

# ANNEXATION AGREEMENT

## INTRODUCTION

1. **This Agreement** is entered into this \_\_\_ day of August, 2018, by and between the CITY OF ROCHELLE, Illinois, a municipal corporation (hereinafter referred to as the “City”); and Land owners Oakbrook Bank as Trustee TR# 3331, Estate of Lois M. Binz, Peter Alfano, and Premier Properties Development LLC (“Land owners”).

2. The Property subject to this Agreement and legal title to which is vested in Landowners (excepting such portion as is dedicated to the public), is legally described as follows:

**Parcel 1:**

PIN No. 24-13-426-003  
Oakbrook Bank as Trustee TR# 3331  
**Legally Described in Exhibit A**

**Parcel 2:**

PIN No. 24-13-426-005  
Estate of Lois M. Binz  
c/o Executrix Janice Binz-Madsen  
Ryan Patrick Pelan  
Elizabeth Nicole Pelan  
Jeanne O’Neil n/k/a Jeanne Fierz Trust,  
Trustee Jeanne O’Neil n/k/a Jeanne Fierz  
5553 Beebe Dr.  
Rochelle, IL 61068  
**Legally Described in Exhibit B**

**Parcel 3:**

PIN No. 24-13-426-006  
Peter Alfano  
1138 Clifton Terrace  
Rochelle, Illinois 61068  
**Legally Described in Exhibit C**

**Parcel 4:**

PIN No. 24-13-426-007  
Premier Properties Development LLC  
Po Box 1684

Atascadero, California 93423  
**Legally Described in Exhibit D**

The said property is hereinafter referred to as the “Subject Properties”.

3. The Subject Properties are generally located at Northwest corner of North Carron Road and East Flagg Road. The Subject Properties contain approximately 55.03 acres and are contiguous with the City of Rochelle.

4. The Subject Properties shall be automatically zoned upon annexation B-2 Highway Commercial District under the Rochelle Zoning Ordinance.

5. The City of Rochelle is a non-home Rule Unit pursuant to the provisions of the Illinois Constitution, Article VII, Section 7, and the terms, conditions and acts of the City under this Agreement are entered into and performed pursuant to the non-home Rule powers of the City and the statutes in such cases made and provided.

**RECITALS:**

1. Landowners have petitioned the City for annexation to the City of the Subject Properties.

2. The parties hereto have fully complied with all relevant statutes of the State of Illinois and ordinances of the City with respect to annexation including the filing of a petition by Landowners’ requesting annexation of the above-described Subject Properties.

3. All reports by all relevant governmental entities have been submitted enabling appropriate action by the City Council to achieve the following:

- (a) Adoption and execution of this Agreement by resolution;
- (b) Enactment of an annexation ordinance annexing the Subject Properties as described above to the City;

(c) The adoption of such other ordinances, resolutions and actions as may be necessary to fulfill and implement this Agreement pursuant to the terms and conditions herein contained.

4. The Subject Properties are located within either a public library district or a fire protection district, and there are roads adjacent to or on the Subject Properties under the jurisdiction of a township.

5. The parties hereto have determined that it is in the best interests of the City and Landowners and in furtherance of the public health, safety, comfort, morals and welfare of the community to execute and implement this Agreement and that such implementation of this Agreement will comply with the Northern Gateway Tax Increment Financing (“TIF”) District of the City and will provide a very valuable asset to the community.

6. The Introduction and Recitals hereto are hereby incorporated by reference as a part of this Agreement.

### **SECTION 1 ANNEXATION OF THE PROPERTY**

Landowners have filed a petition for annexation to the City of the Subject Properties. The City shall proceed to consider the question of annexing the Subject Properties to the City and do all things necessary or appropriate to cause the Subject Properties to be validly annexed to the City. The Subject Properties shall be annexed in whole. All ordinances, plats, affidavits and other documents necessary to accomplish annexation shall be recorded by City at City’s expense. The new Boundary of the City resulting from such annexation shall extend to the far side of any adjacent highway and shall include all of every highway within the area so annexed.

### **SECTION 2 ZONING AND COMPLIANCE WITH CITY CODE**

Upon annexation, the City shall cause the Subject Properties to be classified as B-2 under the Zoning Ordinance of the City. Upon development of the Subject Properties, they shall be brought

into compliance with City Codes; however, Owners will be allowed to continue using the Subject Properties for agricultural purposes until such time as the Subject Properties are developed.

### **SECTION 3 STREETS AND SIDEWALKS**

The public improvements associated with the street ROW along the Subject Properties' shall be required upon redevelopment of the property or reconstruction of any building. Such improvements shall be in accordance with City Engineering Design Standards and City of Rochelle City Code.

### **SECTION 4 WATER SUPPLY**

The Subject Properties' water service line shall connect to the City water main as directed by the City's Public Works Department. The connection shall fully comply with Rochelle's City Code and all permit, tap, inspection, and other fees associated with the connection to the City Water Main shall be paid by the Property Owners prior to any connection. Such connection is required upon redevelopment of the Subject Properties.

### **SECTION 5 SANITARY SEWERS**

The Subject Properties' sanitary sewer line shall connect to the City sewer main as directed by the City's Public Works Department. The connection shall fully comply with Rochelle's City Code and all permit, tap, inspection, and other fees associated with the connection to the City Sewer Main shall be paid. Such connection is required upon redevelopment of the Subject Properties'.

### **SECTION 6 EASEMENTS**

Landowners agree to grant to the City, and/or obtain grants to the City of, all necessary easements for the extension of sewer, water, street, or other utilities, including cable television, or for other improvements which may serve the Subject Properties. All such easements to be granted shall name the City and/or other appropriate entities designated by the City as grantee thereunder.

It shall be the responsibility of Landowners to obtain all off-site easements necessary to serve the Subject Properties; provided, however, the City agrees to assist, to the extent possible, the Landowners in obtaining any such required (if any) off-site easements.

#### **SECTION 7 FUTURE DEVELOPMENT**

Any future development of the Subject Property shall be in accordance with the existing building, zoning, subdivision, storm water retention and other developmental codes and ordinances of the City as they exist on the date each respective permit for development is issued.

#### **SECTION 8 UTILITIES**

All future electricity, telephone, cable television and gas lines shall be installed underground, the location of which underground utilities shall be at the City's option.

#### **SECTION 9 IMPACT REQUIREMENTS**

Landowners agrees that any and all recaptures, contributions, dedications, donations and easements provided for in this Agreement substantially advance legitimate governmental interests of the City and are uniquely attributable to, reasonably related to and made necessary by the Annexation of the Subject Properties into the City

#### **SECTION 10 DISCONNECTION**

Landowners agrees and all subsequent owners and any subsequent developers, agree to take no action to disconnect, and to seek no petition for disconnection, of the Subject Properties, or any portion thereof, from the City.

#### **SECTION 11 PROPERTY TAXES**

The City agrees that upon the fifth and tenth anniversaries of this Agreement, should the Subject Properties not be improved or developed then the City shall reimburse each Landowner for the tax levy from the City for each of the respective five-year period. To avoid any doubt, the

refund of the property tax assessment is only for the City's portion of the Landowner's tax bill and does not apply to any other levy from any other taxing body.

### **SECTION 12 TERM**

This Agreement shall be binding upon the Parties and their respective successors and assigns for twenty (20) years, commencing as of the date hereof, and for such further terms as may hereinafter be authorized by statute and by City ordinance. If any of the terms of this Agreement, or the annexation or zoning of the Property, is challenged in any court proceeding, then, to the extent permitted by law, the period of time during which such litigation is pending shall not be included in calculating said twenty (20) year period. The expiration of Term of this Agreement shall not affect the continuing validity of the zoning of the Property or any ordinance enacted by the City pursuant to this Agreement.

### **SECTION 13 MISCELLANEOUS**

A. **Amendment.** This Agreement, and the exhibits attached hereto, may be amended only by mutual consent of the Parties or their successors in interest, by adoption of an ordinance by the City approving said amendment as approved by said Parties or their successors in interest.

B. **Severability.** If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements and portions of this Agreement, and to that end, all provisions, covenants, agreements and portions of the Agreement are declared to be severable. If for any reason the annexation or zoning of the Property is ruled invalid, in whole or in part, the Corporate Authorities, as soon as possible, shall take such actions (including the holding of such public hearings and the adoption of such ordinances and resolutions) as may be necessary to give effect to the spirit and intent of this Agreement and the objectives of

the Parties, as disclosed by this Agreement, provided that the foregoing shall be undertaken as the expense of Landowners.

C. **Entire Agreement.** This Agreement sets forth all agreements, undertakings and covenants between and among the Parties. This Agreement supersedes all prior agreements, negotiations and understandings, written and oral, and is a full integration of the entire agreement of the Parties.

D. **Survival.** The provisions contained herein shall survive the annexation of the Property and shall not be merged or expunged by the annexation of the Property to the City. The provisions of this Agreement related to zoning of the Property, easements, and any fees to be paid by Landowners, including without limitation impact fees of any nature, shall survive the termination of this Agreement. All fees and charges to be paid by Landowners under this Agreement shall be contractual and shall survive any judicial determination of the invalidity or inapplicability of any ordinance providing for payment of same.

E. **Successors and Assigns.** This Agreement shall inure to the benefit of, and be binding upon, Landowners, the Owners and their respective heirs, legal representatives, successors, grantees, lessees, and assigns, and upon successor corporate authorities of the City and successor municipalities, and shall constitute a covenant running with the land. This Agreement may be assigned without the City's approval, and upon said assignment and acceptance by an assignee, the assignor shall have no further obligations hereunder. If a portion of the Property is sold, the seller shall be deemed to have assigned to the purchaser any and all rights and obligations seller may have under this Agreement which affect the portion of the Property sold or conveyed and thereafter the seller shall have no further obligations under this Agreement as it relates to the portion of the Property conveyed.

F. **Notices.** Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified mail, return receipt requested, or personally delivered, to the Parties at the following addresses, or at such other addresses as the Parties may, by notice, designate:

If to City:

City Manager  
City of Rochelle  
420 North 6<sup>th</sup> Street  
Rochelle, Illinois 61068

Copy to:

Peterson, Johnson & Murray-Chicago LLC  
Attn: Dominick Lanzito  
200 West Adams – Ste. 2125  
Chicago, Illinois 60606

If to Landowners:

**Parcel 1:**

PIN No. 24-13-426-003  
Oakbrook Bank as Trustee TR# 3331

**Parcel 2:**

PIN No. 24-13-426-005  
Estate of Lois M. Binz  
c/o Executrix Janice Binz-Madsen  
5553 Beebe Dr.  
Rochelle, IL 61068

Ryan Patrick Pelan  
Elizabeth Nicole Pelan  
Jeanne O'Neil n/k/a Jeanne Fierz Trust,  
Trustee Jeanne O'Neil n/k/a Jeanne Fierz  
PO Box 68  
Rochelle, IL 61068

**Parcel 3:**

PIN No. 24-13-426-006  
Peter Alfano  
1138 Clifton Terrace

Rochelle, Illinois 61068

**Parcel 4:**

PIN No. 24-13-426-007  
Premier Properties Development LLC  
Po Box 1684  
Atascadero, California 93423

With a copy to:

Tess & Crull  
Attn: David Tess  
1090 N. 7<sup>th</sup> Street  
Rochelle, Illinois 61068

Notices shall be deemed given on the fifth (5<sup>th</sup>) business day following deposit in the U.S. Mail if given by certified mail as aforesaid, and upon receipt, if personally delivered.

G. **Time of Essence.** Time is of the essence of this Agreement and of each and every provision hereof.

H. **City Approval.** Wherever any approval or consent of the City, or of any of its departments, officials or employees, is called for under this Agreement, the same shall not be unreasonably withheld or delayed.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date first above written and, by so executing, each of the Parties warrants that it possesses full right and authority to enter into this Agreement.

**LANDOWNERS**

**PARCEL 1**

By: \_\_\_\_\_  
Print:  
Its:

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

By: \_\_\_\_\_  
Print: Jeff Fiegenschuh  
Its: City Manager

**PARCEL 2**

By: \_\_\_\_\_

Print:

Its:

By: \_\_\_\_\_

Print:

Its:

By: \_\_\_\_\_

Print:

Its:

By: \_\_\_\_\_

Print:

Its:

**PARCEL 3**

By: \_\_\_\_\_

Print:

Its:

**PARCEL 4**

By: \_\_\_\_\_

Print:

Its

**EXHIBIT A**

**PARCEL: 24-13-426-003**

**LEGAL DESCRIPTION**

Part of the Southeast Quarter of Section 13, Township 40 North, Range 1 East of the Third Principal Meridian, bounded and described as follows: Beginning at the Northeast corner of Lot 7 of Holcomb Square, a subdivision as recorded in the Ogle County Recorder's Office; thence North 0 degrees 25 minutes 32 seconds West along the Westerly Right-of-Way line of a public road designated Caron Road a distance of 563.68 feet; thence South 89 degrees 29 minutes 50 seconds West parallel with the North line of said Holcomb Square, a distance of 946.83 feet to the Easterly line of the Flagg Park District Bicycle Path; thence Southerly along said Easterly line, said line being curved to the right, having a radius of 650.00 feet, a central angle of 41 degrees 12 minutes 28 seconds, a chord bearing of South 7 degrees 08 minutes 47 seconds West, and an arc distance of 467.49 feet to the termination of said curve; thence South 27 degrees 45 minutes 01 second West along said Easterly line, a distance of 125.18 feet to a point on the Westerly extension of the North line of said Holcomb Square; thence North 89 degrees 29 minutes 50 seconds East along said Westerly extension and along said North line, a distance of 1066.22 feet to the Point of Beginning, containing 12.500 acres, more or less, all situated in the City of Rochelle, the County of Ogle and the State of Illinois

**EXHIBIT B**

**PARCEL: 24-13-426-005  
LEGAL DESCRIPTION**

Part of the Southeast Quarter of Section 13, Township 40 North, Range 1 East of the Third Principal Meridian, bounded and described as follows:

Commencing at the Northeast corner of Lot 7 of Holcomb Square, a subdivision as recorded in the Ogle County Recorder's Office; thence North 0 degrees 25 minutes 32 seconds West along the Westerly right-of-way line of a public road designated as Caron Road, a distance of 581.93 feet; thence North 89 degrees 38 minutes 00 seconds East along said Westerly right-of-way line, a distance of 5.00 feet; thence North 0 degrees 23 minutes 51 seconds West along said Westerly right-of-way line, a distance of 505.66 feet to the point of beginning of the hereinafter described tract of land; thence South 89 degrees 10 minutes 26 seconds West, a distance of 1,145.21 feet to the Easterly line of the Flagg Park District Bicycle Path; thence Northwesterly along said Easterly line, said line being curved to the left, heaving a radius of 200.00 feet, a central angle of 53 degrees 41 minutes 19 seconds, a chord bearing of North 51 degrees 09 minutes 59 seconds West, and an arc distance of 187.14 feet to the termination of said curve; thence North 78 degrees 00 minutes 39 seconds West along said Easterly line, a distance of 77.62 feet to the beginning of a curve; thence Northwesterly along said Easterly line, said line being curved to the left, having a radius of 800.00 feet, a central angle of 29 degrees 00 minutes 03 seconds, a chord bearing of North 63 degrees 30 minutes 38 seconds West and an arc distance of 404.93 feet to the termination of said curve; thence North 49 degrees 00 minutes 36 seconds West along said Easterly line, a distance of 560.23 feet; thence Northwesterly along said Easterly line, said line being curved to the right having a radius of 250.00 feet, a central angle of 18 degrees 13 minutes 03 seconds, a chord bearing of North 39 degrees 54 minutes 05 seconds West, and an arc distance of 79.49 feet to the Southerly right-of-way line of a public road designated as Flagg Road; thence North 89 degrees 10 minutes 26 seconds East along said Southerly right-of-way line, a distance of 405.58 feet; thence North 0 degrees 49 minutes 34 seconds West along said Southerly right-of-way line a distance of 5.00 feet; thence North 89 degrees 10 minutes 26 seconds East along said Southerly right-of-way line, a distance of 1,361.55 feet; thence South 0 degrees 49 minutes 34 seconds East along said Southerly right-of-way line, a distance of 5.00 feet; thence North 89 degrees 10 minutes 26 seconds East along Southerly right-of-way line, a distance of 328.08 feet; thence South 75 degrees 20 minutes 19 seconds East along said Southerly right-of-way line, a distance of 74.90 feet to the Westerly right-of-way line of said Caron Road; thence South 13 degrees 59 minutes 27 seconds East along said Westerly right-of-way line, a distance of 91.10 feet; thence South 0 degrees 23 minutes 51 seconds East along said Westerly right-of-way line, a distance of 642.63 feet to the point of beginning, containing 30.034 acres, more or less, situated in Ogle County, Illinois.

**EXHIBIT C**  
**PARCEL: 24-13-426-006**  
**LEGAL DESCRIPTION**

North 89 degrees 38 minutes 00 seconds East along said Westerly Right-of-Way line, a distance of 5.00 feet; thence North 0 degrees 23 minutes 51 seconds West along said Westerly Right-of-Way line, a distance of 505.66 feet; thence South 89 degrees 10 minutes 26 seconds West, a distance of 1 145.21 feet to the Easterly line of the Flagg Park District Bicycle Path; thence Southerly along said Easterly line, said line being curved to the right, having a radius of 200.00 feet, a central angle of 2 degrees 46 minutes 26 seconds, a chord bearing of South 22 degrees 56 minutes 07 seconds East, and an arc distance of 9.68 feet to the termination of said curve; thence South 21 degrees 32 minutes 54 seconds East along said Easterly line, a distance of 450.86 feet to the beginning of a curve; thence Southeasterly along said Easterly line, said line being curved to the right, having a radius of 650.00 feet, a central angle of 8 degrees 05 minutes 27 seconds, a chord bearing of South 17 degrees 05 minutes 11 seconds East and an arc distance of 91.79 feet; thence North 89 degrees 29 minutes 50 seconds East parallel with the North line of said Holcomb Square, a distance of 946.83 feet to the point of beginning;

EXCEPTING THEREFROM Part of the Southeast Quarter (1/4) of Section 13, Township 40 North, Range 1 East of the Third Principal Meridian, bounded and described as follows: Commencing at the Northeast corner of Lot 7 of Holcomb Square, a subdivision as recorded in the Ogle County Recorder's Office; thence North 0 degrees 25 minutes 32 seconds West along the Westerly Right-of-Way Line of a public road designated Caron Road a distance of 563.68 feet to the point of beginning of the hereinafter described tract of land; thence continuing North 0 degrees 25 minutes 32 seconds West along said Westerly Right-of-Way Line, a distance of 18.25 feet; thence North 89 degrees 38 minutes 00 seconds East along said Westerly Right-of-Way line, a distance of 5.00 feet; thence North 0 degrees 23 minutes 51 seconds West along said Westerly Right-of-Way Line, a distance of 208.76 feet; thence South 89 degrees 29 minutes 50 seconds West parallel with the North line of said Holcomb Square, a distance of 384.40 feet; thence South 0 degrees 30 minutes 10 seconds East perpendicular to the last described course, a distance of 227.00 feet; thence North 89 degrees 29 minutes 50 seconds East parallel with the North line of said Holcomb Square, a distance of 379.00 feet to the point of beginning; situated in the City of Rochelle, the County of Ogle and the State of Illinois.

**EXHIBIT D**  
**PARCEL: 24-13-426-007**  
**LEGAL DESCRIPTION**

North 89 degrees 38 minutes 00 seconds East along said Westerly Right-of-Way line, a distance of 5.00 feet; thence North 0 degrees 23 minutes 51 seconds West along said Westerly Right-of-Way line, a distance of 505.66 feet; thence South 89 degrees 10 minutes 26 seconds West, a distance of 1 145.21 feet to the Easterly line of the Flagg Park District Bicycle Path; thence Southerly along said Easterly line, said line being curved to the right, having a radius of 200.00 feet, a central angle of 2 degrees 46 minutes 26 seconds, a chord bearing of South 22 degrees 56 minutes 07 seconds East, and an arc distance of 9.68 feet to the termination of said curve; thence South 21 degrees 32 minutes 54 seconds East along said Easterly line, a distance of 450.86 feet to the beginning of a curve; thence Southeasterly along said Easterly line, said line being curved to the right, having a radius of 650.00 feet, a central angle of 8 degrees 05 minutes 27 seconds, a chord bearing of South 17 degrees 05 minutes 11 seconds East and an arc distance of 91.79 feet; thence North 89 degrees 29 minutes 50 seconds East parallel with the North line of said Holcomb Square, a distance of 946.83 feet to the point of beginning;

EXCEPTING THEREFROM Part of the Southeast Quarter (1/4) of Section 13, Township 40 North, Range 1 East of the Third Principal Meridian, bounded and described as follows: Commencing at the Northeast corner of Lot 7 of Holcomb Square, a subdivision as recorded in the Ogle County Recorder's Office; thence North 0 degrees 25 minutes 32 seconds West along the Westerly Right-of-Way Line of a public road designated Caron Road a distance of 563.68 feet to the point of beginning of the hereinafter described tract of land; thence continuing North 0 degrees 25 minutes 32 seconds West along said Westerly Right-of-Way Line, a distance of 18.25 feet; thence North 89 degrees 38 minutes 00 seconds East along said Westerly Right-of-Way line, a distance of 5.00 feet; thence North 0 degrees 23 minutes 51 seconds West along said Westerly Right-of-Way Line, a distance of 208.76 feet; thence South 89 degrees 29 minutes 50 seconds West parallel with the North line of said Holcomb Square, a distance of 384.40 feet; thence South 0 degrees 30 minutes 10 seconds East perpendicular to the last described course, a distance of 227.00 feet; thence North 89 degrees 29 minutes 50 seconds East parallel with the North line of said Holcomb Square, a distance of 379.00 feet to the point of beginning; situated in the City of Rochelle, the County of Ogle and the State of Illinois.