

[FOR RECORDER'S USE]

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**AMENDMENT TO RIDER TO ANNEXATION AGREEMENT**

**Date:** As of July 11, 2011

**Parties:** **THE CITY OF ROCHELLE**, an Illinois municipal corporation

and

**ILLINOIS RIVER ENERGY**, a Delaware limited liability company

**Property:** 81.087 acres located south of Interstate 88 and East of Caron Road

**Legal Description:** see attached Exhibit 1

**Property Tax Identification Number(s):** 25-31-400-010  
25-32-300-008

**Document Amended:** #0313721, recorded July 31, 2003

**Prepared By and Return To:**

**ALAN H. COOPER**  
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Rochelle, IL 61068  
Attorney for City of Rochelle

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**AMENDMENT TO RIDER TO ANNEXATION AGREEMENT**

**THIS AMENDMENT TO RIDER TO ANNEXATION AGREEMENT** (the “Amendment”) made and entered into as of the 11<sup>th</sup> day of July, 2011, by and between the **CITY OF ROCHELLE**, an Illinois municipal corporation, Ogle County, Illinois (“the City”), and **ILLINOIS RIVER ENERGY**, a Delaware limited liability company (the “Owner” or “Illinois River Energy”):

**WITNESSETH**

**THAT WHEREAS**, the City and DP Industrial, LLC, a Delaware limited liability company (“DP Industrial”) entered into an Annexation Agreement dated July 29, 2003, which was recorded in the office of the Recorder of Ogle County, Illinois, on July 31, 2003, as document number 0313721 (the “Annexation Agreement”); and

**WHEREAS**, the Annexation Agreement contained a Rider (the “Rider to the Annexation Agreement”) governing the rights and obligations of Illinois River Energy in the event of a real estate exchange between DP Industrial and Illinois River Energy involving property referred to in the Rider to the Annexation Agreement as the “Subject Property”; and

**WHEREAS**, the Subject Property consists of 81.087 acres, the legal description of which is shown on **Exhibit 1**, attached hereto; and

**WHEREAS**, Owner is now the owner of all right, title and interest in the Subject Property referred to in the Rider to the Annexation Agreement which property remains subject to the Annexation Agreement and the Rider to the Annexation Agreement; and

**WHEREAS**, the parties wish to amend the Rider to the Annexation Agreement in certain particulars, as set forth in this Amendment; and

**WHEREAS**, on July 11, 2011, the Corporate Authorities of the City (consisting of the Mayor and City Council) held a public hearing on this Amendment, due notice of said public hearing having been given and published in the manner required by law on June 26, 2011, and said public hearing having been held in all respects in a manner conforming to law; and

**WHEREAS**, all other required public hearings in connection with the terms and conditions of this Amendment have been held in accordance with the ordinances of the City and the statutes of the State of Illinois; and

**WHEREAS**, the Corporate Authorities of the City have approved this Amendment by an affirmative vote of at least two-thirds of the Corporate Authorities then holding office, on July 11, 2011;

**NOW THEREFORE**, for good and valuable consideration, the parties agree as follows:

**1. Recitals, Exhibits and Defined Terms.** The foregoing Recitals are incorporated herein by this reference. The defined terms in the Annexation Agreement and the Rider to the Annexation Agreement are fully applicable to and are incorporated in this Amendment unless otherwise modified herein.

**2. Lead Track.** Section 12 of the Rider to the Annexation Agreement is deleted in its entirety. The City and Owner each hereby forever release and discharge one another from any and all claims and liability arising out of or pertaining to Section 12 of the Rider to the Annexation Agreement at any time prior to the date hereof.

**3. Annexation Agreement in Full Force and Effect.** Except as expressly amended in this Amendment, the terms of the Annexation Agreement and the Rider to the Annexation Agreement remain in full force and effect.

**IN WITNESS WHEREOF**, the City and Owner have caused this Amendment to be executed by their respective proper officials duly authorized to execute the same as of the day and the year first written.

**CITY OF ROCHELLE, ILLINOIS**, an  
Illinois municipal corporation

**ATTEST:**

By: \_\_\_\_\_  
David S. Plyman, City Manager

\_\_\_\_\_  
Bruce McKinney, City Clerk

**ILLINOIS RIVER ENERGY**, a Delaware limited  
liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF OGLE         )

I, the undersigned notary public, do hereby certify that David S. Plyman and Bruce McKinney, the City Manager and City Clerk, respectively of the City of Rochelle, an Illinois municipal corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument in said capacity, pursuant to authority of the governing body of the City.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned notary public, do hereby certify that \_\_\_\_\_ the \_\_\_\_\_ of Illinois River Energy, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument in said capacity, pursuant to authority of the governing body and governing instruments of said limited liability company.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT 1**  
**Legal Description**

That part of the southeast quarter of Section 31 and part of the southwest quarter of Section 32, all in Township 40 North, Range 2 East of the Third Principal Meridian, County of Ogle, Illinois, described as follows:

Commencing at the southeast corner of the southwest quarter of said Section 32; thence south 88 degrees 31 minutes 33 seconds west along the south line of said southwest quarter, 40.00 feet to a line 40.00 feet west of and parallel with the east line of said southwest quarter to the point of beginning; thence continuing 88 degrees 31 minutes 33 seconds west along the south line of said southwest quarter, 2,612.09 feet to the southeast corner of said southeast quarter of Section 31; thence south 88 degrees 19 minutes 19 seconds west along the south line of said southeast quarter, 164.71 feet to a line 100.00 feet east of and parallel with the easterly right-of-way line of Burlington Northern Railroad; thence north 16 degrees 46 minutes 55 seconds west along said line, 523.21 feet; thence north 10 degrees 58 minutes 44 seconds west, 79.90 feet to a point on curve; thence northeasterly, 854.97 feet along a non-tangential curve concave southeasterly, having a radius of 580.00 feet, chord distance of 779.64 feet, and bearing north 31 degrees 12 minutes 34 seconds east; thence north 88 degrees 31 minutes 13 seconds east, 2,512.34 feet to a line 40 feet west of and parallel with the east line of said southwest quarter of Section 32; thence south 01 degrees 13 minutes 52 seconds along said east line of southwest quarter, 1,239.32 feet to said point of beginning, containing 3,532,165 square feet or 81.087 acres more or less.