
THE CITY OF ROCHELLE
Ogle County, Illinois

RESOLUTION
NO. _____

**RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE ANNEXATION
AGREEMENT WITH PROLOGIS**

JOHN BEARROWS, Mayor
ROSE HUERAMO, City Clerk

TOM McDERMOTT
BIL HAYES
KATE SHAW-DICKEY
DAN McDERMOTT
ROSAELIA ARTEAGA
BEN VALDIVIESO
City Council

Published in pamphlet form by authority of the Mayor and City Council of the City of Rochelle
Peterson, Johnson, and Murray, LLC
200 W. Adams, Suite 2125 Chicago, IL 60606

**RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE ANNEXATION
AGREEMENT WITH PROLOGIS**

RESOLUTION NO. _____

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 (“City”), 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 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 including a part of 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

WHEREAS, the City and Illinois River Energy, LLC, previously entered into an Annexation Agreement on July 29, 2003, relating to certain property including a part of the Subject Property (the Legal Description of “Subject Property” is attached herein as Exhibit A), which was recorded as Document No. 0313728 in the Office of the Ogle County Recorder on July 31, 2003("IRE Annexation Agreement"); and

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

WHEREAS, ProLogis and the City (“the Parties”) entered into a Third Amendment to the Annexation Agreement and the Rider to IRE Annexation Agreement February 28, 2013 which was recorded as Document No. 201302208 in the Office of the Ogle County Recorder on March 15, 2013; and

WHEREAS, the redevelopment of the property subject to the Annexation Agreement is substantially complete with the exception of a few remaining improvements; and

WHEREAS, the parties wish to amend the Third Amended Annexation Agreement to have ProLogis pay for its portion of the remaining improvements and have City construct the aforementioned remaining improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ROCHELLE, ILLINOIS as follows:

SECTION ONE: The foregoing Recitals are not mere preparatory language but are hereby incorporated in this Section 1 as if said Recitals were fully set forth.

SECTION TWO: The City Manager is authorized and directed, by this action of the City Council, to take all steps necessary to enter into the Fourth Amendment to the Annexation Agreement (attached herein as Exhibit 1); and all ancillary documents for the transaction, subject to review as to form and substance by the City Attorney.

SECTION THREE: If any provision of this Resolution or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Resolution is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Resolution are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Resolution will govern.

SECTION FIVE: The City Clerk shall publish this Resolution in pamphlet form.

SECTION SIX: This Resolution shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 11th day of September, 2023.

AYES:

NAYS:

ABSENT:

APPROVED THIS 11th day of September, 2023.

MAYOR

ATTEST:

CITY CLERK

**EXHIBIT 1 – FOURTH AMENDMENT TO ANNEXATION AGREEMENT (WITH
PROLOGIS)**

(FOR RECORDER'S USE)

FOURTH AMENDMENT TO ANNEXATION AGREEMENT

September _____ 2023

THE CITY OF ROCHELLE, an Illinois municipal corporation
and
PROLOGIS LAND LLC, a Delaware limited liability company

Property: Approx. 77.208 acres south of Interstate 88 and north of Steward Road known as
ProLogis Park Rochelle - Unit 4 subdivision.

Legal Description: See attached Exhibit A

PIN(S): 25-32-200-015

Prepared By and Return To:
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Attorney for the City of Rochelle

FOURTH AMENDMENT TO ANNEXATION AGREEMENT

This FOURTH AMENDMENT TO ANNEXATION AGREEMENT (this "Fourth Amendment") entered into as of the _____ day of September, 2023, between the CITY OF ROCHELLE, an Illinois municipal corporation ("City") and PROLOGIS LAND LLC, a Delaware limited liability company ("ProLogis"):

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 including a part of 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 (the "Original Annexation Agreement"); and

WHEREAS, the Original 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

WHEREAS, the City and Illinois River Energy, LLC, previously entered into an Annexation Agreement on July 29, 2003, relating to certain property including a part of the Subject Property (the Legal Description of "Subject Property" is attached herein as Exhibit A), which was recorded as Document No. 0313728 in the Office of the Ogle County Recorder on July 31, 2003 ("IRE Annexation Agreement"); and

WHEREAS, ProLogis was the successor in interest to DP Industrial, LLC, under both the Original Annexation Agreement and the Rider to IRE Annexation Agreement; and

WHEREAS, ProLogis and the City (“the Parties”) entered into a Third Amendment to the Annexation Agreement and the Rider to IRE Annexation Agreement February 28, 2013, which was recorded as Document No. 201302208 in the Office of the Ogle County Recorder on March 15, 2013 (as amended by all prior amendments, including the Third Amendment to the Annexation Agreement, the “Annexation Agreement”); and

WHEREAS, the parties wish to further amend the Annexation Agreement, as set forth in this Fourth Amendment;

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

1. **Substantial Performance.** ProLogis has substantially completed all of its obligations under the Annexation Agreement, with the exception of two improvements and one reimbursement.
2. **Remaining Improvements.** Two improvements remain to be completed:
 - a. **Construction of Offsite Sidewalk.** Pursuant to Paragraph 1. c. of the Third Amendment to the Annexation Agreement, ProLogis agreed to construct certain sidewalk improvements, as more particularly set forth in the Third Amendment to the Annexation Agreement, which have not yet been completed.
 - b. **Construction of a Shared Use Path.** Pursuant to Paragraph 1. d. of the Third Amendment to the Annexation Agreement, ProLogis agreed to contribute fifty percent (50%) of the cost of constructing a shared use path, as more particularly set forth in the Third Amendment to the Annexation Agreement, which also has not been completed.

3. **Projected Remaining Costs.**
 - a. The projected cost to install a 5-foot wide, concrete sidewalk within the easement along Caron Court is sixty-one thousand dollars (\$61,000).
 - b. The projected cost to construct a shared use walking path along Lot 2 from Caron Court to Steward Road is one hundred and fifty-four thousand dollars (\$154,000).
4. **Street Light Reimbursement.** Pursuant to Paragraph 1. e. of the Third Amendment to the Annexation Agreement, ProLogis agreed to pay fifty percent (50%) of the cost of installation of certain streetlights along Steward Road. The streetlights have been installed at a cost of one hundred and twenty-eight thousand six-hundred and ninety-one dollars (\$128,691).
5. **Total Remaining Costs Under the Annexation Agreement.** The parties agree that the total remaining costs under the Annexation Agreement are three hundred forty-three thousand six hundred and ninety-one dollars (\$343,691) (the “Remaining Costs”), and each party will be responsible for 50% of such Remaining Costs, amounting to one hundred seventy-one thousand eight hundred and forty-five dollars and fifty cents. (\$171,845.50) each.
6. **Payment of Remaining Costs.** ProLogis hereby agrees to pay City one hundred seventy-one thousand eight hundred and forty-five dollars and fifty cents (\$171,845.50), for its portion of the Remaining Costs, in lieu of undertaking any further work or other obligations under the Annexation Agreement.
7. **Satisfaction of the Terms of the Annexation Agreement.** The Parties agree that upon ProLogis’ payment to City of one hundred seventy-one thousand eight hundred and forty-five dollars and fifty cents (\$171,845.50), ProLogis will have fully satisfied all terms of

the Annexation Agreement, and the Annexation Agreement shall thereafter be null, void, and of no other further force or effect.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS WHEREOF, the Parties hereto have executed this Fourth Amendment.

CITY OF ROCHELLE
an Illinois municipal corporation

By: _____
Jeff Fiegenschuh, City Manager

PROLOGIS LAND LLC,
a Delaware limited liability company

By: Prologis, a Maryland real estate
investment trust, its sole member

By: _____
Name: _____
Title: _____

Rose, Huéramo, City Clerk

CITY OF ROCHELLE

STATE OF ILLINOIS)
) ss.
COUNTY OF OGLE)

I, the undersigned notary public, do hereby certify that Jeff Fiegenschuh and Rose, Huéramo, 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.

On this _____ day of September, 2023

Notary Signature

PROLOGIS LAND LLC

STATE OF)
) ss.
COUNTY OF)

I, the undersigned notary public, do hereby certify that _____, the _____, of Prologis, a Maryland Real Estate Investment Trust, which is the sole member of ProLogis Land LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/she signed and delivered said instrument in said capacity, pursuant to authority of the governing bodies and governing instruments of said real estate investment trust and said limited liability company.

On this _____ day of September, 2023

Notary Signature

EXHIBIT A
(Legal Description of Subject Property)

THAT PART OF THE NORTHEAST QUARTER OF SECTION 31, AND OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 2 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2 IN PROLOGIS PARK ROCHELLE - UNIT ONE, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 8, 2011 AS DOCUMENT NUMBER 1102433, IN OGLE COUNTY, ILLINOIS, SAID SOUTHWEST CORNER ALSO BEING ON THE NORTH LINE OF RITCHIE ROAD (T.R. 389); THENCE THE FOLLOWING 3 COURSES ALONG SAID LINE: 1) SOUTH 87 DEGREES 04 MINUTES 42 SECONDS WEST, 235.96 FEET; 2) THENCE SOUTH 88 DEGREES 46 MINUTES 52 SECONDS WEST, 715.64 FEET; 3) THENCE SOUTH 89 DEGREES 04 MINUTES 38 SECONDS WEST, 384.79 FEET TO THE NORTH RIGHT OF WAY LINE OF STEWARD ROAD PER DOCUMENT 200800808101; THENCE THE FOLLOWING 3 COURSES ALONG SAID RIGHT OF WAY LINE: 1) NORTH 88 DEGREES 49 MINUTES 46 SECONDS WEST, 100.90 FEET; 2) THENCE SOUTH 88 DEGREES 19 MINUTES 41 SECONDS WEST, 718.18 FEET; 3) THENCE SOUTH 88 DEGREES 35 MINUTES 29 SECONDS WEST, 847.26 FEET TO THE LIMITS OF PROLOGIS PARK ROCHELLE - UNIT THREE, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 11, 2011 AS DOCUMENT NUMBER 1106738; THENCE THE FOLLOWING 8 COURSES ALONG SAID LIMITS: 1) NORTH 59 DEGREES 44 MINUTES 08 SECONDS EAST, 71.43 FEET; 2) THENCE NORTH 00 DEGREES 30 MINUTES 38 SECONDS WEST, 723.59 FEET TO A POINT OF CURVATURE; 3) THENCE NORTHWESTERLY ALONG A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 30.00 FEET, AN ARC LENGTH OF 41.08 FEET TO A POINT OF REVERSE CURVATURE; 4) THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 70.00 FEET, AN ARC LENGTH OF 205.82 FEET TO A POINT OF TANGENCY; 5) THENCE NORTH 89 DEGREES 29 MINUTES 22 SECONDS EAST, 10.00 FEET; 6) THENCE NORTH 00 DEGREES 30 MINUTES 38 SECONDS WEST, 15.66 FEET; 7) THENCE SOUTH 89 DEGREES 29 MINUTES 22 SECONDS WEST, 1267.29 FEET; 8) THENCE NORTH 00 DEGREES 30 MINUTES 38 SECONDS WEST, 15.01 FEET TO THE LIMITS OF SAID PROLOGIS PARK ROCHELLE - UNIT ONE; THENCE THE FOLLOWING 6 COURSES ALONG SAID LIMITS: 1) NORTH 42 DEGREES 28 MINUTES 28 SECONDS EAST, 414.33 FEET TO A POINT CURVATURE; 2) THENCE NORTHEASTERLY ALONG A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 620.00 FEET, AN ARC LENGTH OF 387.66 FEET TO A POINT OF TANGENCY; 3) THENCE NORTH 78 DEGREES 17 MINUTES 58 SECONDS WEST, 562.00 FEET; 4) THENCE NORTH 88 DEGREES 00 MINUTES 12 SECONDS EAST, 440.00 FEET; 5) THENCE NORTH 80 DEGREES 20 MINUTES 48 SECONDS EAST, 240.00 FEET; 6) THENCE SOUTH 57 DEGREES 06 MINUTES 38 SECONDS EAST, 2831.13 FEET TO SAID POINT OF BEGINNING, IN OGLE COUNTY, ILLINOIS.

CONTAINING 3,363,200 SQ.FT. OR 77.208 ACRES MORE OR LESS.

STATE OF ILLINOIS)
)
COUNTY OF OGLE) **SS.**

CERTIFICATE

I, Rose Hueramo, 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 Resolution No. _____, “RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE ANNEXATION AGREEMENT WITH PROLOGIS” which was adopted by the Mayor and City Council of the City of Rochelle on September 11, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Rochelle this 11th day of September, 2023.

CITY CLERK