

# COUNTY OF NORTHAMPTON

## RECORDER OF DEEDS

NORTHAMPTON COUNTY GOVERNMENT CENTER  
669 WASHINGTON STREET  
EASTON, PENNSYLVANIA 18042-7486  
Area Code (610) 559-3077

Ann L. Achatz - Recorder  
Andrea F. Suter - Lead Deputy



Book - 2009-1 Starting Page - 126239  
\*Total Pages - 10

Instrument Number - 2009017544

Recorded On 5/26/2009 At 1:46:56 PM

\* Instrument Type - COVENANTS

Invoice Number - 618083

\* Grantor - TRIPLE NET INVESTMENTS XXII L P

\* Grantee - LEHIGH VALLEY INDUSTRIAL PARK INC

User - LHS

\* Customer - J G PETRUCCI CO INC

### \* FEES

STATE WRIT TAX  
RECORDING FEES  
COUNTY RECORDS  
IMPROVEMENT FEE  
DEEDS RECORDS  
IMPROVEMENT FEE  
TOTAL PAID

\*RECORDED BY:  
\$0.50 J G PETRUCCI CO INC  
\$23.00 171 RTE 173  
\$2.00 ASBURY, NJ 08802  
\$3.00  
\$28.50

I hereby CERTIFY that this document is recorded in the  
Recorder's Office Of Northampton County, Pennsylvania



*Ann L. Achatz*

Ann L. Achatz  
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

**Do Not Detach**

THIS PAGE IS NOW THE FIRST PAGE  
OF THIS LEGAL DOCUMENT

Book: 2009-1

Page: 126239



\* - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.

**GRANTOR: Triple Net Investments, XXII, L.P.**  
**PROPERTY ADDRESS: 240 Emery Street, Bethlehem, Pennsylvania**

## ENVIRONMENTAL COVENANT

This Environmental Covenant is executed pursuant to the Pennsylvania Uniform Environmental Covenants Act, Act No. 68 of 2007, 27 Pa. C.S. §§ 6501 – 6517 (“UECA”). This Environmental Covenant subjects the Property identified in Paragraph 1 to the activity and/or use limitations in this document. As indicated later in this document, this Environmental Covenant has been approved by the Pennsylvania Department of Environmental Protection (“DEP” or the “Department”).

1. **Property Affected.** The property affected (the “Property”) by this Environmental Covenant is located in the City of Bethlehem, Northampton County.

The postal street address of the Property is: 240 Emery Street, Bethlehem, PA

The County Parcel Identification No. of the Property is: P766G-0204

The latitude and longitude of the center of the Property affected by this Environmental Covenant is: Latitude 40 degrees, 36 minutes, 19.08 seconds North and Longitude 75 degrees, 20 minutes, 29.76 seconds West

The Property is a parcel of land within a larger tract of land that has been known by the following names: Bethlehem Steel Corporation, Bethlehem Commerce Center, and Lehigh Valley Industrial Park VII

A complete description of the Property is attached to this Environmental Covenant as Exhibit A. A map of the Property is attached to this Environmental Covenant as Exhibit B.

2. **Property Owner/GRANTOR.** Triple Net Investments, XXII, L.P. (the “Owner”) is the Owner of the Property. The mailing address of the Owner is 171 Route 173, Suite 201, Asbury, NJ 08802.

3. **Holder/GRANTEE.** The following is a “holder,” as that term is defined in 27 Pa. C.S. § 6501, of this Environmental Covenant: Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015.

4. **Description of Contamination & Remedy.** The Property is part of a larger tract previously operated by Bethlehem Steel Corporation for the manufacturing of steel products dating back to at least the 1880s. As a result of those activities, certain substances were detected at the Property, including SVOCs. Redevelopment and remediation of the property was undertaken pursuant to a Consent Order and Agreement

dated June 12, 2006, among the Pennsylvania Department of Environmental Protection, Owner, and Lehigh Valley Industrial Park, Inc. A remedial investigation was conducted and a report was submitted to DEP for approval and was approved. A Final Report was submitted to DEP under the Land Recycling and Environmental Remediation Standards Act ("Act 2") in June, 2007, and shortly thereafter was approved by DEP. All the aforementioned documents and other information concerning the historic remedial activities, including the specific substances detected, may be obtained from DEP in its offices at 2 Public Square, Wilkes-Barre, PA 18711-0790. In accordance with the Final Report, the soil on the Property has been remediated to meet a Site Specific Standard for non-residential use through the capping of the site with buildings and parking in order to eliminate any exposure pathways.

5. **Activity and Use Limitations.** The Property is subject to the following activity and use limitations, which the Owner and each subsequent owner of the Property shall abide by:

1. The use of the Property shall be limited to commercial or industrial activity. In no event shall the Property or any part thereof be used for any of the following purposes:

(a) Single family or multi-family dwellings and other residential-style facilities, or otherwise as a residence or dwelling quarters for any person or persons;

(b) Parks, playgrounds or other recreational areas including, without limitation, parks with swing sets, sand boxes, swimming pools or any other kind of equipment;

(c) Campgrounds;

(d) Daycare centers, nurseries, kindergartens, elementary and secondary schools, vocational or technical schools, or similar facilities;

(e) Hospitals, nursing homes, shelters, group homes, or similar facilities;

(f) Cemeteries;

(g) The planting and raising of plants or crops for human consumption.

2. Any digging, excavating, grating, pile driving or other earth moving activities shall be conducted on the Property or any part thereof including, without limitation, the excavation or removal of asphalt, concrete, soil or other ground cover and foundations and the digging of foundations for buildings and trenches for utilities, in compliance with all applicable federal, state and local rules, regulations and

ordinances including, without limitation those pertaining to the environment and those pertaining to human health and occupational safety, and in compliance with any post remediation care plan as presented in any Act 2 cleanup plan approved by the Department or the USEPA for the Property or a DEP-approved soil management plan.

3. Without limiting the foregoing requirements, if any asphalt, concrete, soil or other ground cover is excavated and/or breached on any part of the Property, such asphalt, concrete, soil or other ground cover shall be properly addressed in compliance with a DEP-approved soil management plan.

4. Groundwater underlying the Property shall not be used for any purpose (including, without limitation, human consumption, commercial or agricultural purposes) and no wells for the extraction thereof shall be installed, permitted or utilized on the Property or any part hereof; provided, however, monitoring wells may be installed and operated on the Property by the party of the first part, its successors and assigns, solely for the purpose of monitoring, treating and remediating such groundwater.

5. The owner of the Property must maintain any and all engineering control(s) required on the Property as part of the June, 2006 Cleanup Plan approved by DEP, as may be amended and approved from time-to-time, which is available at the DEP office listed above.

6. To ensure the integrity of engineering controls, the capped areas of the Property shall be inspected for damage to the cap on an annual basis. Inspections shall document damage to the cap and identify the corrective actions taken to mitigate the conditions. Corrective actions involving the repair/replacement of the engineering controls shall be performed in accordance with a DEP-approved soil management plan, which details procedures for material management and cap replacement. Inspection reports will be maintained by the current owner of the Property for a minimum of ten (10) years and copies will be forwarded to the regional offices of DEP or USEPA upon request.

6. **Notice of Limitations in Future Conveyances.** Each instrument hereafter conveying any interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of this Environmental Covenant.

7. **Compliance Reporting.** After written request by the Department and by the end of every June following the effective date of this Environmental Covenant, the then current owner of the Property, shall submit to the Department written documentation stating whether the activity and use limitations in this Environmental Covenant are being abided by. In addition, within 28 days after any of the following events, the then current owner of the Property shall submit to the Department written documentation noting: noncompliance with the activity and use limitations in this Environmental Covenant; transfer of the Property; changes in use of the Property; filing of applications for building permits for the Property or proposals for any site work, if the building or proposed site

work would affect the contamination on the Property subject to this Environmental Covenant.

8. **Access by the Department.** In addition to any rights already possessed by the Department, this Environmental Covenant grants to the Department a right of access of the Property in connection with implementation or enforcement of this Environmental Covenant.

9. **Recordation & Proof & Notification.** Within 30 days after the date of the Department's approval, the Owner shall file this Environmental Covenant with the Recorder of Deeds for Northampton County, and send a file-stamped copy of this Environmental Covenant to the Department within 60 days of recordation. Within that time period, the Owner also shall send a file-stamped copy to each of the following: City of Bethlehem; the County of Northampton; the Holder; and each person holding a recorded interest in the Property.

10. **Termination or Modification.** Except as otherwise provided herein, this Environmental Covenant may only be terminated or modified in accordance with Section 9 of UECA, 27 Pa. C.S. § 6509. This Environmental Covenant shall terminate upon attainment with an unrestricted use remediation standard for the above-described contaminants at the Property in accordance with Act 2, as evidenced by DEP's approval of a final report demonstrating attainment with such unrestricted use standards. The Department must approve, in writing, of such termination. In addition, pursuant to Section 10 of UECA, 27 Pa. C.S. § 6510(a)(3)(i), the Grantor and Holder hereby each waive their right to consent to any subsequent amendment or termination of this Environmental Covenant unless the proposed amendment or termination would modify, negate or in any way impact any engineering or institutional controls established by this Environmental Covenant.

11. **Department's Address.** Communications with the Department regarding this Environmental Covenant shall be sent to:

Pennsylvania Department of Environmental Protection  
Regional Environmental Cleanup Manager  
2 Public Square  
Wilkes Barre, PA 18711-0790

Pennsylvania Department of Environmental Protection  
Director, Land Recycling Program  
Rachael Carson State Office Building  
400 Market Street  
Harrisburg, PA. 17105

Executed and acknowledged the date and year set forth below by:

Triple Net Investments, XXII, L.P., Grantor  
By: \_\_\_\_\_  
Name: Jim Petracek  
Title: Operating Manager  
Date: 5-4-09

Lehigh Valley Industrial Park, Inc., Grantee  
By: \_\_\_\_\_  
Name: Kenny A. Wrobel  
Title: President  
Date: 5-8-09

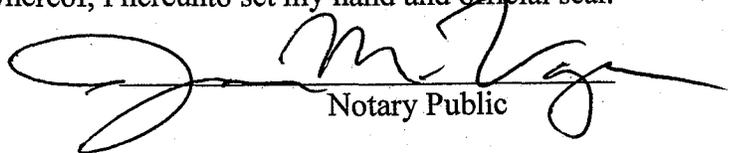
APPROVED, by Commonwealth of Pennsylvania  
Department of Environmental Protection

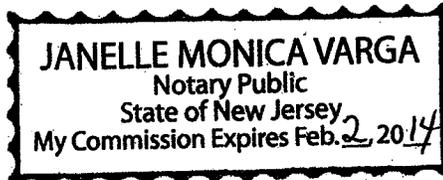
By: \_\_\_\_\_  
Name: Troy A Conrad  
Title: Director  
Date: 5/19/2009

State of New Jersey  
~~COMMONWEALTH OF PENNSYLVANIA~~ ) [other state, if executed outside PA]  
COUNTY OF Hunterdon ) SS:

On this 4<sup>th</sup> day of May, 2009, before me, the undersigned officer, personally appeared James C. Petracek [Owner, Grantor] who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

  
Notary Public



COMMONWEALTH OF PENNSYLVANIA ) [other state, if executed outside PA]  
COUNTY OF Northampton ) SS:

On this 8<sup>th</sup> day of May, 2009, before me, the undersigned officer, personally appeared Kerry A. Wood [holder, Grantee] who acknowledged himself/herself to be the person whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Michelle L. Frable, Notary Public  
City Of Bethlehem, Northampton County  
My Commission Expires Dec. 17, 2011  
Member, Pennsylvania Association of Notaries

In witness whereof, I hereunto set my hand and official seal.

Michelle L Frable  
Notary Public

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF DAUPHIN ) SS:

On this 19<sup>th</sup> day of MAY, 2009, before me, the undersigned officer, personally appeared TRM A CONRAD, who acknowledged himself/herself to be the DIRECTOR [Title] of the Commonwealth of Pennsylvania, Department of Environmental Protection, LAND RECYCLING PROGRAM [insert name of regional office], whose name is subscribed to this Environmental Covenant, and acknowledged that s/he executed same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

George S. Charney  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
GEORGE S. CHARNEY, Notary Public  
City of Harrisburg, Dauphin County  
My Commission Expires May 25, 2009

ADMIRAL MONICA VANCE  
Notary Public  
My Commission Expires May 25, 2009

DESCRIPTION  
LANDS OF RMS SERVICE CENTER  
LVIP VII - SAUCON TRACT  
WARD 17, CITY OF BETHLEHEM  
NORTHAMPTON COUNTY, PENNSYLVANIA

ALL THAT CERTAIN tract of land to be purchased by RMS Service Center, said tract being a portion of Lot 29 of the LVIP VII - Saucon Tract Subdivision shown on Sheets 5, 6 and 7 of 7 of the plans entitled "PHASE II - FINAL PLANS" "LVIP VII - SAUCON TRACT" as prepared by Hanover Engineering Associates, Inc., (HEA Project No. 3515C); dated April 2, 2004, last revised September 14, 2005, as recorded in the Northampton County Recorder of Deeds in Plan Book 2005-5, Page 681, dated December 12, 2005, and situated in the 17<sup>th</sup> Ward of the City of Bethlehem, Northampton County, Pennsylvania is described as follows:

**BEGINNING** at a point on the northerly right-of-way of East Fourth Street (S.R. 0412), said point being a corner with the westerly right-of-way of Emery Street (60 feet wide) of the LVIP VII -Saucon Tract subdivision; thence along said Emery Street right-of-way along a curve to the left having a central angle of  $90^{\circ}03'03''$ , a radius of 50.00 feet, an arc length of 78.58' feet and a chord bearing and distance of North  $38^{\circ}27'17''$  East, 70.74 feet to a point and along the same North  $06^{\circ}34'14''$  West, 393.61 feet to a point, the **TRUE POINT OF BEGINNING**; thence along Spillman Drive west (60 feet wide) the following six (6) courses:

1. Along a curve to the right having a central angle of  $90^{\circ}00'00''$ , a radius of 52.00 feet, an arc length of 81.68 feet and a chord bearing and distance of South  $38^{\circ}25'46''$  West, 73.54 feet to a point; thence
2. South  $83^{\circ}25'46''$  West, 30.78 feet to a point; thence
3. Along a curve to the right having a central angle of  $21^{\circ}23'52''$ , a radius of 240.00 feet, an arc length of 89.63 feet and a chord bearing and distance of North  $85^{\circ}52'18''$  West, 89.11 feet to a point; thence
4. North  $75^{\circ}10'22''$  West, 79.31 feet to a point; thence
5. Along a curve to the left having a central angle of  $21^{\circ}07'13''$ , a radius of 300.00 feet, an arc length of 110.58 feet and a chord bearing and distance of North  $85^{\circ}43'58''$  West, 109.96 feet to a point; thence
6. South  $83^{\circ}42'25''$  West, 304.92 feet to a point; thence through Lot 29
7. North  $06^{\circ}19'40''$  West, 806.16 feet to a point; thence along Lot 4

I:\PROJ\BETH-PRIV\3733-LOT29LVIPVII\DESCRIPTIONS\LOT29-RMS.DOC

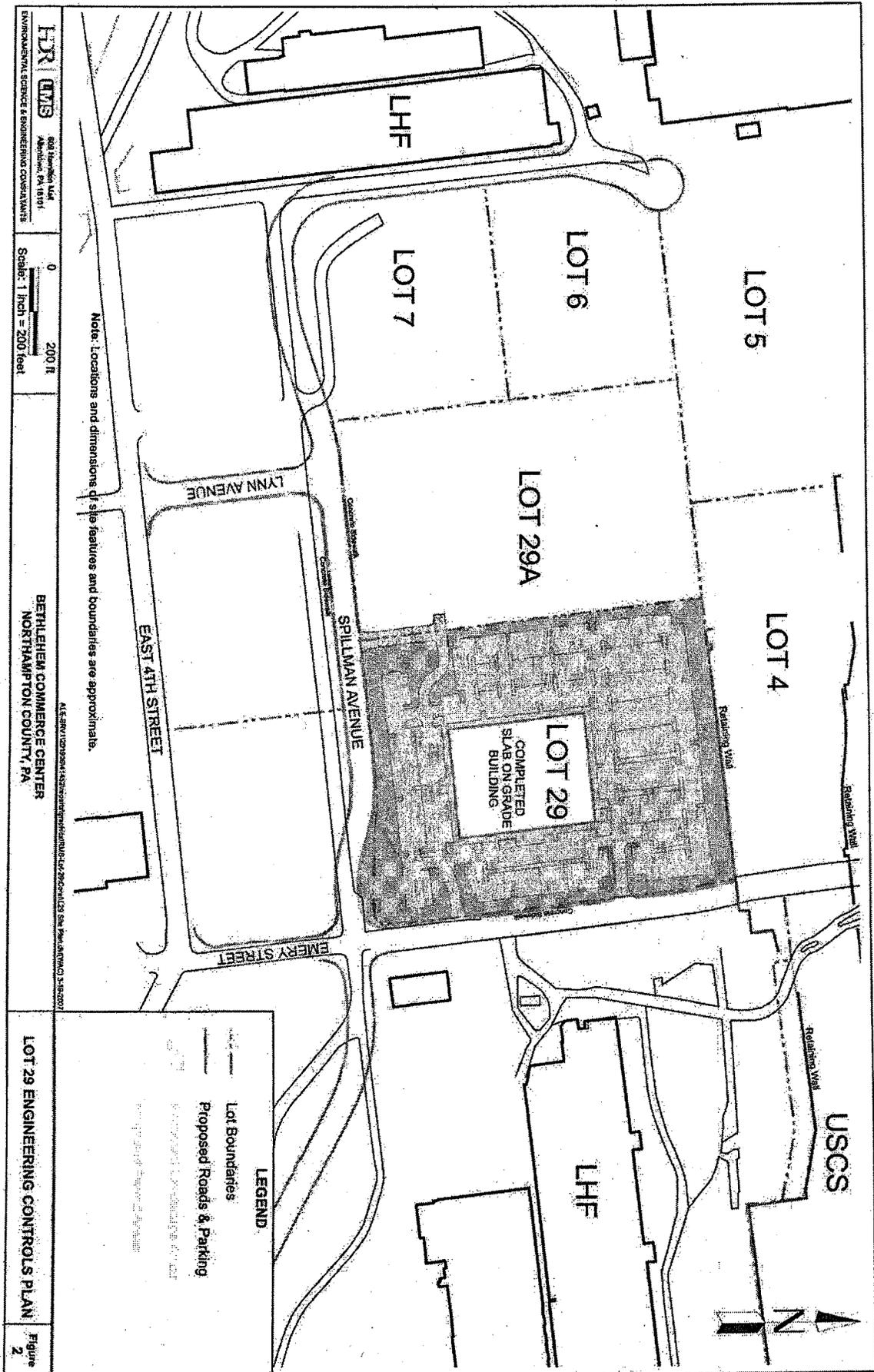
North 83°37'59" East, 90.12 feet to a point; thence continuing along the same

North 83°39'20" East, 554.60 feet to a point on the westerly right-of-way of said Emery Street; thence along said right-of-way the following five (5) courses:

1. South 12°22'43" East, 72.50 feet to a point; thence
2. Along a curve to the right having a central angle of 5°42'07", a radius of 270.00 feet, an arc length of 26.87 feet and a chord bearing and distance of South 09°31'39" East, 26.86 feet to a point; thence
3. South 06°40'36" East, 235.91 feet to a point; thence
4. South 06°29'09" East, 130.06 feet to a point; thence
5. South 06°34'14" East, 354.36 feet to a point, said point being the **PLACE OF BEGINNING**.

Containing approximately 541,431 square feet or 12.4295 acres.

The owner and any subsequent owners of said parcel shall accept the maintenance responsibilities of any storm water facilities, including detention ponds, not dedicated to the City of Bethlehem, until such time as said facilities are dedicated to the City of Bethlehem. The City of Bethlehem shall be permitted to inspect the storm water facilities on at least an annual schedule to ensure that any necessary corrective work is performed in a timely manner.



**HDR** **HTS**  
 800 Hamilton Ave  
 Allentown, PA 18101  
 ENVIRONMENTAL SCIENCE & ENGINEERING CONSULTANTS

0 200 ft  
 Scale: 1 inch = 200 feet

BETHLEHEM COMMERCIAL CENTER  
 NORTHAMPTON COUNTY, PA

LOT 29 ENGINEERING CONTROLS PLAN

Figure 2