

**FIRST AMENDMENT TO ANNEXATION AGREEMENT
BETWEEN HUB CITY DEVELOPMENT LLC AND THE CITY OF ROCHELLE**

This FIRST AMENDMENT TO ANNEXATION AGREEMENT BETWEEN (collectively “Amendment”) entered into as of the ___ day of _____, 2018, between the CITY OF ROCHELLE, an Illinois municipal corporation (“City”), and HUB CITY DEVELOPMENT L.L.C., an Illinois limited liability company (“Hub City” or “Owner” or “Developer”):

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 Hub City, previously entered into an Annexation Agreement dated June 14, 2010, relating to certain property with PIN 24-36-251-006 consisting of 48.01 acres located on the north side of Steward Road, starting 1200 feet east of US Route 251 and ending 294 feet west of Main Street in Flagg Township, Ogle County, Illinois (“Subject Property”), as hereinafter defined, which was recorded as Document No. 201001006239 in the Office of the Ogle County Recorder on August 16, 2010 (“Annexation Agreement”); and

WHEREAS, the real estate encompassing the Subject Property, as hereinafter defined, was subsequently annexed into the City and zoned I-1 General Industrial; and

WHEREAS, Hub City has sought the subdivision of the Subject Property into two lots and an outlot as depicted in Exhibit 1 and the Subject Property was previously rezoned to B-2 zoning under the City’s applicable zoning codes; and

WHEREAS, Hub City is the owner of all right, title and interest to the Subject Property as described in Exhibit 1, which property is encompassed by property subject to the Annexation Agreement; and

WHEREAS, the parties wish to amend both the Annexation Agreement pursuant to the requirements of Section 45 in certain particulars, as set forth in this Amendment; and

WHEREAS, on November 5, 2018 and December 10, 2018, the Corporate Authorities of the City (consisting of the Planning and Zoning Commission and the Mayor and City Council, respectively) 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 October 18, 2018 and said public hearings 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, the City shall accept the Subject Property as shown in the Final Plat of Subdivision for Hub City Development LLC, Rochelle – attached hereto as Exhibit 2.

2. Extension of Utilities and multi-use path

3. Payment for connection to Sewer and Water. Hub City acknowledges that the City has increased the size of the sanitary sewer lift station and will be extending sanitary sewer and water mains to the western most boundary of the Subject Property. Hub City Acknowledges that it was required to extend water and sanitary sewer and water mains from the then existing terminus south of I-88 and east of Illinois Rout 251 to the Subject Property, as well as install a lift station to service the Subject Property. Hub City agrees to reimburse the City in the amount of \$110,000.00 for the installation of the lift station; as follows:

- a. Hub City will pay \$27,500 at the time Lot 2 is sold or by December 31, 2019, whichever occurs first; and
- b. Hub City shall pay the remaining balance of the \$110,000, \$82,500, by December 31, 2019 for Lots 1 and 3.

Further, Hub City understands that no permit shall be issued for any lot or parcel of the Subject Property until such time as payment for the installation of the lift station, as required by this

provision, has been made. Hub City also agrees to provide surety for these payments as part of its general surety obligations under this Agreement and the City Code.

4. Recapture Fee to Hub City. Hub City shall be entitled to a Recapture Fee consistent with the original Annexation Agreement. However, the Recapture Fee will be adjusted consistent with the then uses at Lots 1, 2, and 3, and the corresponding PE calculations, as determined by City Engineers. In the avoidance of any doubt, Hub City **shall not** recover any recapture fee from any landowners to the South of the Subject Property or the East of the Subject Property for any sanitary sewer, water main, or lift station improvements, other than specifically set forth in this First Amendment to the Annexation Agreement.

5. Improvements and Widening of Steward Road. With the exception of Steward Road at Lot 2, Hub City shall be responsible for all improvement and widening costs for Lots 1 and 3. The City will incur the costs associated with the improvement and widening of Steward Road at Lot 2. Hub City acknowledges and understands that Steward Road at Lot 1 must be improved and widened before or at same time as the improvements and widening of Steward Road at Lot 2 are constructed. The City will pay for the improvements and widening of Steward Road at Lot 1 at the same time as the improvements and widening at Lot 2 are constructed. Hub City agrees to reimburse the City One Hundred (100%) of all costs and expenses incurred by the City and associated with the improvements and widening of Steward Road at Lot 1 by December 31, 2019 (but in no event prior to the completion of the improvements to and widening of Steward Road at Lot 1).

6. Dedication of Right of Way. As part of this Amendment, Hub City will dedicate Twenty (20') Feet of Right of Way as depicted in Exhibit 2 to the City.

7. Easement to the City. In addition to the Dedication of Right of Way, set forth in Section 6 above, Hub City grants the an Easement for above ground and underground utilities, as depicted in Exhibit 2 to the City.

8. Traffic Lights, Section 22 Annexation Agreement and Section 22 of Schedule 2 to the Annexation Agreement. City acknowledges that traffic signals will be installed at Steward Road and Route 251, Rochelle, Illinois as part of another development. As such, Hub City's obligations to fund traffic studies or the installation of traffic lights at said intersection is no longer applicable and no longer required of Hub City.

9. Surety or Letter of Credit. Hub City shall provide a surety or letter of credit equal to 110% of the cost of the public improvements to the Subject Property and all infrastructure improvements identified in the Annexation Agreement or this First Amendment to the Annexation Agreement, prior to the recording of the final plat of subdivision. Hub City understand that there will be no issuance of any building permits for the improvements for any Lot of the Subject Property prior to the City receiving a surety for the costs of all improvements, costs and expenses contemplated by this Amendment and the Annexation Agreement.

10. Homeowners/Landowners Association. The Parties to the Annexation Agreement and this Amendment recognize that any development of this property will be commercial in nature. As such any prior reference to a Homeowners’/Landowners’ Association shall be understood to mean Property Owners’ Association, which is consistent with the anticipated use of the Subject Property. In the avoidance of any doubt or confusion, Property Owners’ Association shall mean the owners of the Subject Property or any subdivided parcels thereto.

11. Annexation Agreement in Full Force and Effect. Except as expressly amended by this Amendment, the terms of the Annexation Agreement, remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to Annexation Agreement as of the date first above written.

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

**HUB CITY DEVELOPMENT,
L.L.C.**, an Illinois limited liability company

By: _____
City Manager

By: _____
James B. Planey, 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

HUB CITY DEVELOPMENT, L.L.C.

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned notary public, do hereby certify that James P. Planey, as a member of Hub City Development, L.L.C., 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 1
Legal Description of Subject Property

Parcel No. 241-36-251-006

Beginning at a point 380.35 feet Southerly of the centerline Station 4072+21.26 of a highway known as the East-West Tollway extension (I-88), according to the plat thereof recorded in Book G-1 of Plats at page 11 in the Office of the Ogle County Recorder; thence North 20 degrees 24 minutes 42 seconds West, a distance of 232.71 feet to a point 155 feet Southerly of said centerline at Station 4071+53.80; thence Southwesterly, along the Southerly right of way line of said highway, at an angle of 105 degrees 26 minutes 32 seconds as measured clockwise from the last described course, a distance of 573.16 feet to a point 155 feet Southerly of said centerline; thence Westerly, along said Southerly right of way line at an angle of 182 degrees 56 minutes 30 seconds as measured clockwise from the last described course, a distance of 2035.97 feet to a point 188.39 feet Southerly of said centerline at Station 4045+71.40, said point being on a line drawn 1200 feet Easterly of the East right of way line of U.S. Route 251 (f/k/a/ U.S. Route 51); thence Southerly, parallel with said Easterly right of way line, along the Easterly line of the property described in Trustee's Deed recorded in Book 273 at page 172 at an angle of 91 degrees 25 minutes 30 seconds as measured clockwise from the last described course, a distance of 939.77 feet to the Southeast corner of said property, said point being on the Northerly right of way line of Steward Road (C.H. 17); thence Easterly, along said Northerly right of way line, at an angle of 89 degrees 25 minutes 37 seconds as measured clockwise from the last described course, a distance of 90.46 feet to a point; thence Northeasterly along said Northerly right of way line, being the arc of a curve concave Northwesterly, having a radius of 1869.86 feet and whose chord forms an angle of 174 degrees 09 minutes 51 seconds as measured clockwise from the last described course, an arc distance of 407.97 feet to a point; thence Northeasterly, along said Northerly right of way line, at an angle of 173 degrees 45 minutes 00 seconds as measured clockwise from the last described chord, a distance of 403.70 feet to a point; thence Northeasterly, along said Northerly right of way line, being the arc of a curve concave Southeasterly, having a radius of 1949.86 feet and whose chord forms an angle of 186 degrees 15 minutes 26 seconds as measured clockwise from the last described course, an arc distance of 426.94 feet to a point; thence Easterly, along said Northerly right of way line, at an angle of 186 degrees 14 minutes 34 seconds as measured clockwise from the last described chord, a distance of 1123.21 feet to a point 294 feet West of the East line of the South Half (S1/2) of the South Half (S1/2) of the Northeast Quarter (NE1/4) of said Section Thirty-six (36); thence Northerly, parallel with said East line, at an angle of 89 degrees 46 minutes 42 seconds as measured clockwise from the last described course, a distance of 628.46 feet to a point on the North line of the South Half (S1/2) of the South Half (S1/2) of said Northeast Quarter (NE1/4); thence Easterly, along said North line, at an angle of 89 degrees 53 minutes 51 seconds as measured counterclockwise from the last described course, a distance of 254.27 feet to the Point of Beginning, containing 48.013 acres, more or less.

**SCHEDULE 2 (AMENDED SPECIAL TERMS)
(INDUSTRIAL/COMMERCIAL)**

Section 3. Zoning of Property: The property subdivided parcels will still be zoned B-2 per Section 110- 291 District Use Classification.

Section 6. Deposit for Fees, Costs and Expenses: **\$5,000.00 Review**
(already submitted).

Section 7. City Code Variations for Development: The following variances are approved by the City Council with the advice and recommendation of the Planning Committee:

Section 8. Water Service.

As of the date of this Agreement, the City water main has been extended under Interstate 88 along the east side of Illinois Route 251, but no further. However, the water main will be extended to the immediate west of the Subject Property. In the event Hub City chooses to proceed with development of the Subject Property, it shall be responsible, at its sole cost, for constructing and installing a 12” water main from that terminus east along the north side of Steward Road to the east property line of the Subject Property. Hub City will be excused from extending the water and sewer mains beyond Lot 2, as depicted in Exhibit 1 to this Amended Annexation Agreement, until such time as the outlot in Lot 3 is developed. Payment for all improvements for this Section for Lots 1 and 2 shall be made, in full at the time of closing on Lot 2, but no later than December 31, 2019.

Section 9. Sanitary Sewer Service:

However, the sanitary will be extended to the immediate west of the Subject Property. In the event Hub City chooses to proceed with development of the Subject Property, it shall be responsible, at its expense, an 8” gravity sanitary sewer line east along Steward Road to the east line of the Subject Property, at 0.7% grade with a capacity of 450 GPM, at a depth to be approved by RMU, on or before a date to be determined.

Owner is to pay 100% of the sewer and water improvement; however, owner shall not be obligated to pay any other recapture fee to the City, with the exception of payment to the City for the lift station, which the City has upsized.

Section 10. Special Electric, Fiberoptic and Street Light Provisions: Hub City shall be responsible for the entire cost of installing street lights, as approved by the City at Lots 1 and 2, including all costs to extend electrical service to those street lights. Hub City shall also be responsible for the entire cost of installing street lights at Lot 3, upon development. Payment for all improvements required by this Section for Lots 1 and 2 shall be made, in full, no later than December 31, 2019. Payment for all improvements for this Section for Lot 3 shall be made, in full, upon the development of Lot 3.

Section 13. Perimeter and Offsite Road Improvement Provisions: Steward Road including shared use pedestrian path:

Hub City, at its own cost shall be responsible for the improvements and widening of Steward Road at Lot 1. Hub City will be responsible for the improvements and widening of Steward Road at Lot 3, once Lot 3 is developed. Hub City and the City acknowledge that Steward Road will not be widened until such time as Lot 3 is developed. As such, Hub City will be responsible for posting a surety, consistent with the City's requirements in its code, equivalent to 110% of the projected costs of the improvements and widening of Steward Road at Lot 3. The City will incur the costs for the Steward Road improvements and widening at Lot 2.

Hub City shall be responsible for 100% of the cost of installing a shared use pedestrian path for Lots 1 and 2 upon development of Lot 2. Hub City shall also be responsible for 100% of the cost of installing a shared use pedestrian path for Lots 3, upon development of Lot 3.

Section 14. Stormwater Management Provisions:

Section 15. Stormwater Management Fee and Payment Provisions:

Fee Amount: \$ 61,048.00 (based upon 46.96 acres after right of way dedication)

(\$1,300/Acre)

Payment Terms: Payment of the Stormwater Management Fee for Lots 1 and 2 will be required upon the sale and closing of Lot 2 or by December 31, 2019, whichever occurs first. Payment of the Stormwater Management Fee for Lot 3,

which is an outlet, will be due upon development or any further subdivision of Lot 3.

Section 16. Regional Stormwater Detention on the Property not required
 may be required

Exhibit C Amended Fee Schedule for the City

Estimated Reimbursable Expenses

The costs identified herein are estimates and Hub City shall be solely responsible for all actual costs incurred with the development and construction of the subject Property. All payments of funds herein are due prior to issuing any permits for the Subject Property. Owner shall deposit all funds in an escrow account, to be drawn upon for the Reimbursable expenses set forth in this Fee Schedule. City shall have the authority to withdraw the funds to pay for the Reimbursable Expenses.

1. Professional fees:

a. Legal fees. \$7,500

2. Costs or other expenses related to the Property incurred with the development of this property, the negotiation and approval of this Agreement, and related matters:

- a. Planning and engineering, consultant fees, staff time, review fees and expenses. \$25,000.00
- b. Sewer and Water improvements (including preliminary and construction engineering and lift station to accommodate the development) \$255,530.00
- c. Electrical Infrastructure Improvement (includes street lights, transformer, boring costs for distribution line, distribution wire, and materials) \$30,696.00
- d. Offsite Roadway improvement costs (including preliminary and construction engineering, road widening, shared use path) \$338,352.58
- e. Multi-use Path- ten feet wide \$46,512.00

The City agrees to install fiber optic cable and pay for the installation of the same. However, this expenditure is conditioned upon the use of the City's fiber optics and data services by Hub City or any subsequent owner of any parcel, or portion of any parcel that is later subdivided for a period of no less than 10 years from the date of development.

3. Transactional and recording costs: \$2,500.00