

**FOURTH AMENDMENT TO ANNEXATION AGREEMENT  
(DP INDUSTRIAL) AND AMENDMENT TO RIDER TO  
ANNEXATION AGREEMENT (ILLINOIS RIVER ENERGY)**

This FOURTH AMENDMENT TO ANNEXATION AGREEMENT (DP INDUSTRIAL) and AMENDMENT TO RIDER TO ANNEXATION AGREEMENT (ILLINOIS RIVER ENERGY) (collectively “Amendment”) entered into as of the \_\_\_ day of \_\_\_\_\_, 2018, between the CITY OF ROCHELLE, an Illinois municipal corporation (“City”), and PROGRESSIVE PARK ROCHELLE, LLC, an Illinois limited liability company (“Progressive Park”):

**WITNESSETH**

**THAT WHEREAS**, the City is a non-home rule municipal corporation organized under the laws of the State of Illinois, and has the power to enter into and amend annexation agreements, pursuant to the applicable provisions of the Illinois Municipal Code, including without limitation 65 ILCS 5/11-15.1-1 *et seq.*; and

**WHEREAS**, the City and DP Industrial, LLC, previously entered into an Annexation Agreement on July 29, 2003, relating to certain property encompassing the Subject Property, as hereinafter defined, 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 was subsequently amended a third time on February 26, 2013, which was recorded as Document No. 201302208, in the Office of the Ogle County Recorder; and

**WHEREAS**, the City and Illinois River Energy, LLC, previously entered into an Annexation Agreement on July 29, 2003, relating to a certain property encompassing the Subject Property, as hereinafter defined, which was recorded as Document No. 0313728 in the Office of the Ogle County Recorder on July 31, 2003 (“IRE Annexation Agreement”);

**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” which surrounds the Subject Property, as hereinafter defined; and

**WHEREAS**, the real estate described as “Subject Property” in the Rider to IRE Annexation Agreement was subsequently exchanged between DP Industrial and Illinois River Energy; and

**WHEREAS**, the real estate encompassing the Subject Property, as hereinafter defined, was subsequently annexed into the City and zoned I-2 General Industrial; and

**WHEREAS**, ProLogis Land, LLC, is the successor in interest to DP Industrial, LLC, under both the Annexation Agreement and the Rider to IRE Annexation Agreement; and

**WHEREAS**, Progressive Park, is the successor in interest to ProLogis Land, LLC, under both the Annexation Agreement and the Rider to IRE Annexation Agreement; and

**WHEREAS**, Progressive Park is the owner of all right, title and interest to the Subject Property as described in **Exhibit A**, which property is encompassed by property subject to the Annexation Agreement and the Rider to IRE Annexation Agreement; and

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

**WHEREAS**, on August 6, 2018 and August 13, 2018, 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 July 22, 2018, 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 August 13, 2018;

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

**1. Acceptance of Subject Property.** Notwithstanding anything in the Annexation Agreement or the Rider to IRE Annexation Agreement to the contrary, the City shall accept the Subject Property as shown in the Final Plat of Progressive Park Rochelle – Unit Two, attached hereto as **Exhibit B**.

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

**IN WITNESS WHEREOF**, the Parties hereto have executed this Fourth Amendment to Annexation Agreement (DP Industrial) and Amendment to Rider to Annexation Agreement (Illinois River Energy) as of the date first above written.

**CITY OF ROCHELLE**, an Illinois  
municipal corporation (“City”)

**PROGRESSIVE PARK ROCHELLE,  
LLC**, an Illinois limited liability company

By: \_\_\_\_\_  
**City Manager**

By: \_\_\_\_\_  
**Tim Bruns**, member and authorized  
agent.

Attest: \_\_\_\_\_  
**City Clerk**

**CITY OF ROCHELLE**

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF OGLE         )

I, the undersigned notary public, do hereby certify that Jeff Fiegenschuh and Sue Messer, 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 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 \_\_\_\_\_, 2018

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

**PROGRESSIVE PARK ROCHELLE, LLC**

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF \_\_\_\_\_ )

I, the undersigned notary public, do hereby certify that Tim Bruns, as a member of Progressive Park Rochelle, LLC, an Illinois limited liability company, 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 said instrument in said capacity, pursuant to authority of the governing bodies and governing instruments of said limited liability company.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2018

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

**EXHIBIT A**  
**(Legal Description of “Subject Property”)**

**DESCRIPTION: 25-32-300-002 & 25-32-300-003**

Part of the Southwest Quarter of section 32, Township 40 North, Range 2 East of the Third Principal Meridian, Ogle County, Illinois, bounded and described as follows: Commencing at the Northwest corner of said Southwest Quarter; thence East along the North line of said Southwest Quarter, 1331.40 feet, to the point of beginning of the hereinafter described tract of land; thence continuing East, along said north line, 506.29 feet; thence South 409.00 feet; thence West parallel with said North line, 189.23 feet; thence North 145.00 feet; thence West parallel with said North line, 317.06 feet; thence North 264.00 feet to the Point of Beginning, containing 3.70 Acres more or less.

**DESCRIPTION: 25-32-301-001**

Lot 2 of PROLOGIS PARK ROCHELLE – UNIT 2 subdivision, part of the Southwest Quarter of Section 32 and part of the Southeast Quarter of Section 31, Township 40 North, Range 2 East of the Third Principal Meridian, as recorded in the Ogle County Recorder’s Office, Ogle County, Illinois.

# EXHIBIT B

## (FINAL PLAT OF PROGRESSIVE PARK ROCHELLE – UNIT TWO)

