

TRUST AGREEMENT

THIS INSTRUMENT, of the 9th day of August, 1929, is to evidence: that,

WHEREAS, I, AMBROSE SWASEY, of Cleveland, Ohio, have offered to the Selectmen of Exeter, New Hampshire, financial assistance toward defraying the expense of acquiring a right of way and of constructing a Parkway along the river front at Exeter, New Hampshire, to be used solely for park purposes, and the roadway therein open only to pleasure vehicles; and

WHEREAS, I desire to make provision for the furnishing of such assistance in case my offer is accepted and acted upon by said Selectmen, and to make further provision for an endowment fund the income from which shall be used for the care, maintenance and improvement of said river Parkway;

NOW, THEREFORE, in consideration of the premises, I have this day sold, assigned, transferred, delivered and set over unto THE CLEVELAND TRUST COMPANY, of Cleveland, Ohio, as Trustee, the property described in Schedule A, which, initialed by me, is hereto attached and made part hereof, to be held, managed and controlled by THE CLEVELAND TRUST COMPANY, as Trustee, upon the trusts and for the uses and purposes hereinafter set forth, to wit:

The Trustee shall have power to sell, transfer or exchange all or any part of said property, and all property that may hereafter from time to time be substituted therefor or added thereto, at such prices and upon such terms and conditions and in such manner as it may deem best; and to execute and deliver all such instruments of transfer thereof, proxies, powers of attorney or agreements that the Trustee may deem necessary or advisable in administering this trust.

The Trustee shall have full power to invest and reinvest any and all sums of money coming into its possession in such loans, stocks, securities and real estate as it may deem proper and suitable for the investment of trust funds, irrespective of any statutes, or rules or practices of Chancery Courts, now or hereafter in force limiting the investments or trust com-

Property
Trusteed.

Powers and
duties of
Trustee.

panies or trustees generally, with power to vary or transpose investments so made into others of like or similar nature, it being my intent that the Trustee shall have unrestricted power to manage all property held by it hereunder as if the absolute owner thereof.

The Trustee may retain by way of investment any property or securities transferred to it, without liability for depreciation.

The Trustee shall have full authority to determine whether money or property coming into its possession shall be treated as principal or income, and shall have full discretion to charge or apportion any expenses or losses to principal or income according as it may deem just and equitable; to employ suitable agents and attorneys, and to pay their reasonable compensation and expenses. The Trustee shall not be liable for any neglect, omission or wrongdoing of such agents or attorneys, provided reasonable care shall have been exercised in their selection; nor, save for its own neglect or wilful default, for any loss or damage.

The Trustee shall have the right, upon partial or final distribution of the trust estate, to purchase any notes and mortgages representing investments made by it, upon paying therefor the principal sums thereof, together with accrued interest to date of purchase.

The Trustee shall allow and pay interest on all uninvested funds in its possession at the rate and in accordance with the rules then governing deposits in its Savings Department.

In event I shall advise the Trustee hereunder that my offer has been accepted by the Selectmen of Exeter, New Hampshire, or in event of my death occurring prior thereto and said offer being accepted within a period of six (6) months after my death by said Selectmen, and the work thereafter being commenced in good faith according to the judgment of the Trustee, this trust shall become irrevocable, and the assets held, dealt with and disposed of as follows:

Payment of the cost of acquiring the rights of way and title to the premises required for said Parkway shall be made to the said Selectmen

Disposition of
Trust Estate.

upon the order of myself or my agent, or in event of my death upon the Trustee being reasonably satisfied that such payments are being used by said Selectmen for said purposes. In case of said funds being disbursed other than upon the order of myself or my agent, the funds shall be paid over upon the application of the Selectmen, in which there shall be stated the proposed uses, and upon applications subsequently being made by them for additional funds, accounting shall be rendered for the funds previously disbursed.

The cost of constructing said Parkway shall be paid to said Selectmen, or directly to the contractors of such work, upon the order of myself or my agent, or in event of my death, upon the Trustee being reasonably satisfied that such payments are being used by said Selectmen for said purposes. In case of such payments being made other than by myself or my agent, the Selectmen shall similarly, with request for payment, file statement of the proposed uses, and upon subsequent disbursements, account for funds previously paid over.

It is expected that such work of the construction of the Parkway and of landscaping may be done under the supervision of Olmsted Brothers, or some other suitable architectural firm, and it is further contemplated that the foregoing payments may be made under architect's certificate.

All payments for cost of acquiring rights of way or premises and of constructing said Parkway or landscaping shall not, however, require disbursements depleting the trust estate to an amount below Fifty Thousand Dollars (\$50,000.00). The said sum of Fifty Thousand Dollars (\$50,000.00), or securities of said value, together with such amount of principal of this trust estate as may not have been withdrawn for the aforesaid costs of acquisition and construction, shall be retained by the Trustee, and invested and reinvested by it under the powers and discretions hereinbefore conferred upon it, and the net income derived therefrom shall be paid to the Selectmen of Exeter, New Hampshire, and be by them used for the care, maintenance and improvement of said Exeter River Parkway.

No duty shall be upon the Trustee to see to the application of said funds by said Selectmen. The receipt of the Chairman of the Selectmen, or such person as may be selected by said Selectmen, shall be a full acquittance and discharge to the Trustee.

Until this trust has become irrevocable under the provisions hereinbefore made, the net income arising hereunder shall be paid to me.

In event the trust shall become irrevocable, the net income arising from the securities from such time shall be accumulated and added to the principal until the work of the acquisition and construction of said Parkway has been completed. After such completion the net income derived from the remaining funds shall be paid, as above provided, for the care, maintenance and improvement of said Parkway.

Until I shall have advised the Trustee hereunder that my offer to said Selectmen has been duly accepted, I reserve the right to revoke the trust hereby created, in whole or in part, or to alter or amend the terms hereof. Any such revocation, alteration or amendment shall be evidenced by written instrument, signed by me and delivered to the Trustee. To whatever extent this settlement may be so revoked, the Trustee shall thereupon transfer and deliver to me such portion or all of the property constituting the trust estate as may have been withdrawn under such revocation.

In event of my death, and of said Selectmen not proceeding within the period of six (6) months thereafter, with due diligence, to the satisfaction of the Trustee, to undertake the work of acquiring and constructing said Parkway according to tentative plans which I have approved, all trust assets held hereunder shall revert to and become part of my estate. Furthermore, should said work not have been commenced during my lifetime, and in the event it shall appear to the Trustee within said six (6) months' period that the value of the trust assets held hereunder over and above the endowment fund of Fifty Thou-

sand Dollars (\$50,000.00) provided for the care, maintenance and improvement of said Parkway, are not reasonably sufficient to insure the completion of said Parkway according to said tentative plans, an additional six (6) months' period will be allowed to the Selectmen to provide the necessary funds to fully complete said Parkway; and in event such additional funds are not provided, or assurances satisfactory to the Trustee had that the same will be promptly provided, all of the trust assets held hereunder shall thereupon revert to and become a part of my estate.

The Trustee shall be protected in acting upon any certificate, order or direction believed by it to be genuine, and to have been signed by the parties purporting to have signed the same.

In event the trust for the care, maintenance and improvement of said Parkway shall become established under the terms and provisions hereof, and in case the Trustee is of the opinion that the trust can better be managed and administered in the State of New Hampshire, the Trustee hereunder is authorized to resign its trust, and thereupon transmit the trust assets to such trust company organized under the laws of the State of New Hampshire as it may select as being best suited to administer the trust fund, and upon such trust company accepting the trust the Trustee hereunder shall, upon its accounting for its administration, be discharged and relieved from any further duties in the premises. Any such successor trustee shall be vested with all the powers and discretions herein conferred upon THE CLEVELAND TRUST COMPANY.

In event the aforesaid trust for the care, maintenance and improvement of said Parkway shall have been established under the provisions hereof, the right is conferred upon the Selectmen of Exeter, New Hampshire, at any time after the expiration of fifty (50) years from date hereof, to terminate this trust, and thereupon have paid over to them the entire trust estate. In event of such termination, however, the principal of the trust estate shall thereafter be

invested and reinvested by said Selectner, and the income only therefrom used for the care, maintenance and improvement of said Parkway.

compensation.

The Trustee shall be entitled to receive as compensation for its services four per cent (4%) of the income derived from the trust estate, and one per cent (1%) of principal distributions made by the Trustee, other than on the order of myself or my agent, deductible from such distributions. In event, however, this trust shall be revoked by me, no charge shall be made against principal upon such termination.

IN WITNESS WHEREOF, I, the said AMBROSE SWASEY, have set my hand, and to evidence its acceptance of the trusts herein set forth said THE CLEVELAND TRUST COMPANY has caused its corporate name and seal to be affixed to this instrument, in duplicate, the day and year first above written.

Signed in the presence of:

RT Banger
S. W. Cwell

Ambrose Swasey

THE CLEVELAND TRUST COMPANY,

By H. H. Allyn VP
And [Signature] Asst. Tr. Officer

Cleveland, Ohio, September 3, 1929.

I, H. H. Allyn, Vice President of The Cleveland Trust Company, hereby certify that the foregoing is a photostatic copy of the certain agreement entered into by and between Ambrose Swasey and The Cleveland Trust Company on the above mentioned date of August 9, 1929, and that said trust agreement is now unrevoked and in full force and effect.

H. H. Allyn
Vice President

THIS INSTRUMENT of the 7th day of September, 1929, is to evidence that

WHEREAS, I, AMBROSE SWASEY, offered to the Selectmen of Exeter, New Hampshire financial assistance toward defraying the expenses of acquiring a right of way and constructing a parkway along the river front of Exeter, New Hampshire, to be used solely for park purposes, and the roadway therein open only to pleasure vehicles; and

WHEREAS, in order to make provision for such assistance in case my offer was accepted by the said Selectmen, I did enter into a certain Agreement of Trust with THE CLEVELAND TRUST COMPANY of Cleveland, Ohio, under date of August 9, 1929, whereby I transferred and set over unto said Company certain securities, in trust, to provide for said cost as the same might be needed, and also to provide for an endowment fund, the income from which to be used for the care, maintenance and improvement of said river parkway; and

WHEREAS, I reserved unto myself the right to revoke the trust estate, as well as the right to alter or amend the terms and provisions of the trust, until such time as I might advise said Trustee that my offer had been accepted by said Selectmen of Exeter, New Hampshire; and

WHEREAS, said Selectmen, by appropriate action, have accepted my offer, and I desire on my part to do all things necessary to make said gift fully effective and complete in all respects;

NOW, THEREFORE, in consideration of the premises and in consideration of said Selectmen having committed themselves to the purchase of lands necessary for the right of way for said parkway, and of their agreement to use the same solely for park purposes and the roadway therein to be open only to pleasure vehicles, I have and do hereby notify said THE CLEVELAND TRUST COMPANY, as such Trustee, that my said offer has been by appropriate action duly accepted by the Selectmen of Exeter, New Hampshire, and that accordingly the said

Settlement of Trust has and does hereby become irrevocable, to be held, administered, controlled and disposed of solely for the uses and purposes and upon the terms and conditions therein set forth. And I do further acknowledge that upon my order there has been delivered to me for transmission to said Selectmen of Exeter, New Hampshire, the sum of Twenty-three Thousand Five Hundred Dollars (\$23,500.00) from the principal of the trust estate, to be by them used in defraying the cost of acquiring title to premises making up portions of said parkway.

IN WITNESS WHEREOF, I have hereunto set my hand as of this day and year first above written, and caused this instrument to be delivered to THE CLEVELAND TRUST COMPANY, Trustee.

Ambrose Swasey

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Cleveland, Ohio, September 9, 1929.

Receipt of the foregoing instrument is hereby acknowledged.

THE CLEVELAND TRUST COMPANY,

BY [Signature]

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