

THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE APPROVING A FOURTH AMENDMENT TO ANNEXATION
AGREEMENT BETWEEN PROGRESSIVE PARK ROCHELLE, LLC, AN ILLINOIS
LIMITED LIABILITY COMPANY AND THE CITY OF ROCHELLE**

CHET OLSON, Mayor
SUE MESSER, City Clerk

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JOHN BEARROWS
City Council

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200 W. Adams, Ste. 2125, Chicago, IL 60606

**CITY OF ROCHELLE
Ogle County, Illinois**

**ORDINANCE NO. ____
Date Passed: August 13, 2018**

**AN ORDINANCE APPROVING A FOURTH AMENDMENT TO ANNEXATION
AGREEMENT BETWEEN PROGRESSIVE PARK ROCHELLE, LLC, AN ILLINOIS
LIMITED LIABILITY COMPANY AND THE CITY OF ROCHELLE**

WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, pursuant to the provisions of the Illinois Municipal Code, 65 ILCS 5/11-15.1-1, the City is empowered to enter into Annexation Agreements with the owners of record of unincorporated territory; 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 Rochelle, LLC, 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 Rochelle, LLC, an Illinois Limited Liability Company and the City of Rochelle choose to enter into a Fourth Amendment to the Annexation Agreement as set forth in Exhibit A; and

WHEREAS, upon proper notice a public hearing was held on the proposed Annexation Agreement on August 13, 2018;

WHEREAS, the Mayor and City Council have determined that it is in the best interest of the City of Rochelle that the City enter into this Fourth Amendment to the Annexation Agreement; and

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 Fourth Amendment to the Annexation Agreement between Progressive Park Rochelle, LLC, an Illinois Limited Liability Company and the City of Rochelle for property (Exhibit “A”) located in Ogle County, Illinois, is approved.

Section 2. The City Manager is authorized to execute the Fourth Amendment to the Annexation Agreement on behalf of the City and to thereafter record it in the office of the Ogle County Recorder.

Section 3. This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED THIS 13th day of August, 2018.

AYES:

NAYS:

ABSENT:

APPROVED THIS 13th day of August, 2018.

MAYOR

ATTEST:

CITY CLERK

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, _____, City Clerk of the City of Rochelle, County of Ogle and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____, “AN ORDINANCE APPROVING A FOURTH AMENDMENT TO ANNEXATION AGREEMENT BETWEEN PROGRESSIVE PARK ROCHELLE, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY AND THE CITY OF ROCHELLE” which was adopted by the Mayor and City Council of the City of Rochelle on August 13, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 13th day of August, 2018.