

[FOR RECORDER'S USE]

AMENDMENT OF ANNEXATION AGREEMENT

Date: January 10, 2011

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

and

ROCHELLE DEVELOPMENT JOINT VENTURE, LLC, a Delaware limited liability company,

ROCHELLE DEVELOPMENT LOT 1, LLC, a Delaware Limited liability company, and

CENTERPOINT INTERMODAL CENTER ROCHELLE PROPERTY OWNERS ASSOCIATION, an Illinois not for profit corporation

Property: 366.47 acres located north of Illinois Route 38 West

Legal Description: see attached Exhibit 1

Property Tax Identification Number(s):

Prepared By and Return To:

ALAN H. COOPER
Attorney at Law
233 East Route 38, Suite 202
P. O. Box 194
Rochelle, IL 61068
Attorney for City of Rochelle

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Richmond Breslin LLP
233 South Wacker Drive
Suite 5775
Chicago, IL 60606
Attorney for Owners

AMENDMENT OF ANNEXATION AGREEMENT

THIS AMENDMENT OF ANNEXATION AGREEMENT (hereinafter referred to as the "Amendment") is made and entered into this _____ day of _____, 2010, by and between the **CITY OF ROCHELLE**, an Illinois municipal corporation, Ogle County, Illinois (hereinafter referred to as "the City"), **ROCHELLE DEVELOPMENT JOINT VENTURE, LLC**, a Delaware limited liability company, **ROCHELLE DEVELOPMENT LOT 1, LLC**, a Delaware limited liability company, and **CENTERPOINT INTERMODAL CENTER ROCHELLE PROPERTY OWNERS ASSOCIATION**, an Illinois not for profit corporation (hereinafter referred to collectively as the "Owners" or "Developers"), successors in title to **RICHARD H. KENNAY, DORIS J. KENNAY** and **CENTERPOINT ROCHELLE LLC**, an Illinois limited liability company (collectively, the "Former Owners").

RECITALS:

WHEREAS, the City and Former Owners heretofore entered into an Annexation Agreement dated April 14, 2003 (hereinafter referred to as the "Annexation Agreement") which was recorded in the office of the Recorder of Ogle County, Illinois, on May 20, 2003 as document number 0308980; and

WHEREAS, portions of the territory that were the subject of the Annexation Agreement have heretofore been dedicated or conveyed to the State of Illinois and the Brush Grove Drainage District, and the Owners now own all of the remainder of the territory that was the subject of the Annexation Agreement, said remainder territory being legally described in the attached Exhibit 1 to this Amendment (the "Subject Property"); and

WHEREAS, the parties wish to amend the Annexation Agreement in certain particulars with respect to the Subject Property, as set forth in this Amendment; and

WHEREAS, the Corporate Authorities of the City (consisting of the Mayor and City Council) have, on January 10, 2011, 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 December 16, 2010, 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 the affirmative vote of at least two-thirds of the Corporate Authorities then holding office, on January 10, 2011; and

WHEREAS, the City and Owners have mutually agreed to amend the Annexation Agreement in accordance with this Amendment.

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

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

Section 2. Zoning Classification. By a duly enacted City Ordinance adopted on December 3, 2010, the Corporate Authorities have reclassified the Subject Property (as legally described in the attached Exhibit 1 to this Amendment) under the Zoning Ordinance of the City (Chapter 110 of the Municipal Code of the City) from I-1 Light (Limited) Industry District to I-2 General Industrial District; and the Zoning Map of the City (as provided for in Section 110-162 of the Zoning Ordinance) has been or forthwith shall be amended accordingly. Therefore, in each instance in the Annexation Agreement that the zoning classification of the Subject Property is stated, referenced or specified, it shall be deemed amended to state and mean "I-2 General Industrial District."

Section 3. Development Conditions Revised. Section 7 of the Annexation Agreement is amended, as follows:

A. Section 7.A.2. of the Annexation Agreement is deleted, and substituted in lieu thereof is the following: "There shall be a 60-foot landscaped setback from the BNSF Railway Company rail line as existed on the date of the Annexation Agreement (ie: the northerly property line of the Subject Property), instead of the 50-foot buffer that would be required should the City's Land Use Plan designate the property on the north side of the rail line as residential; *provided that*, if any portion of the Subject Property is dedicated or conveyed to the City, the BNSF Railway Company or other common carrier for a rail siding, rail spur or other rail right-of-way purpose, then (i) the land so dedicated or conveyed may lie within the said 60-foot landscaped setback area (ie: such use shall be permitted within the required landscaped setback area and said 60-foot setback need not be enlarged from its original dimension as measured from the northerly property line of the Subject Property), and (ii) rail spur tracks, switches and other rail improvements that may hereafter service the Subject Property or industries therein (together with associated rail beds and adjacent drainage and rail clearance areas) shall also be permitted within the landscaped setback area."

B. Section 7.A.3. of the Annexation Agreement is amended by adding the following additional sentence at the end: "Notwithstanding the foregoing, if any portion of the Subject Property is dedicated or conveyed to the City, the BNSF Railway Company or other common carrier for a rail siding, rail spur or other rail right-of-way purpose, then the landscaped area and related improvements depicted in Exhibit B shall not be required."

C. Section 7.A.4. of the Annexation Agreement is deleted, in recognition of the fact that the Owners have dedicated (or are hereafter required to dedicate) the westerly 30-feet of the Subject Property to the Brush Grove Drainage District in accordance with an Agreement dated October 12, 2005 by and between Rochelle Development Joint Venture, LLC and Brush Grove Drainage District.

D. A new Section 7.F. is added to the Annexation Agreement, as follows: "Site Plan. The Site Plan entitled "CenterPoint Business Center Rochelle" prepared by Cornerstone Architects dated September 30, 2010 sets forth the conceptual development plan for the Subject Property ("Site Plan"). The City shall reasonably cooperate with the Owner with respect to subdivision plans and plat and other development plans pertinent to implementation of the Site Plan, consistent with the terms of this Annexation Agreement, the Municipal Code of the City and other lawful requirements." The aforesaid Site Plan is attached to this Amendment as Exhibit 2.

Section 4. Remaining Terms Unchanged. Except as expressly amended by this Amendment, the terms of the Annexation Agreement shall remain in full force and effect.

Section 5. Notices. Notices pursuant to this Amendment shall be given in accordance with the Annexation Agreement.

Section 6. Time of the Essence; Good Faith. It is understood and agreed by the parties hereto that time is of the essence of this Amendment, and that all parties will make every reasonable effort to expedite the subject matters hereof. It is further understood and agreed by the parties that the successful consummation of this Amendment requires the continued cooperation and best efforts of all parties.

Section 7. Recording. This Amendment and all exhibits thereto (or a memorandum hereof), certified as to adoption by the City Clerk, shall be recorded by the City upon execution, acknowledgment and approval, at the Owners' expense. The existence thereof shall be noted by Owner on any final plat of subdivision for any portion of the Subject Property prior to its recording.

Section 8. Miscellaneous. If any non-material provision of this Amendment is held invalid by any court of competent jurisdiction, such provision shall be deemed to be excised from this Amendment, and the invalidity thereof shall not affect any of the other provisions of this Amendment which can be given effect without such invalid provision, and to that end, the provisions of this Amendment are severable.

Except as otherwise expressly provided, this Amendment supersedes all prior agreements, negotiations and exhibits, and is a full integration of the entire agreement of the parties, and may not be amended except by further written agreement duly authorized by the Corporate Authorities and parties hereto, or, as applicable, approved by any court having or retaining jurisdiction over the subject matter of this Amendment. The attorneys

for the parties may, by mutual agreement, replace or revise the exhibits hereto to correct typographical errors or errors in legal descriptions prior to recording, and may replace any pages or exhibits containing handwritten corrections with conformed copies thereof.

Wherever appropriate in this Amendment, the singular shall include the plural, and plural shall include the singular, unless the context clearly indicates otherwise.

All section headings or other headings in this Amendment are for the general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

No provision of this Amendment shall be construed more strongly against any party to this Amendment, the parties recognizing that all parties have contributed substantially to the drafting of this Amendment.

Section 9. Binding Effect of Amendment. This Amendment and all attached exhibits, shall be binding upon the parties hereto and their respective successors and assigns.

Section 10. Execution in Counterparts. This Amendment may be executed in two or more counterparts, each of which may be deemed original and, taken together, shall constitute one and the same instrument.

Section 11. Effective Date. The parties have affixed the date on which this Amendment has been signed on page one hereof, which date shall be the Effective Date of this Amendment.

[CONTINUED ON NEXT PAGE]

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 on the day and the year first written.

CITY:

CITY OF ROCHELLE, ILLINOIS, an Illinois
municipal corporation

ATTEST:

By: _____
Ken Alberts, City Manager

Bruce McKinney, City Clerk

[SIGNATURE PAGES CONTINUED]

OWNERS:

ROCHELLE DEVELOPMENT JOINT VENTURE, LLC, a Delaware limited liability company

By: CenterPoint Properties Trust, a Maryland real estate investment trust, its manager

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

Name: _____
Title: _____

ROCHELLE DEVELOPMENT LOT 1, LLC, a Delaware limited liability company

By: Highway 38 Investors LLC, a Delaware limited liability company, its Member

By: UBS Realty Investors LLC, a Massachusetts limited liability company, its Manager

By: _____
J. Raymond Frazier
Its: Director

ATTEST:

Name: _____
Title: _____

CENTERPOINT INTERMODAL CENTER ROCHELLE PROPERTY OWNERS ASSOCIATION, an Illinois not for profit corporation

By: _____
Edward R. Harrington, President

ATTEST:

Name: Michael Tortorici
Title: Secretary/Treasurer

STATE OF ILLINOIS)
COUNTY OF OGLE)

ACKNOWLEDGMENT

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ken Alberts, personally known to me to be the City Manager of the City of Rochelle, an Illinois municipal corporation, and Bruce McKinney, personally known to me to be the City Clerk of the City of Rochelle, an Illinois municipal corporation, and 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 severally acknowledged that they signed and delivered the said instrument pursuant to authority given by the Corporate Authorities of said municipal corporation as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 2011.

Notary Public

STATE OF ILLINOIS }
COUNTY OF _____ }

ACKNOWLEDGMENT

I, the undersigned, a Notary Public in and for said County, in the State aforesaid,
DO HEREBY CERTIFY that _____ and
_____, as _____ and
_____, respectively, of CenterPoint Properties Trust, the manager
of Rochelle Development Joint Venture, LLC, who are personally known to me to be the
same persons whose names are subscribed to the foregoing instrument as said officers,
appeared before me this day in person and acknowledged that they signed and delivered
the said instrument as their own free and voluntary act and as the free and voluntary act
of said trust and limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2011.

Notary Public

STATE OF _____ }
COUNTY OF _____ }

ACKNOWLEDGMENT

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that J. Raymond Frazier, as Director of UBS Realty Investors LLC, Manager of Highway 38 Investors LLC, Member of Rochelle Development Lot 1, LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as said officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2011.

Notary Public

STATE OF ILLINOIS }
COUNTY OF _____ }

ACKNOWLEDGMENT

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Edward R. Harrington, as President of CenterPoint Intermodal Center Rochelle Property Owners Association, who is personally known to me to be the same persons whose name is subscribed to the foregoing instrument as said officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2011.

Notary Public

EXHIBIT 1

LEGAL DESCRIPTION

THE PROPERTY CONSISTS OF APPROXIMATELY 366.465 ACRES LOCATED NORTH OF ILLINOIS STATE ROUTE 38, AND SOUTH OF THE RIGHT OF WAY OF THE BURLINGTON NORTHERN SANTA FE RAILROAD IN THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS AND IS LEGALLY DESCRIBED AS FOLLOWS:

PART OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15 AND PART OF SECTION 22, ALL IN TOWNSHIP 4.0 NORTH, RANGE 1 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST COMER OF THE SOUTHEAST QUARTER OF SAID SECTION 22; THENCE NORTH 89 DEGREES 56 MINUTES 29 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1047.89 FEET; THENCE NORTH 0 DEGREES 03 MINUTES 31 SECONDS WEST PERPENDICULAR TO THE LAST DESCRIBED COURSE, A DISTANCE OF 412.00 FEET; THENCE NORTH 89 DEGREES 56 MINUTES 29 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 296.00 FEET; THENCE SOUTH 0 DEGREES 03 MINUTES 31 SECONDS EAST PERPENDICULAR TO THE LAST COURSE, A DISTANCE OF 412.00 FEET TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 89 DEGREES 56 MINUTES 29 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 795.98 FEET; THENCE NORTH 0 DEGREES 07 MINUTES 29 SECONDS WEST, A DISTANCE OF 3540.17 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE NORTH 56 DEGREES 44 MINUTES 02 SECONDS WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1385.95 FEET; THENCE NORTH 59 DEGREES 17 MINUTES 33 SECONDS WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 560.00 FEET; THENCE NORTH 56 DEGREES 44 MINUTES 02 SECONDS WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 2174.76 FEET TO THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 15; THENCE SOUTH 0 DEGREES 11 MINUTES 23 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 502.16 FEET TO THE NORTHWEST COMER OF THE EAST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 0 DEGREES 04 MINUTES 25 SECONDS EAST ALONG THE WEST LINE OF SAID EAST HALF, A DISTANCE OF 2639.04 FEET TO THE NORTHWEST CORNER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE SOUTH 0 DEGREES 03 MINUTES 57 SECONDS EAST ALONG THE WEST LINE OF SAID EAST HALF, A DISTANCE OF 2639.79 FEET TO THE SOUTHWEST COMER OF

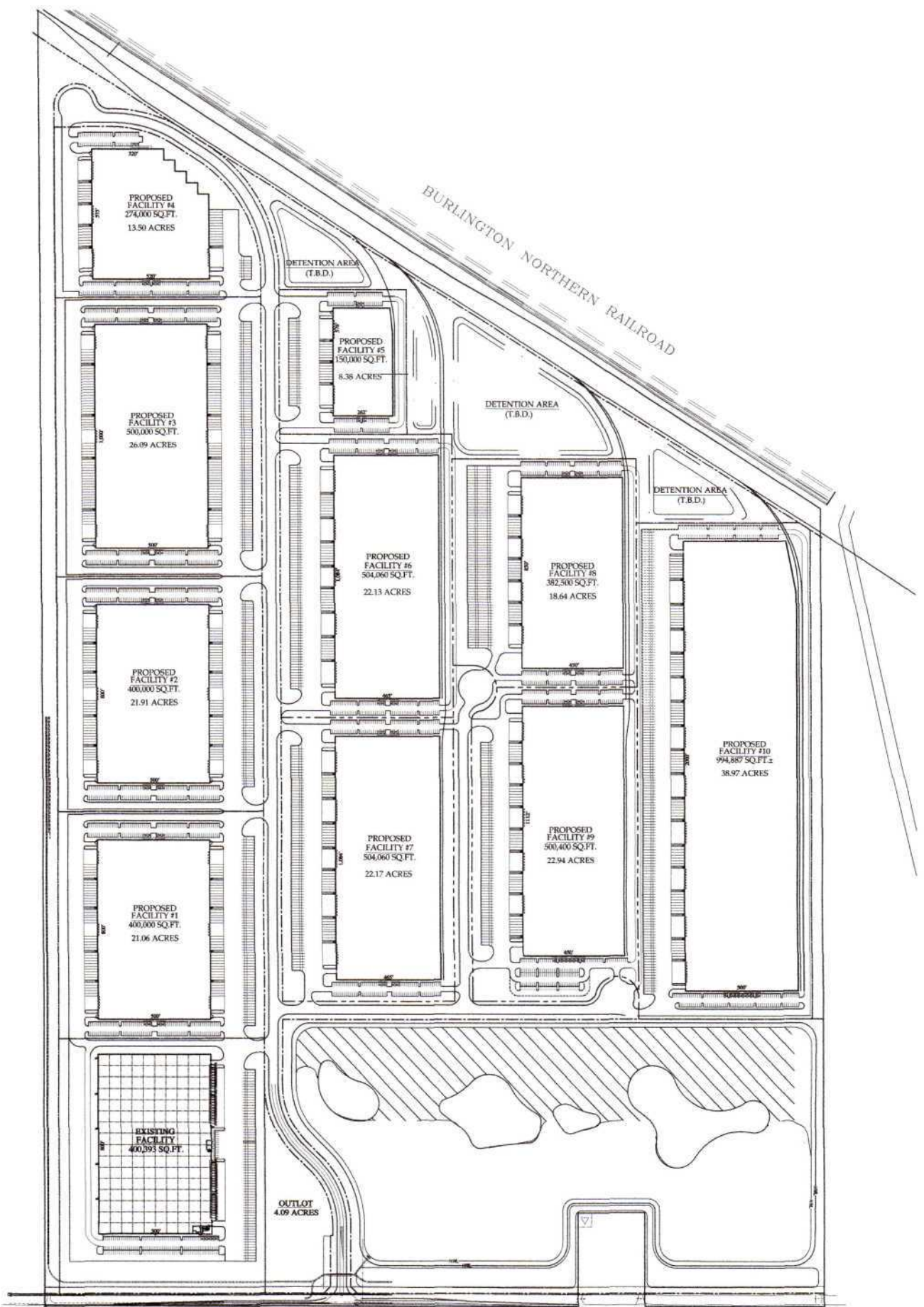
SAID EAST HALF; THENCE NORTH 89 DEGREES 56 MINUTES 57 SECONDS EAST ALONG THE SOUTH LINE OF SAID EAST HALF, A DISTANCE OF 1315.93 FEET TO THE POINT OF BEGINNING, IN THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS, EXCEPTING THEREFROM PROPERTY DEDICATED OR CONVEYED TO THE STATE OF ILLINOIS AND BRUSH GROVE DRAINAGE DISTRICT.

PINS: 24-22-100-003
24-22-100-004
24-22-200-003
24-22-400-010
24-15-377-001
24-22-300-009 Lot 3, CenterPoint Intermodal Center Rochelle Phase One
24-22-300-010 Part of Lot 1, CenterPoint Intermodal Center Rochelle Phase One (north)
24-22-300-011 Part of Lot 1, CenterPoint Intermodal Center Rochelle Phase One (south)
24-22-400-008 Lot 2, CenterPoint Intermodal Center Rochelle Phase One
24-22-400-009 Outlot A, CenterPoint Intermodal Center Rochelle Phase One

EXHIBIT 2

SITE PLAN

(See Next Page Following)



SITE PLAN: 0 75 150 300 FEET



CENTERPOINT BUSINESS CENTER ROCHELLE

ROCHELLE, ILLINOIS

ILLINOIS ROUTE 58



CenterPoint Properties



Cornerstone Architects Ltd.

SEPTEMBER 20, 2010 #03093

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