

LVIP VII at the Bethlehem Commerce Center was designed specifically for industrial, commercial, distribution and office uses. Existing uses near the Property include a Cigars International warehouse and distribution facility, Alpha Packaging, Brandenburg Industrial Service, and warehouse and distribution facilities of US Cold Storage and Zulily.com. The US

Cold Storage and Zulily.com facilities are each several times larger than Applicant's proposed facility.

None of Applicant's proposed uses are listed at Article 1322 of the Zoning Ordinance as having specific criteria.¹ Further, none of Applicant's proposed uses are defined at Article 1302. They do, however, generally appear in varied combinations in the parking and off-street loading regulations at Article 1319. Specifically, on Parking, section 1319.01(40) states:

Warehouses, Distribution and Trucking Terminals – Parking or storage space for all vehicles used directly in the conduct of such business, plus one parking space for each 1.5 persons regularly employed on the premises.

Further, on Off-Street Loading, section 1319.04 states at (c) and (d):

Warehouses, Distribution and Wholesale Storage Facilities. One off-street loading space at least 11 feet by 50 feet for the first 7,500 square feet of floor area. Twelve thousand or more square feet of floor area shall require two spaces. More than two spaces shall be required by the proper authority having jurisdiction (Zoning Officer, Zoning Hearing Board, or the City Planning Commission) at the time of site plan review.

Freight Terminals and Trucking Terminals. One off-street loading space at least 11 feet by 50 feet for the first 5,000 square feet of building area. Eight thousand or more square feet of building area shall require two spaces. More than two spaces shall be required by the authority having jurisdiction (Zoning Officer, Zoning Hearing Board, or the City Planning Commission) at the time of site plan review.

As noted on Applicant's site plan, there is sufficient available parking and off street loading at the New Facility regardless of use distinction. Beyond this, the proposed New Facility meets the general criteria for a special exception regardless of the classification of the use as principal warehouse, principal distribution or trucking company terminal.

These uses are in accordance with the Comprehensive Plan and are consistent with the spirit, purposes and intent of the Zoning Ordinance. At the proposed location, such uses are in the best interest of the City of Bethlehem. LVIP VII at the Bethlehem Commerce Center was designed specifically to accommodate these types of uses. As such, these uses are appropriate and consistent with those in the general vicinity of the Property. As demonstrated on Applicant's site plan, the New Facility conforms with the Zoning Ordinance regardless of use classification. There are no surrounding residential neighborhoods. These uses are suitable in terms of street, traffic and safety. LVIP VII was designed to accommodate such uses and traffic flow out typically moves eastbound along improved Route 412 to Interstate 78. These uses are not a hazard to public safety. Lastly, the Property does not contain steep slopes, mature woodland, wetlands, floodplains, springs and other important natural features.

¹ Article 1305 notes Trucking Company Terminal with a (S. 1322) designation; however, no specific criteria are listed for this use at Article 1322.

III. CONCLUSION

For the aforementioned reasons, Triple Net Investments XII LP should be granted the requested special exception zoning relief.

FITZPATRICK LENTZ & BUBBA, P.C.

BY: _____

TJ Schlegel

Thomas J. Schlegel, Esquire
Attorneys for Applicant
4001 Schoolhouse Lane
P.O. Box 219
Center Valley, PA 18034-0219

Date: February 28, 2018

AGREEMENT OF SALE

Made on the 29th day of November, 2017, between **LEHIGH VALLEY INDUSTRIAL PARK, INC.**, a Pennsylvania, non-profit corporation, having its offices at 1720 Spillman Drive, Suite 150, Bethlehem, Northampton County, PA 18015 (hereinafter referred to as the "SELLER") and **Triple Net Investments XII, L.P.**, a Pennsylvania limited partnership having its office at 171 Route 173, Suite 201, Asbury, NJ, 08802 (hereinafter referred to as the "BUYER").

WITNESSETH THAT the SELLER agrees to sell to the BUYER, and the BUYER agrees to buy from the SELLER, all that certain piece of ground situate in the City of Bethlehem, Northampton County, known as **LOT 13** according to the subdivision plan of Lehigh Valley Industrial Park VII, Saucon Subdivision, dated September 14, 2005 as shown on Exhibit "A" hereto. The property to be conveyed is further described by metes and bounds in the legal description attached as Exhibit "B" hereto (the "Premises") and shall be conveyed in accordance with the following provisions:

1. Purchase Price. The purchase price (the "Purchase Price") for the Premises shall be [REDACTED], which shall be paid by BUYER to SELLER as follows:

(a) The sum of [REDACTED] which shall be paid to BUYER'S ATTORNEY ("ESCROW AGENT") within five (5) days of execution of this Agreement by both parties pursuant to an Escrow Agreement in the form attached to this Agreement as Exhibit "G" (the "Deposit") and placed by Escrow Agent in an non-interest bearing account.

(b) The sum of [REDACTED] which is the balance of the purchase price at Settlement.

TOTAL PRICE.....\$ [REDACTED]


2. Title. At Settlement (as hereinafter defined), the SELLER shall convey title, in fee simple, to the Premises by special warranty deed. The title shall be free and clear of all liens, encumbrances and restrictions except for zoning, subdivision and land development ordinances, the effects of the Subdivision Plan of LVIP VII, the LVIP VII Protective Covenants, as amended, which are attached hereto as Exhibit "C", public utility easements and rights-of-way, existing liens and mortgages which shall be satisfied or released out of the proceeds of the Settlement, storm water and drainage easements and subdivision and land development agreements with the City of

IN WITNESS WHEREOF, the parties, intending to be legally bound, have caused this Agreement to be executed the day and year first above written.

ATTEST



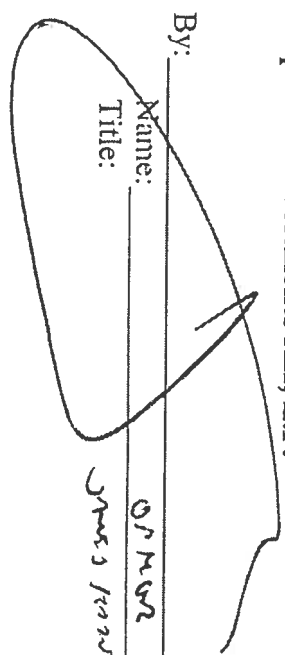
SELLER:
LEHIGH VALLEY INDUSTRIAL PARK, INC.


Kerry Wrobel, President

ATTEST:



BUYER:
Triple Net Investments XII, L.P.

By: 
Name: Paul Cal
Title: Owner

PRELIMINARY/FINAL LAND DEVELOPMENT PLAN

LVP VII-LOT 13

WARD 17
CITY OF BETHLEHEM
NORTHAMPTON COUNTY
PENNSYLVANIA

RECORD NOTES

1. THE LVP DEVELOPMENT IS TO BE REVIEWED AND APPROVED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.
2. THE LVP SHALL BE SUBJECT TO ALL REGULATIONS, ORDINANCES AND ORDINANCE AMENDMENTS TO SUCH EFFECT.
3. THE LVP SHALL BE SUBJECT TO ALL REGULATIONS, ORDINANCES AND ORDINANCE AMENDMENTS TO SUCH EFFECT.
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20. THE LVP SHALL BE SUBJECT TO ALL REGULATIONS, ORDINANCES AND ORDINANCE AMENDMENTS TO SUCH EFFECT.

NPDES NOTE

IN ACCORDANCE WITH THE NPDES REGULATIONS, THE DEVELOPER SHALL OBTAIN A PERMIT FROM THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (PA DEP) PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.

AS-BUILT NOTE

THE DEVELOPER SHALL MAINTAIN RECORDS OF ALL AS-BUILT CONDITIONS AND SUBMIT THEM TO THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY UPON COMPLETION OF THE PROJECT.

REVISIONS NOTE

ALL REVISIONS TO THIS PLAN SHALL BE INDICATED BY A REVISION TABLE AND SHALL BE APPROVED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.

ENGINEERING PERMITS NOTE

THE DEVELOPER SHALL OBTAIN ALL NECESSARY ENGINEERING PERMITS FROM THE APPROPRIATE AGENCIES PRIOR TO THE COMMENCEMENT OF CONSTRUCTION.

STORMWATER NOTES

THE DEVELOPER SHALL PROVIDE STORMWATER MANAGEMENT AS REQUIRED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.

INLET MARKER NOTE

ALL INLET MARKERS SHALL BE INSTALLED AS REQUIRED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.

BUILDING STAKEOUT NOTE

THE DEVELOPER SHALL PROVIDE BUILDING STAKEOUTS AS REQUIRED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.

CLEAR SIGHT TRIANGLE NOTE

ALL CLEAR SIGHT TRIANGLES SHALL BE PROVIDED AS REQUIRED BY THE CITY OF BETHLEHEM AND NORTHAMPTON COUNTY.

PARKING TABULATION

CITY OF BETHLEHEM	PARKING REQUIREMENTS	REQ. SPACES
USE	1 SP/1.5 BHP	143 SPACES
MANUFACTURING	2.0 SP/10,000 SQ.FT.	20 SPACES
OFFICE	1 SP/1.5 BHP	10 SPACES
LENGTH VALLEY INDUSTRIAL PARK	1.5 SP/1.5 BHP	208 SPACES
HANDICAP SP.	7 SP. (2 OF WHICH IS VAN)	7 SPACES
REQUIRED SPACES (CITY OF BETHLEHEM)		173 SPACES
REQUIRED SPACES (LENGTH VALLEY INDUSTRIAL PARK)		208 SPACES
BI-CYCLE PARKING		11 SPACES
PROVIDED SPACES	5% OF OFF-STREET PARKING	12 SPACES

OWNER/DEVELOPER/APPLICANT

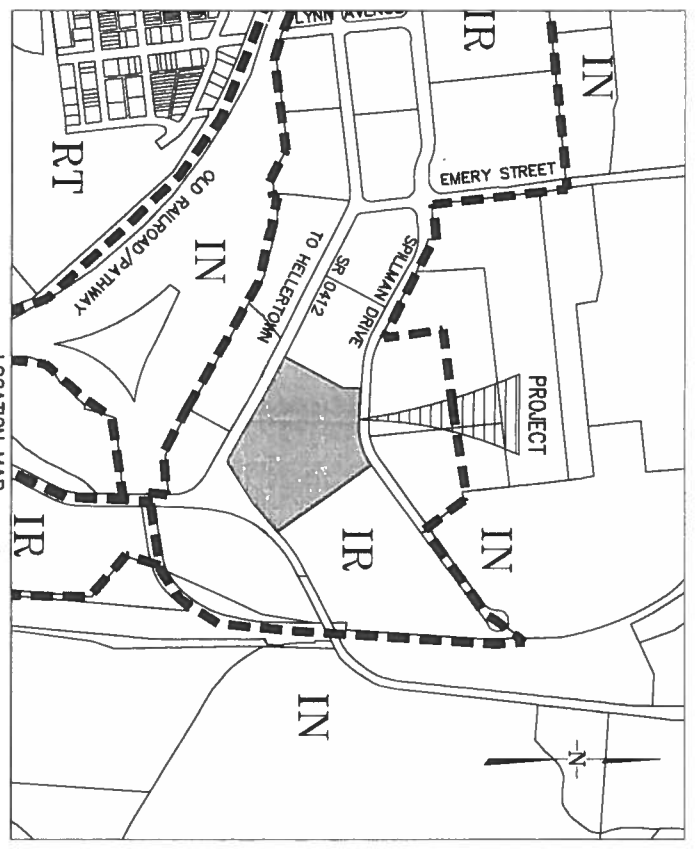
TRIPLE NET INVESTMENTS XI
171 STATE ROUTE 170, SUITE 201
BETHLEHEM, PA 18017-8944
PHONE: 610-291-5889

SITE ADDRESS

2010 SPILLMAN DRIVE
BETHLEHEM, PA 18015

PLAN PREPARER

HanoverEngineering
Bethlehem Office
2310 Brodhead Road, Suite 100
Bethlehem, PA 18017-8944
P: 610.691.5644
F: 610.691.6968
HanoverEng.com



SITE DATA

PARAMETER	VALUE	PARAMETER	VALUE
DATE	07/15/2017	PROJECT NO.	4555
DRAWN BY	CL	CITY OF BETHLEHEM	CL
CHECKED BY	CHU	COUNTY OF NORTHAMPTON	CHU
DATE	02/27/16	SCALE	AS NOTED
PROJECT NO.	4555	SHEET NO.	1 OF 16

BENCHMARKS FOR THIS PLAN

1. THE BENCHMARKS FOR THIS PLAN ARE LOCATED AT THE CORNERS OF THE PROJECT.

AT THE MEETING ON 07/15/2017, THE BETHLEHEM CITY PLANNING COMMISSION, NORTHAMPTON COUNTY, PA, HAS REVIEWED AND APPROVED THIS PLAN OF THE PROPERTY LOT 13, LVP VII-LOT 13, LOCATED IN NORTHAMPTON COUNTY AS SHOWN HEREIN.

CHAIRMAN: _____
SECRETARY: _____
REVIEWED BY THE LEHIGH VALLEY PLANNING COMMISSION FOR LEHIGH AND NORTHAMPTON COUNTIES: _____
LVP STAFF PERSON RESPONSIBLE FOR REVIEW: _____ DATE: _____

OWNER SIGNATURE:

COMMONWEALTH OF PENNSYLVANIA } SS
COUNTY OF NORTHAMPTON }
OF _____ TRIPLE NET INVESTMENTS XI CORPORATION
NAME _____ CORPORATION NAME

BEING DULY SWORN ACCORDING TO LAW, AND ACTING IN MY CAPACITY AS DEPOSEE AND SAY THAT THE ABOVE NAMED CORPORATION IS THE TRUE AND LAWFUL OWNER OF PROPERTY KNOWN AS _____ THAT THE ABOVE DESCRIBED PROPERTY IS IN THE PEACEFUL POSSESSION OF SAID CORPORATION AND THAT THERE ARE NO LIENS PENDING AFFECTING THE TITLE THEREOF.

TRIPLE NET INVESTMENTS XI CORPORATION
CORPORATION OFFICIAL
SWORN AND SUBSCRIBED TO BEFORE ME THIS _____ DAY OF _____ NOTARY PUBLIC

LAND DEVELOPMENT PLANS

1. COVER SHEET (RECORD SHEET 1 OF 2)
2. RECORD PLAN 2 OF 2
3. EXISTING FEATURES AND DEMOLITION PLAN
4. GRADING & UTILITY PLAN
5. PROFILE PLAN (PDSH SHEET 2 OF 2)
6. LANDSCAPE PLAN & DETAILS
7. LIGHTING PLAN & DETAILS
8. POST CONSTRUCTION STORMWATER MANAGEMENT PLAN (PDSH SHEET 1 OF 2)
9. EROSION & SEDIMENTATION CONTROL PLAN
10. EROSION & SEDIMENTATION CONTROL DETAIL SHEET
11. EROSION & SEDIMENTATION CONTROL DETAIL SHEET
12. EROSION & SEDIMENTATION CONTROL DETAIL SHEET
13. CONSTRUCTION DETAIL SHEET
14. CONSTRUCTION DETAIL SHEET
15. CONSTRUCTION DETAIL SHEET
16. CONSTRUCTION DETAIL SHEET

STATEMENT OF INTENT

TO CONSTRUCT A 15,000 SQ. FOOT COMMERCIAL BUILDING INCLUDING 200 PARKING SPACES WITH 10 TRUCK STOPS SPACES.

I, CHARLES H. UNANIST, PE, PLS, A PROFESSIONAL ENGINEER OF THE COMMONWEALTH OF PENNSYLVANIA, DO HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND DESIGNED BY HANOVER ENGINEERING ASSOCIATES, INC.

CHARLES H. UNANIST, PE, PLS, A PROFESSIONAL ENGINEER OF THE COMMONWEALTH OF PENNSYLVANIA, DO HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND DESIGNED BY HANOVER ENGINEERING ASSOCIATES, INC.
242 BRODHEAD ROAD, SUITE 100
BETHLEHEM, PA 18017-8944
(610) 810-5644

PRELIMINARY/FINAL LAND DEVELOPMENT (RECORD SHEET 1 OF 2)

PLAN TITLE: COVER SHEET
PROJECT TITLE: LVP VII-LOT 13 LAND DEVELOPMENT
SCALE: 1" = 50'
THIS DOCUMENT IS THE PROPERTY OF HANOVER ENGINEERING ASSOCIATES, INC. ANY USE OF A COPY OF THIS DOCUMENT THAT DOES NOT CONTAIN AN ORIGINAL SEAL AND SIGNATURE IS STRICTLY PROHIBITED. THIS DOCUMENT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF HANOVER ENGINEERING ASSOCIATES, INC. THIS PLAN HAS BEEN SEALED WITH EITHER A RED OR A BLUE SEAL OR A CLEAR SEAL. IF EITHER APPLIED ON THIS PLAN, POSSIBLE REPRODUCTIONS OR ALTERATIONS MAY HAVE BEEN MADE WITHOUT THE APPROVAL OR KNOWLEDGE OF THE SIGNATORY.

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