



City of Chicago



02018-373

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 1/17/2018

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Agreement with Donor Tecumseh Redevelopment, Inc. to accept bald eagle nesting site property abutting Little Calumet River with transfer of parcel to Chicago Park District

Committee(s) Assignment: Committee on Housing and Real Estate

HSG



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

January 17, 2018

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance authorizing an acceptance and conveyance of property to the Chicago Park District.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970 and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Chicago Park District ("Park District") is a body politic and corporate created pursuant to the Chicago Park District Act, 70 ILCS 1505/0.01, *et seq.*, and a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois, and as such, has the authority to exercise control over and supervise the operation of all parks within the corporate limits of the City; and

WHEREAS, pursuant to an ordinance adopted by the City Council of the City ("City Council") on December 14, 2005, and published at pages 67052 through 67055 in the Journal of Proceedings of the City Council for such date, the City Council authorized the Department of Planning and Development to negotiate for the acquisition of property located on the Little Calumet River, as depicted on Exhibit A ("Original Parcel"); and

WHEREAS, the City was interested in acquiring the Original Parcel for use as a public park and wildlife habitat, and in order to preserve a bald eagle nesting site; and

WHEREAS, the Original Parcel has since been divided and the northern portion of the Original Parcel has been sold, but the City remains interested in acquiring the southern portion of the Original Parcel containing the bald eagle nesting site; and

WHEREAS, the City is negotiating an agreement for the acquisition of the southern portion of the Original Parcel (the "Property"), which abuts the Little Calumet River and is legally described and depicted on Exhibit B attached hereto; and

WHEREAS, the Property is owned by Tecumseh Redevelopment Inc., as successor in interest to ArcelorMittal Tow Path Valley Business Park Development Company (the "Donor"), and the Donor is interested in donating the Property to the City for \$1.00, subject to a covenant requiring the preservation of the Property as a wildlife habitat; and

WHEREAS, the City has determined that it is useful, desirable and necessary to acquire the Property from the Donor, and thereafter transfer the Property to the Park District for the purpose of establishing a public park and wildlife habitat; and

WHEREAS, the Local Government Property Transfer Act, 50 ILCS 605/.0,1, *et seq.*, authorizes municipalities to convey, grant, or transfer real estate held by one municipality to another municipality upon the agreement of their corporate authorities; and

WHEREAS, pursuant to a resolution adopted by the Board of Commissioners of the Park District (the "Park District Board") on October 13, 2010, the Park District Board authorized the Park District to acquire the Property from the City for use as a public park; and

WHEREAS, by Resolution No. 17-081-21 adopted by the Chicago Plan Commission (“Commission”) on November 16, 2017, the Commission recommended the acquisition of the Property from the Donor and the disposition of the Property to the Park District for the creation of a public park and wildlife habitat; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. It is hereby determined and declared and found that it is useful, desirable and necessary that the City acquire the Property from the Donor, and thereafter transfer the Property to the Park District, for the public purpose of establishing a public park and wildlife habitat.

SECTION 3. The City’s acquisition of the Property from the Donor is hereby approved. The Department of Planning and Development (“DPD”) is hereby authorized to accept a deed of conveyance from Donor for the Property on behalf of the City. This authorization is expressly conditioned upon the City entering into a Donation Agreement with the Donor substantially in the form attached hereto as Exhibit C. The Commissioner of DPD (“Commissioner”) or a designee of the Commissioner is each hereby authorized, with the approval of the City’s Corporation Counsel as to form and legality, to negotiate, execute and deliver the Donation Agreement, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Donation Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Donation Agreement. The Commissioner is further authorized to execute any and all documents and take any and all action which may be necessary or appropriate to effectuate the acquisition of the Property, subject to the approval of the Corporation Counsel.

SECTION 4. The City Council hereby approves the conveyance of the Property in its “as-is” condition to the Park District. Following the City’s acquisition of the Property, the Mayor or his proxy is authorized to execute, and the City Clerk or Deputy City Clerk is authorized to attest, a quitclaim deed conveying to the Park District all rights of the City in and to the Property. The quitclaim deed shall include the following covenant which shall run with the land, or language substantially similar and acceptable to the Corporation Counsel:

This conveyance is subject to the express condition that the Property shall be used for park purposes and as a wildlife habitat in perpetuity. In the event that this condition is not met, the City may re-enter and take possession of the Property, terminate the estate conveyed to the Park District, and revert title in the City.

SECTION 5. If any provision of this ordinance shall be held invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 6. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

EXHIBIT A
Depiction of the Original Parcel

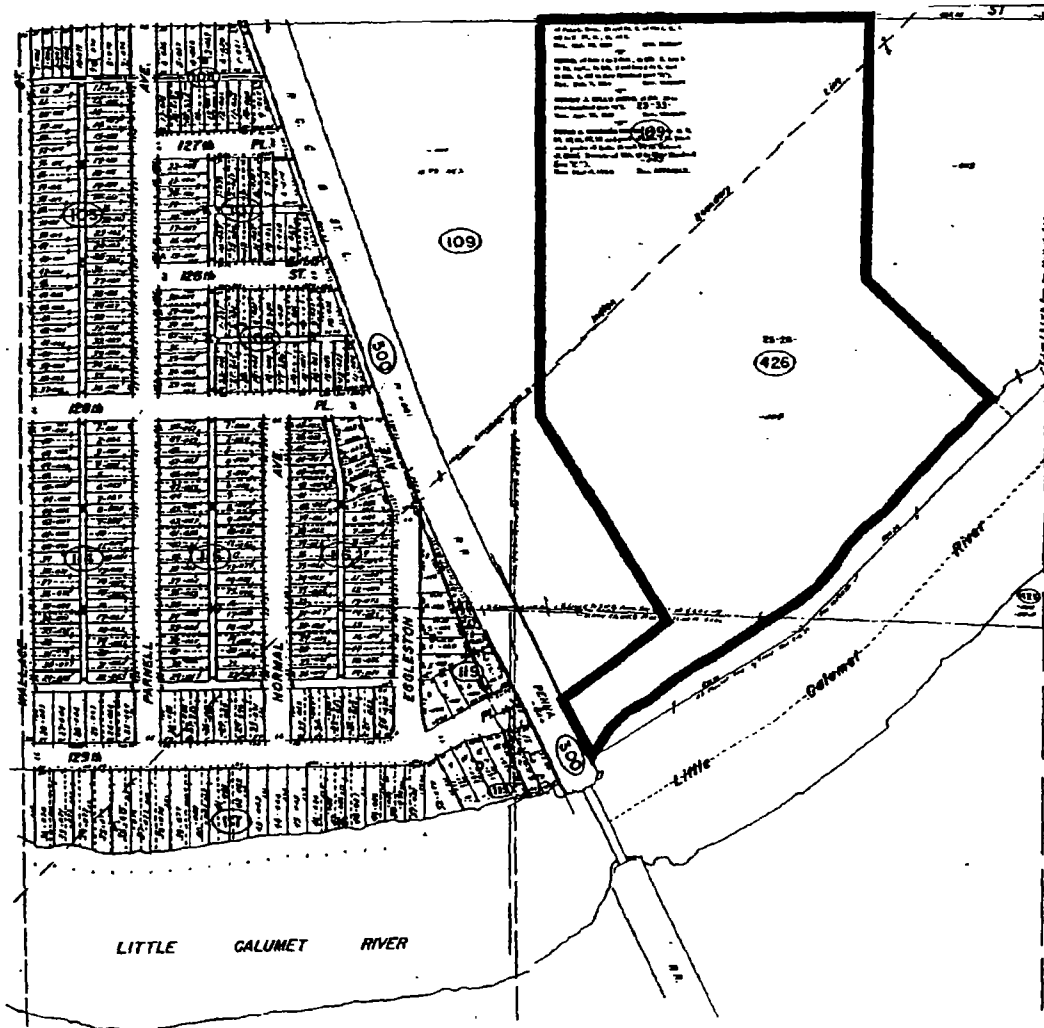
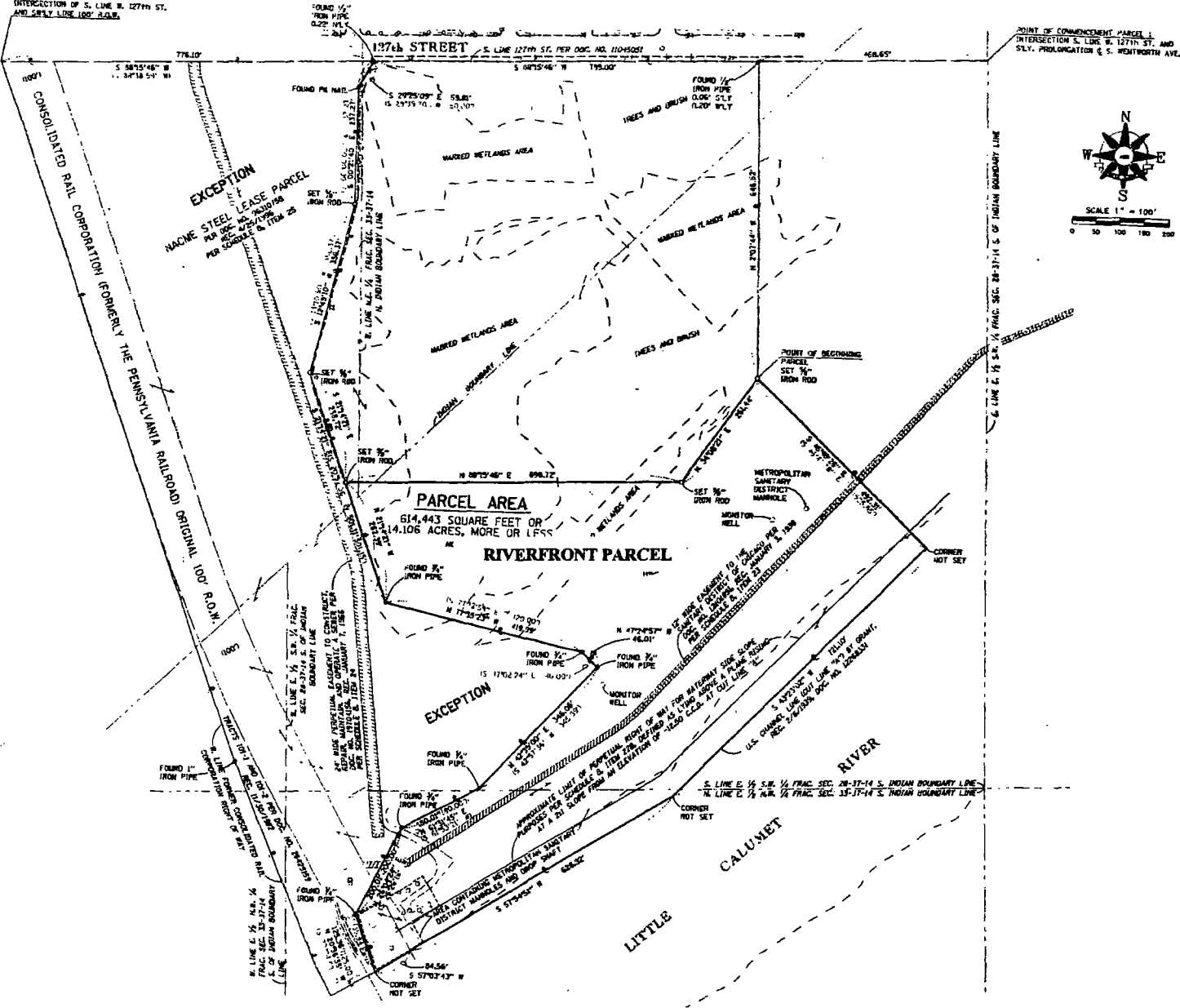


EXHIBIT B Depiction of the Property



Legal Description of the Property
(subject to final title commitment and survey)

PROPERTY ADDRESS:

247 West 128th Street, Chicago, Illinois, 60628

LEGAL DESCRIPTION:

THOSE PARTS OF FRACTIONAL SECTIONS 28 AND 33 SOUTH OF THE INDIAN BOUNDARY LINE AND OF FRACTIONAL SECTION 33 NORTH OF THE INDIAN BOUNDARY LINE IN TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF WEST 127TH STREET (66 FEET WIDE) AS RECORDED UNDER DOCUMENT 11045051 IN THE COOK COUNTY RECORDER'S OFFICE WITH THE SOUTHERLY PROLONGATION OF THE CENTER LINE OF SOUTH WENTWORTH AVENUE; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID WEST 127TH STREET, A DISTANCE OF 468.65 FEET; THENCE SOUTH 02 DEGREES 07 MINUTES 44 SECONDS EAST (MEASURED) (00 DEGREES 00 MINUTES 00 SECONDS, RECORD), 646.52 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 46 DEGREES 47 MINUTES 38 SECONDS EAST, 525.85 FEET MORE OR LESS TO THE U.S. CHANNEL LINE CUT LINE "A" BY GRANT RECORDED IN THE COOK COUNTY RECORDER'S OFFICE AS DOCUMENT NUMBER 12268331 ON FEBRUARY 6, 1939; THENCE SOUTH 43 DEGREES 23 MINUTES 02 SECONDS WEST ON SAID U.S. CHANNEL LINE, 721.10 FEET; THENCE SOUTH 57 DEGREES 54 MINUTES 51 SECONDS WEST CONTINUING ON SAID U.S. CHANNEL LINE, 628.92 FEET; THENCE NORTH 29 DEGREES 40 MINUTES 56 WEST SECONDS, 195.97 FEET; THENCE NORTH 26 DEGREES 26 MINUTES 16 SECONDS EAST, 127.49 FEET; THENCE NORTH 61 DEGREES 53 MINUTES 21 SECONDS EAST, 180.01 FEET; THENCE NORTH 42 DEGREES 57 MINUTES 36 SECONDS EAST, 345.99 FEET; THENCE NORTH 47 DEGREES 2 MINUTES 24 SECONDS WEST, 46.00 FEET; THENCE NORTH 77 DEGREES 12 MINUTES 59 SECONDS WEST, 420.00 FEET; THENCE NORTH 20 DEGREES 52 MINUTES 36 SECONDS WEST, 262.43 FEET; THENCE NORTH 88 DEGREES 15 MINUTES 46 SECONDS EAST PARALLEL WITH SAID SOUTH LINE OF 127TH STREET, 696.72 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 21 SECONDS EAST, 261.44 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 25-28-426-008-0000

EXHIBIT C
Donation Agreement

(attached)

DONATION AGREEMENT

This **DONATION AGREEMENT** (“Agreement”) is made on or as of this ___ day of _____, 201_, (the “Effective Date”) by and between **TECUMSEH REDEVELOPMENT INC.**, a Delaware corporation, as successor in interest to ArcelorMittal Tow Path Valley Business Park Development Company (“Donor”), whose address is 4020 Kinross Lakes Parkway, Richfield, Ohio 44286, and the **CITY OF CHICAGO**, an Illinois municipal corporation (“Recipient”), acting by and through its Department of Planning and Development, having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602.

RECITALS

WHEREAS, Donor is the owner of certain real property commonly known as the wildwood property, located on 127th Street, in the City of Chicago, County of Cook and State of Illinois, which is legally described in Exhibit A attached hereto (the “Property”); and

WHEREAS, the Property consists of approximately 14.1 acres and abuts the Little Calumet River; and

WHEREAS, Donor desires to donate and the Recipient desires to accept the Property pursuant to the terms and conditions hereinafter set forth for the purpose of preserving the Property as a nature reserve.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

2. **Agreement to Donate.** Donor agrees to donate and the Recipient agrees to accept all of Donor’s right, title, estate and interest in and to the Property, together with any and all buildings, improvements appurtenant rights, privileges and easements, including all right, title and interest of Donor in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining said real property, to the centerline thereof.

3. **Consideration and Charitable Donation.** The Donor is donating the Property to the Recipient and the purchase price for the Property shall be One Dollar (\$1.00). The Recipient acknowledges that the fair market value of the Property is a charitable contribution from the Donor to the Recipient described in Section 170(c)(1) of the Internal Revenue Code (the “Code”) and the Recipient accepts such charitable contribution.

4. **Closing.** The consummation of the transactions contemplated hereby (“Closing”) shall take place at such place as the parties may mutually agree in writing. The Closing shall occur on a date that is mutually agreeable to the parties (the “Closing Date”), but no event later than December 31, 2018, unless the parties agree in writing to extend such outside date.

5. Title. Donor shall convey to Recipient marketable title to the Property in fee simple by transferable and recordable quit claim deed. Recipient may, at Recipient's expense, obtain a title commitment for the Property and deliver to Donor a written statement of any objections to title. Recipient shall have until the expiration of the Inspection Period (as hereinafter defined) to advise Donor if Recipient has any objections to title. If Donor is unable or unwilling to satisfy all of the stated title objections by the Closing Date, Recipient may either (a) waive the title objections and proceed to Closing, or (b) terminate this Agreement, in which case Donor and Recipient shall have no further rights, obligations or duties hereunder.

6. Survey. The Recipient acknowledges that Donor has provided the Recipient with a plat of survey prepared by American Surveying Consultants, P.C., dated January 4, 2007. Donor shall not be required to provide the Recipient with any additional survey work.

7. Taxes, Assessments and Other Closing Adjustments. At Closing, Donor shall pay all delinquent taxes, including penalty and interest, and all assessments that are a lien and are due and payable prior to the Closing Date. At Closing, Donor also shall pay all other unpaid real estate taxes that are a lien for years prior to the Closing Date and a portion of such taxes for the year of the Closing Date, prorated through the Closing Date and based on a 365-day year and, if undetermined, on the most recent available rate and valuation, giving effect to applicable exemptions, recently voted millage, change in valuation, etc., whether or not certified. Fees for recording the deed and any other instrument required and the real estate transfer taxes and conveyance fees shall be paid one hundred percent (100%) by Recipient.

8. Preservation Covenant. The donation of the Property shall be subject to the following preservation covenant, which shall be set forth in the deed transferring title to the Property to Recipient:

This deed is subject to the following covenant which is part of the consideration for the Property and which is taken and construed as running with the land and binding on Recipient and Recipient's successors and assigns:

The natural character of the Property shall be retained and preserved in perpetuity as a wildlife habitat.

The Donor shall be permitted at all reasonable times to inspect the Property in order to ascertain if the above covenant is being observed. The Donor shall be deemed a beneficiary of the above covenant and shall have the right to enforce this covenant in any court of competent jurisdiction.

9. Inspection; Review.

- a) From and after the date of this Agreement and ending at 5:00 p.m. (local time at the Property) on the day that is sixty (60) days after the Effective Date (hereinafter referred to as the "Inspection Period"), Recipient shall have access to the Property for the purpose of making, at Recipient's sole cost and expense, surveys, soil tests, inspections and other investigations of the Property. Recipient understands and agrees that any on-site

inspections of the Property shall be conducted upon at least twenty-four (24) hours' prior written notice to Donor and in the presence of Donor or its representative. Such physical inspection shall not unreasonably interfere with the use of the Property by Donor or other occupants of the Property, nor shall Recipient's inspection damage the Property in any respect. Such physical inspection shall not be invasive in any respect (unless Recipient obtains Donor's prior written consent), and in any event shall be conducted in accordance with standards customarily employed in the industry and in compliance with all governmental laws, rules and regulations. Following each entry by Recipient with respect to inspections and/or tests on the Property, Recipient shall restore the Property to a condition which is as near to its original condition as existed immediately prior to any such inspections and/or tests. Donor shall cooperate with Recipient in its due diligence but shall not be obligated to incur any liability or expense in connection therewith. Recipient agrees to indemnify, defend and hold Donor harmless from and against any and all liability, claims, demands, damages or expenses of any kind, including attorneys' fees, caused directly or indirectly by, or in any manner relating to, such entry upon the Property or the making of such tests and investigations or for any damages to the Property caused thereby. Such obligation to indemnify, defend and hold harmless Donor shall survive Closing or any termination of this Agreement.

- b) Upon termination of this Agreement for any reason other than Closing, Recipient shall deliver to Donor copies of all surveys, tests and investigations prepared by or for the benefit of Recipient in connection with the Property.

10. Representations and Warranties of Donor. The Donor hereby represents and warrants to Recipient that as of the date of this Agreement and as of the Closing Date the following shall be true and correct in all respects:

- a) Donor is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly authorized and qualified to do all things required of it under this Agreement. Donor has full capacity and authority to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement and all agreements, instruments and documents necessary or desirable to consummate the transactions contemplated hereby to be executed by Donor are, and on the Closing Date will be, duly authorized, executed and delivered by, and binding upon, Donor.
- b) Donor has obtained all consents and permissions relating to the transactions contemplated hereby and required under any covenant, agreement, encumbrance, law or regulation to transfer title as set forth in this Agreement and to perform its obligations hereunder.
- c) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will constitute a default under any term or provision of any agreement to which Donor is a party.

11. Representations and Warranties of Recipient. The Recipient hereby represents and warrants to Donor that as of the date of this Agreement and as of the Closing Date the

following shall be true and correct in all respects:

- a) That the Recipient has full capacity and authority under its home rule powers to enter into this Agreement and to consummate the transactions contemplated hereby. This Agreement and all agreements, instruments and documents necessary or desirable to consummate the transaction contemplated hereby to be executed by the Recipient are, and on the Closing Date will be, duly authorized, executed and delivered by, and binding upon, the Recipient.
- b) That the Recipient is a political subdivision of the State of Illinois for the purposes of charitable contributions as defined under Section 170(c)(1) of the Code.
- c) Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will constitute a default under any term or provision of any agreement to which the Recipient is a party.

12. Real Estate Commission. Recipient and Donor each warrant and represent to the other that neither party has used the services of a real estate licensee, agent or broker in connection with the purchase and sale of the Property, and no broker's commission, finder's fee or other like charges are or shall be payable with respect to the transactions contemplated hereby. Each party hereby agrees to indemnify and hold the other party harmless from and against any and all liability, claims, demands, damages or expenses of any kind, including attorneys' fees, arising from or connected with any broker's commission, finder's fee or other like charges claimed to be due any person arising from such party's conduct with respect to the transactions contemplated hereby. The provisions of this Section 12 shall survive Closing.

13. Instruments of Conveyance.

- a) On or prior to the Closing Date, the Donor shall deliver the following fully executed documents:
 - i) the deed, conveying title to the Property to Recipient;
 - ii) a certificate, in form reasonably satisfactory to Donor and Recipient ("Donor's Certificate"), dated as of the Closing Date and duly executed by Donor, stating that there is no default under the covenants, representations and warranties of Donor contained in this Agreement and, in addition, that all such representations and warranties are true and correct without exception as of the Closing Date as if made on and as of the Closing Date (or specifying in reasonable detail any defaults or exceptions that may then exist, provided that Donor shall not take any action or omit to take any action that would result in any such default or exception);
 - iii) such other documents as are reasonably necessary for the transfer of fee simple title of the Property to the Recipient.
- b) On or prior to the Closing Date, the Recipient shall deliver the following fully executed

documents:

- i) a certified ordinance of the City Council of the City of Chicago, authorizing the transactions contemplated hereby (“Recipient’s Ordinance”);
- ii) a certificate, in form reasonably satisfactory to Recipient and Donor (“Recipient’s Certificate”), dated as of the Closing Date and duly executed by Recipient, stating that there is no default under the covenants, representations and warranties of Recipient contained in this Agreement and, in addition, that all such representations and warranties are true and correct without exception as of the Closing Date as if made on and as of the Closing Date (or specifying in reasonable detail any defaults or exceptions that may then exist, provided that Recipient shall not take any action or omit to take any action that would result in any such default or exception);
- iii) such other documents as are reasonably necessary for the transfer of fee simple title of the Property to the Recipient.

14. Possession. Possession of the Property shall be delivered to Recipient on the Closing Date.

15. Notices. Any notice, demand or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified first class mail, postage prepaid, return receipt requested:

If to the Recipient: City of Chicago
 Department of Planning and Development
 121 North LaSalle Street, Room 1000
 Chicago, Illinois 60602

With a copy to: City of Chicago
 Department of Law
 121 North LaSalle Street, Suite 600
 Chicago, Illinois 60602
 Attn: Real Estate and Land Use Division

If to Donor: Tecumseh Redevelopment Inc.
 c/o ArcelorMittal USA LLC
 4020 Kinross Lakes Parkway
 Richfield, Ohio 44286
 Attn: Keith A. Nagel

With a copy to: Squire, Sanders & Dempsey L.L.P.
 4900 Key Tower
 127 Public Square
 Cleveland, Ohio 44114

Attn: Dale E. Papajcik

Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon confirmed transmission by facsimile, respectively, provided that such facsimile transmission is confirmed as having occurred prior to 5:00 p.m. on a business day. If such transmission occurred after 5:00 p.m. on a business day or on a non-business day, it shall be deemed to have been given on the next business day. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the business day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given. The refusal to accept delivery by any party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section 15 shall constitute delivery.

16. Time of Essence. Time is of the essence hereof.

17. Damage or Eminent Domain. In the event of damage to or destruction of all or any part of the Property ("Damage"), or in the event of a taking of all or a portion of the Property in eminent domain proceedings, a sale in lieu thereof, or the threat thereof ("Taking"), prior to the Closing Date, the purchase and sale transaction contemplated hereby shall continue unaffected and on the Closing Date, Donor shall pay to Recipient, without diminution or offset, any insurance proceeds paid as a result of a Damage, less all expenses incurred by Donor in connection therewith, and any award or sale price paid as a result of a Taking, less all expenses incurred by Donor in connection therewith or, if applicable, Donor shall assign and transfer to Recipient the right to receive the same subject to Recipient's obligation to pay to Donor the expenses incurred by Donor in connection therewith.

18. Remedies. In the event of a default by a party in the performance of its obligations under this Agreement, such party upon written notice from the other, shall immediately proceed to cure or remedy such default. In the event that the default has not been cured or remedied within sixty days, the aggrieved party may terminate this Agreement as its sole and exclusive remedy by giving written notice thereof to the defaulting party.

19. Governing Law. The parties hereto expressly agree that the terms and conditions of this Agreement, and the subsequent performance hereunder, shall be construed and controlled in accordance with the laws of the State of Illinois. Any court of competent jurisdiction within the State of Illinois, shall be the proper forum for bringing an action to enforce or construe the provisions of this Agreement. If any court of competent jurisdiction is unable to construe any provision of this Agreement or holds any part thereof to be invalid, such holding shall in no way affect the validity of the remainder of this Agreement.

20. Entire Agreement; Disclaimer of Warranties; Limitation of Liabilities; Assumption of Liabilities; Release.

a) This Agreement contains the entire agreement between the parties hereto pertaining to the

subject matter hereof and supersedes all prior agreements and understandings of the parties with respect to the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. This Agreement may not be amended or modified except in writing signed by both parties hereto.

- b) RECIPIENT ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY CONTAINED IN THIS AGREEMENT, NEITHER DONOR NOR ANYONE ACTING FOR OR ON BEHALF OF DONOR HAS MADE ANY REPRESENTATION, STATEMENT, WARRANTY OR PROMISE TO RECIPIENT, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE CONCERNING THE CONVEYANCE OF THE PROPERTY, THE PHYSICAL ASPECTS AND CONDITION OF ANY OF THE PROPERTY WHICH IS THE SUBJECT OF THIS AGREEMENT, ANY DIMENSIONS OR SPECIFICATIONS OF ANY OF THE PROPERTY, THE FEASIBILITY, DESIRABILITY OR CONVERTIBILITY OF ANY OF THE PROPERTY INTO ANY PARTICULAR USE, OR THE PROJECTED INCOME OR EXPENSES FOR THE PROPERTY; AND THAT IN ENTERING INTO THIS AGREEMENT, RECIPIENT HAS NOT RELIED ON ANY REPRESENTATION, STATEMENT OR WARRANTY OF DONOR (EXCEPT THOSE CONTAINED IN SECTION 11), OR ANYONE ACTING FOR OR ON BEHALF OF DONOR, ALL OF WHICH ARE TO BE INDEPENDENTLY VERIFIED BY RECIPIENT; AND THAT RECIPIENT IS ACCEPTING DONATION OF THE PROPERTY ON ITS OWN INSPECTION AND EXAMINATION THEREOF AND OF ALL IMPROVEMENTS LOCATED THEREON OR USED IN CONNECTION THEREWITH; AND THAT RECIPIENT IS ACCEPTING DONATION OF SUCH PROPERTY ON THE CLOSING DATE IN ITS THEN "AS IS" AND "WHERE IS" PHYSICAL CONDITION AND ITS THEN "AS IS" AND "WHERE IS" STATE OF REPAIR WITH ALL FAULTS AND WITHOUT RECOURSE AGAINST DONOR; AND THAT RECIPIENT DOES HEREBY WAIVE, AND DONOR DOES HEREBY DISCLAIM, ALL WARRANTIES OF ANY TYPE OR KIND WHATSOEVER WITH RESPECT TO THE PROPERTY, INCLUDING, BY WAY OF DESCRIPTION, BUT NOT LIMITATION, THOSE OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TENANTABILITY, HABITABILITY AND USE. WITHOUT LIMITING THE FOREGOING, AND EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, DONOR SHALL NOT BE LIABLE TO RECIPIENT FOR ANY DAMAGE OR LOSS (INCLUDING, BUT NOT LIMITED TO LIABILITIES, COSTS AND EXPENSES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER IN CONTRACT OR IN TORT, OR BY REASON OF ANY LOCAL, STATE OR FEDERAL LAWS OR REGULATIONS (INCLUDING BUT NOT LIMITED TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, 42 U.S.C. SECTION 9601, ET SEQ., AND ALL AMENDMENTS THERETO). IN NO EVENT SHALL DONOR BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF DONOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. RECIPIENT AGREES TO RELEASE DONOR FROM AND AGAINST ANY AND ALL CLAIMS AGAINST DONOR ARISING ON OR AFTER

THE CLOSING CONCERNING THE ENVIRONMENTAL CONDITION OF THE PROPERTY AND COVENANTS NOT TO SUE DONOR OR JOIN DONOR IN ANY ACTION CONCERNING THE ENVIRONMENTAL CONDITION OF THE PROPERTY.

- c) Recipient waives any claim for damages because of defects, whether known or unknown.
- d) Recipient acknowledges that it is entering into this Agreement on the basis of Recipient's own investigation of the physical conditions of the Property and Recipient assumes the risk that adverse physical conditions may not have been revealed by its investigation.
- e) Recipient waives the right to recover from Donor and its directors, officers, employees and agents any and all damages, losses, liabilities, costs or expenses whatsoever (including, reasonable attorney fees), and claims therefore, whether direct or indirect known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or connected with the physical condition of the Property or any environmental condition affecting the Property.
- f) As additional consideration, as of the Closing, Recipient assumes liability for, and forever releases Donor from, all claims arising from the ownership, use, possession or condition of the Property, regardless of whether (i) such claim is brought against Recipient or Donor, (ii) such claim arose from circumstances, events or actions before or after the Closing, or (iii) such circumstances, events, actions or claims are foreseeable or unforeseeable, known or unknown, contingent or otherwise (the "Assumed Liabilities"). Without limiting the foregoing, the Assumed Liabilities include, (1) all liability to any government or governmental agency relating to the environmental condition of the Property, (2) any liability for injury to any person, property or otherwise resulting from any pollution of the air, water or soil, and (3) any liabilities under any federal, state or local law or regulation, including but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C., Section 9601 et seq. and any amendment thereto.
- g) The provisions of Sections 21 (b), (c), (d), (e) and (f) shall survive Closing and delivery of the deed without limitation and shall not be merged thereby.

21. Exculpation. This Agreement is executed by a certain representative of Donor, not individually, but solely on behalf of, and as authorized representative and in consideration for entering into this Agreement, the Recipient hereby waives any rights to bring a cause of action against the individuals executing this Agreement on behalf of Donor (except for any cause of action based upon lack of authority or fraud), and all persons dealing with Donor must look solely to the assets of Donor for the enforcement of any claim against Donor. The obligations hereunder are not binding upon, nor shall resort be had to the private property of any of the trustees, officers, employees or agents of Donor. The limitation contained in this Section 22 shall apply to any and all agreements and documents, past, present and future, executed by Donor in connection with the transactions contemplated hereby.

22. Assignment. This Agreement may not be assigned by either party.

23. Section Headings. All section headings and other titles and captions herein are for convenience only, do not form a substantive part of this Agreement and shall not restrict or enlarge any substantive provisions hereof.

24. Authority. The person executing this Agreement on behalf of each of the parties hereto warrants and represents to the other party that such person is duly authorized to execute this Agreement on behalf of such party, and that the execution hereof by such person on behalf of such party shall fully bind and obligate such party.

25. Pronouns. All pronouns and variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

26. Successors and Assigns. Subject to the provisions of Section 21 hereof, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

27. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

28. Further Assurances. Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, Recipient shall, if requested by Donor, execute acknowledgments of receipt with respect to any materials delivered by Donor to Recipient with respect to the Property. The provisions of this Section 28 shall survive Closing.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

CITY OF CHICAGO, an Illinois municipal corporation

By: _____

David L. Reifman
Commissioner of the Department of Planning and
Development

TECUMSEH REDEVELOPMENT INC., a Delaware corporation

By: _____

EXHIBIT A
Legal Description of the Property

PROPERTY ADDRESS:

247 West 128th Street, Chicago, Illinois, 60628

LEGAL DESCRIPTION:

THOSE PARTS OF FRACTIONAL SECTIONS 28 AND 33 SOUTH OF THE INDIAN BOUNDARY LINE AND OF FRACTIONAL SECTION 33 NORTH OF THE INDIAN BOUNDARY LINE IN TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF WEST 127TH STREET (66 FEET WIDE) AS RECORDED UNDER DOCUMENT 11045051 IN THE COOK COUNTY RECORDER'S OFFICE WITH THE SOUTHERLY PROLONGATION OF THE CENTER LINE OF SOUTH WENTWORTH AVENUE; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID WEST 127TH STREET, A DISTANCE OF 468.65 FEET; THENCE SOUTH 02 DEGREES 07 MINUTES 44 SECONDS EAST (MEASURED) (00 DEGREES 00 MINUTES 00 SECONDS, RECORD), 646.52 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 46 DEGREES 47 MINUTES 38 SECONDS EAST, 525.85 FEET MORE OR LESS TO THE U.S. CHANNEL LINE CUT LINE "A" BY GRANT RECORDED IN THE COOK COUNTY RECORDER'S OFFICE AS DOCUMENT NUMBER 12268331 ON FEBRUARY 6, 1939; THENCE SOUTH 43 DEGREES 23 MINUTES 02 SECONDS WEST ON SAID U.S. CHANNEL LINE, 721.10 FEET; THENCE SOUTH 57 DEGREES 54 MINUTES 51 SECONDS WEST CONTINUING ON SAID U.S. CHANNEL LINE, 628.92 FEET; THENCE NORTH 29 DEGREES 40 MINUTES 56 WEST SECONDS, 195.97 FEET; THENCE NORTH 26 DEGREES 26 MINUTES 16 SECONDS EAST, 127.49 FEET; THENCE NORTH 61 DEGREES 53 MINUTES 21 SECONDS EAST, 180.01 FEET; THENCE NORTH 42 DEGREES 57 MINUTES 36 SECONDS EAST, 345.99 FEET; THENCE NORTH 47 DEGREES 2 MINUTES 24 SECONDS WEST, 46.00 FEET; THENCE NORTH 77 DEGREES 12 MINUTES 59 SECONDS WEST, 420.00 FEET; THENCE NORTH 20 DEGREES 52 MINUTES 36 SECONDS WEST, 262.43 FEET; THENCE NORTH 88 DEGREES 15 MINUTES 46 SECONDS EAST PARALLEL WITH SAID SOUTH LINE OF 127TH STREET, 696.72 FEET; THENCE NORTH 34 DEGREES 08 MINUTES 21 SECONDS EAST, 261.44 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 25-28-426-008-0000