

ORDINANCE NO. _____
Date Passed: February 11, 2013

AN ORDINANCE
APPROVING THIRD AMENDMENT TO ANNEXATION AGREEMENT (DP
INDUSTRIAL) AND AMENDMENT TO RIDER TO ANNEXATION
AGREEMENT (ILLINOIS RIVER ENERGY) FOR PROLOGIS PARK

WHEREAS, the City of Rochelle is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and

WHEREAS, the City and DP Industrial, LLC, previously entered into an Annexation Agreement on July 29, 2003, related to 300.28 acres located south of Interstate 88 and east of Caron Road, which was recorded as Document No. 0313721 in the Office of the Ogle County Recorder on July 31, 2003 (“Annexation Agreement”); and

WHEREAS, the Annexation Agreement was subsequently amended on April 11, 2011, which was recorded as Document No. 201101102465, in the Office of the Ogle County Recorder, and was subsequently amended a second time on July 11, 2011, pursuant to Ordinance 11-4065, but which second amendment was not recorded because it became moot; and

WHEREAS, the City and Illinois River Energy, LLC, previously entered into an Annexation Agreement on July 29, 2003, related to approximately 90 acres located south of Interstate 88 and east of Caron Road, which was recorded as Document No. 0313728 in the Office of the Ogle County Recorder on July 31, 2003 (“IRE Annexation Agreement”); and

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

WHEREAS, the Subject Properties referred to in the Annexation Agreement and the IRE Annexation Agreement were subsequently annexed into the City and were zoned I-2; and

WHEREAS, ProLogis Land LLC, is now the owner of all right, title and interest in a portion of the Subject Properties referred to in the Annexation Agreement and the IRE Annexation Agreement, part of which property remains subject to the Annexation Agreement and part of which property remains subject to the Rider to IRE Annexation Agreement; and

WHEREAS, the parties wish to amend the Annexation Agreement and the Rider to IRE Annexation Agreement in certain particulars, as set forth in the Third Amendment

to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy LLC) presented to the City Council; and

WHEREAS, upon proper notice, the Mayor and City Council held a public hearing on the Third Amendment to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy LLC) on February 11, 2013; and

WHEREAS, the City Council finds that all legal requirements have been met, and that the Third Amendment to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy LLC) is in the best interests of the City and should be approved;

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of Rochelle, Ogle County, Illinois, as follows:

Section 1. The proposed Third Amendment to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy LLC) between the City of Rochelle and ProLogis Land LLC, as presented to the City Council, is hereby approved.

Section 2. The City Manager is authorized to execute the Third Amendment to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy LLC) in substantially the same form, on behalf of the City and to thereafter record it in the Office of the Ogle County Recorder.

This ordinance shall become effective after its passage, approval and publication as provided by law.

PASSED AND APPROVED this 11th day of February, 2013.

Ayes: _____ Nays: _____ Abstain: _____

Mayor

Attested: _____
City Clerk