

A G R E E M E N T

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~~THIS INSTRUMENT, made on the 12th day of~~
~~October, A. D. 1938, by and between P. L. McPherson, Mildred Christie~~
~~McPherson and Win. G. Knott, as Trustees of the Estate of Caroline Martin~~
~~McPherson, deceased, Party of the First Part, and the CITY OF NAPERVILLE,~~
~~ILLINOIS, a Municipal Corporation, located in the County of DuPage, in~~
the State of Illinois, Party of the Second Part, WITNESSETH:

WHEREAS, Caroline Martin Mitchell, who at the time of her
death on October 12th, 1938, a resident of Naperville, in DuPage County,
Illinois, left her Last Will and Testament which was duly admitted to
probate in the Probate Court of DuPage County, Illinois, which said
Last Will and Testament is in words and figures as follows:

I, Caroline Martin Mitchell, of the City of
Naperville, Illinois, which I hereby declare to be my place
of legal domicile, do hereby make, publish, acknowledge and
declare this instrument to be my Last Will and Testament,
hereby revoking all former wills by me made.

FIRST: I direct that all my just debts and funeral
expenses be paid. I further direct my executor hereinafter
named to cause my remains to be interred in the Naperville
Cemetery beside the grave of my late husband, Edward Grant
Mitchell, and that my executor purchase a suitable monument
or memorial in keeping with the monument and memorials on
the Martin Family Lot in said Cemetery.

SECOND: In making this, my Last Will and Testament,
I have in mind my cousins, May Chapman Cole and Sophie Riddler,
both of Blair, Nebraska, children of my late uncle, James
Riddler; my cousins, Henry Meyer, Alice Meyer Miller and
Minnie Meyer Miller, whose present whereabouts I do not
know, children of my deceased aunt, Margaret Riddler Meyer,

and my cousins, Bonnie Riddler Sayler, of Kansas City, Missouri, and Doctor Garth Riddler, of Dallas, Texas, children of my deceased uncle, Doctor John G. Riddler; but I make no provision for any of my said cousins in this, my Last Will and Testament, for the reason that they are either well provided for or I feel no obligation upon my part to make provision for them, and in the past I have aided such of them as needed help and feel my obligations, if any exist, to my said cousins have been fully met by me during my lifetime.

THIRD: All of the rest, residue and remainder of my property, be the same real, personal or mixed and wheresoever situate, I give, devise and bequeath unto P. L. MxPheeters and Mildred Christie Vallette, both of Wheaton, Illinois, and Wynn G. Knoch, of Naperville, Illinois, and to any successor thereto duly appointed as trustees herein, as trustees in trust upon the following terms, trusts and conditions;

(a) The trustees or any successor shall have full power and authority to receive, take, collect, receipt for and hold said property and to compromise, adjust and settle all claims to or against such property as they deem best; and to invest or reinvest said trust estate and to sell, or for such time as they deem for the best interests of the estate to retain unsold, any stocks or bonds or securities; to act upon any foreclosure, reorganization or other transaction involving enforcement of rights or exercise of discretion as to the same, as if the absolute owner thereof, with full power to delegate authority to an agent or agents, reorganization or creditor's committees, and to either re-

tain or, upon such terms and with or without security for deferred payments as the trustees shall deem advisable, sell any personal property or real estate and reinvest the proceeds thereof and to make leases either for terms within or one year beyond the term of the trust estate, of real estate and improvements thereon, and to make alterations of, repairs upon, additions to, and to erect improvements upon any real estate. No purchaser or lessee of the trustees shall be bound to see to the application of any money paid the trustees. The power herein in this paragraph granted, however, shall not extend to the home in which I live and the contents thereof, which is on the south side of Ogden Road, near the City of Naperville, Illinois, nor the farm house on the north side of said Road, almost directly across the road from the home in which I reside.

(b) The trustees are hereby authorized in their names as trustees to borrow money and engage and bind by mortgage, deed or trust or pledge, as the case may be, all or any part of the property and estate in their charge hereunder for the repayment of the same; providing that the trustees shall not individually be liable to any extent for the repayment of such money. Any money so borrowed shall become part of the principal of the trust estate, but the trustees are hereby authorized to set apart and hold and apply for the repayment thereof a sufficient amount of income of all the property in their hands and may also to the extent that principal has been increased by the borrowing of such money, sell property in their control as trustees to the amount necessary to

repay at maturity the money so borrowed with interest, but the course of the trustees as to such means of providing for payment shall be determined by them and at their discretion.

FOURTH: Upon my death the trust estate herein created shall be held by the trustees in trust, principal as well as income, and shall be disposed of as follows:

(a) It is my desire that the home in which I live, as well as the farm house across Ogden Road, above referred to, on account of their historical value to the City of Naperville, shall be preserved as landmarks on the Community and not disturbed. This is particularly true of the farm house across Ogden Road, above referred to, which was the first house built by white settlers in DuPage County and is at this time more than one hundred years old and in good condition. My home, the one in which I live, while not as old as the house across Ogden Road, above referred to, is typical of the better homes and reflects the character and staunchness of the George Martin Family in the early days when life was so full to me. It is my earnest hope and desire that the home in which I live be preserved as a museum and the land about it used for park or municipal or public purposes by the City of Naperville, or some governmental agency, and that the house across Ogden Road, above referred to, be kept intact and suitably marked as a landmark as the property of my parents and grandparents, the George Martin Family, who lived, prospered and died in the Community now known as the City of Naperville.

(b) I accordingly direct my trustees hereinabove named to enter into negotiations with the City of Naperville, or

any other governmental agency or corporation, including the State of Illinois or the United States of America, to the end that my desires with reference to the home in which I live and the house across Ogden Road, above referred to, be consummated; and my said trustees are hereby given full and complete power to enter into any agreement whereby all or any part of my property which may come into the hands of my trustees may be by my said trustees given and conveyed to the City of Naperville, or such other governmental agency or corporation which is above referred to, such gift and conveyance to contain such conditions and stipulations as my trustees in their discretion may impose upon the donee; and I am hopeful that they may be able to enter into such contract as will carry out my wishes, as above set forth; and my trustees are hereby empowered to make, execute and deliver suitable instruments of conveyances to carry out any contract or agreements made by them in pursuance to this direction. Any two of my three trustees may enter into such contract or contracts as may be agreed upon by them, it being my intention that a majority of the trustees voting on any given subject matter shall be sufficient to carry the same into effect.

FIFTH: The trust herein created shall terminate two years after my decease, and in the event that my trustees shall be unable to carry out my desires and directions as hereinabove in subparagraphs (a) and (b) of paragraph Fourth set forth, then and in that event my trustees are hereby directed at the termination of my trust estate to convey the body or corpus of the trust estate with any accumulations to the same to my cousin, Mildred Christie Vallette, of Wheaton, Illinois.

SIXTH: In the event of the death, refusal or inability to act of any of the trustees hereinabove named, then and in that event the Probate Judge of DuPage County, Illinois, is hereby and herein directed and given authority to appoint a successor trustee, such successor trustee to have the same powers, privileges and duties as if he had been originally named as one of the trustees herein.

SEVENTH: I hereby nominate and appoint the said P. L. McPheeters, of Wheaton, Illinois, as executor of this, my Last Will and Testament, and I hereby direct that no bond shall be required of him, as provided by law, to act in such capacity.

EIGHTH: It is my Will and I hereby direct my executor, hereinabove named, and my trustees, hereinabove named, to employ Glenn T. Johnson, of the law firm of Alschuler, Putman and Johnson, of Aurora, Illinois, as his or their attorney to advise both the executor and trustees with reference to the administration of said estate, and to do all legal work in connection therewith, as well as advising the trustees in the administration of the trust estate herein created and doing whatever legal work may be necessary for the proper administration of said trust estate; and I hereby direct my executor and my trustees herein named to employ for a period of two years Martin Jacqueminin as caretaker of the home in which I live on the South side of Ogden Road, above referred to, and to permit him to occupy reasonable living quarters therein and to pay him Fifty Dollars (\$50.00) per month for his services as caretaker. I likewise direct my trustees when negotiating any contract with the City of Naperville or the governmental agencies or corporation, above referred to, to provide employment for

said caretaker, if it is possible for them to make such arrangements; as he has been very faithful to me, and it is my desire that my trustees recognize this fact in any negotiations they may have.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 31st day of July, A. D. 1936.

CAROLINE MARTIN MITCHELL (SEAL)

WHEREAS, in the cause pending in the Circuit Court of said DuPage County, Illinois, entitled P. L. McPheeters, Mildred Christie Vallette and Win G. Knoch, as Trustees, Plaintiffs, against Mildred Christie Vallette, Individually, Defendant; City of Naperville, Illinois, against P. L. McPheeters, Mildred Christie Vallette and Win G. Knoch, as Trustees, etc., et al, General Number 37-813, a Petition was filed by the City of Naperville, Illinois, praying for a construction of the terms of said Will and for direction to the Trustees appointed under said Will, and on October 3rd, 1938, a Decree was entered by said Circuit Court in said cause; and

WHEREAS, said Circuit Court in and by said Decree, made the following findings:

That from the elaborate recitals and the reasons therefor of the testatrix set forth in her said will, it is evident that the primary intention of the testatrix was to create some kind of memorial to her family and to provide for the support and maintenance thereof, and for that reason by her will she directed the Trustees to enter into negotiations with the City of Naperville, or some other governmental agency or corporation to the end that her desires with reference to the home in which she lived and the Century House be consummated, and gave

to the Trustees full power to enter into any agreement whereby all or any part of her property which came into the hands of the Trustees may be given and conveyed to the City of Naperville, or other governmental agency, upon such conditions and stipulations as the Trustees may impose upon the donee;

That the Trustees have not negotiated with any governmental agency other than the City of Naperville, Illinois, to carry out the desires of the testatrix,

That by the recitals contained in said will the testatrix indicated her preference for the City of Naperville, Illinois, as the governmental agency to carry out her desires;

That said City of Naperville, Illinois, is the most logical, suitable and capable governmental agency to become the donee of the Trust property and to carry out the desires of the testatrix as expressed in her said will;

That the income from all the property belonging to the Trust (inclusive of the home in which the testatrix lived and the land about it, and the Century House), or the proceeds from the sale of said property at the present market value thereof, are not sufficient to carry out the intentions of the testatrix;

That it is the duty of the Trustees to carry into effect, if they possibly can, the intentions of the testatrix, and the clear intention of the testatrix expressed in the will is that the Trustees make suitable arrangements to preserve and perpetuate the home in which she lived and the Century House as memorials to the George Martin Family, and to that end empowered the Trustees to use all the property belonging to the Trust;

That the City of Naperville, Illinois, by the
Resolution adopted by its Council, has agreed to
the burden of carrying out the desires of the testatrix
as expressed in her said will with reference to
the home in which she lived and the grounds surrounding
it and said Century House, in consideration of which all
the property belonging to the Trust be given and conveyed
to the City of Naperville; and

WHEREAS, said Circuit Court in and by said Decree, ordered
and decree as follows:

That said P. L. McPheeters, Mildred Christie
Vallette and Win G. Knoch, as Trustees of the Estate of
Caroline Martin Mitchell, deceased, be, and are instructed
as follows:

That the intention of Caroline Martin Mitchell,
deceased, expressed in her last will and testament
hereinabove set forth, was that the said Trustees
should devote all the property belonging to the Trust,
if necessary, to carry out her desires expressed in
said will;

That said Trustees shall immediately negotiate
with the City of Naperville, Illinois, to the end that
an agreement with the City of Naperville, Illinois, be
entered into whereby said City of Naperville assumes
the burden of carrying out the desires of the testatrix
as expressed in her said will with reference to
the home in which she lived and the grounds surrounding
it and said Century House, in consideration of which all
the property belonging to the Trust be given and conveyed
to said City of Naperville; such agreement to contain
such reasonable conditions and stipulations as said

Trustees in their discretion may impose upon the donee to insure the performance of the Trust by the donee;

That upon the completion of said agreement said Trustees shall make, execute and deliver to said City of Naperville all necessary instruments in writing to effectually transfer the title of all the property belonging to said Trust Estate to the City of Naperville in accordance with said Agreement; and

WHEREAS, said Circuit Court in and by said Decree further ordered and decreed that said Agreement shall be in full force and effect when entered into and executed by the City of Naperville and any two of said Trustees, in accordance with the provisions of (b) of paragraph FOURTH of said last will and testament, and that all instruments in writing executed by any two of said Trustees for the purpose of transferring the title of the Trust property to the City of Naperville, pursuant to said agreement, shall be binding upon all said Trustees and shall be sufficient for the purposes therein set forth as fully and to the same extent as if executed by all said Trustees.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed by and between said Party of the First Part and said Party of the Second Part, as follows:

1.

Said City of Naperville, Illinois, hereby assumes the burden of carrying out the desires of the testatrix Caroline Martin Mitchell,

~~expressed in her said will with reference to the home in which she
lived and the grounds surrounding it, and said Century House.~~

2.

In consideration of said City of Naperville, Illinois, assuming such burden, said Party of the Second Part will convey and assign to said City of Naperville all the property belonging to the trust, to-wit:

TRACT A

That part of the southeast quarter of section 13, Township 38 North, Range 9 East of the third Principal Meridian, and the northeast quarter of section 24, Township 38 North, Range 9 East of the third Principal Meridian, described as commencing at a point on the south line of High Street 198 feet west of the intersection of the south line of High Street with the west line of Webster Street, and running thence south parallel to Webster Street 220.44 feet; thence east parallel to High Street 198 feet to the west line of Webster Street; thence south along the west line of Webster Street to a point 921.77 feet south of the south line of High Street; thence north 60° 47' west 751.75 feet; thence north 59° 11' west 354.85 feet to the center line of Aurora road; thence northeasterly along the center line of said road to the south line of High Street extended west; thence east along said south line extended to the place of beginning; containing 11.73 acres more or less; situated in DuPage County, Illinois.

TRACT B

That part of the northeast quarter of section 24, Township 38 North, Range 9 East of the third Principal Meridian and of the south half of section 13, Township 38 North, Range 9 East of the third Principal Meridian, de^{scri}

scribed as commencing at the southwest corner of block 3 of Martin's Addition to Naperville, in said section 13, thence south $49-1/2^\circ$ west 11.58 chains to a point in the south line of highway, thence south 75° west 4.20 chains to a point in the center line of highway for a place of beginning; thence north $21-1/2^\circ$ west 594 feet to the center line of the DuPage River; thence northeasterly along the center line of the DuPage River to the westerly line of Lot 4 of VonOven Assessment Plat; thence south $2^\circ 15'$ east 290 feet; thence south $71^\circ 45'$ west 168.3 feet; thence south 46° east 291.06 feet; thence north 71° east 192.72 feet; thence south $56^\circ 15'$ east to the center line of highway; thence southwesterly along said center line to place of beginning; containing 5.63 acres more or less; situated in DuPage County, Illinois.

TRACT C

That part of section 24, Township 38 North, Range 9 East of the third Principal Meridian, described by beginning on the west line of Webster Street in Martin's Second Addition to the Village of Naperville at a point 63 feet west and 921.77 feet south of the northwest corner of block 2 in said Addition and running thence south $0^\circ 47'$ west along the west line of Webster Street 458.59 feet to a point where the south line of College Avenue in said Addition intersects the west line of Webster Street; thence north $88^\circ 58'$ west along the north line of cemetery 884.90 feet; thence south $1^\circ 5'$ west along the west line of cemetery 775.20 feet; thence south $88^\circ 57'$ east along the south line of said cemetery 809.0 feet; thence south $85^\circ 0'$ east along the south line of said cemetery 825.40 feet to the center line of Washington Street; thence south $0^\circ 51'$ west along the center line of said street 553.40 feet; thence south $66^\circ 8'$ west 2556.40

feet; thence south $27^{\circ} 45'$ east 307.40 feet to the north and south quarter section line of said section 24; thence south $1^{\circ} 23'$ east along said quarter section line 410.10 feet to a point 921.50 feet north of the southeast corner of the southwest quarter of said section 24; thence south $87^{\circ} 37'$ west parallel to section line 1341.10 feet; thence north $1^{\circ} 42'$ west along division line 939.20 feet; thence north $61^{\circ} 55'$ east 198.0 feet; thence north $2^{\circ} 30'$ west 1321.65 feet to the southwest corner of brick yard; thence north $67^{\circ} 59'$ east 1105.35 feet to the southeast corner of said brick yard; thence north $35^{\circ} 16'$ west 476.80 feet to the northeast corner of said brick yard; thence south $62-3/4^{\circ}$ west 34.32 feet; thence north $1-1/2^{\circ}$ west 543.18 feet to the center line of highway; thence north $68^{\circ} 27'$ east 868.07 feet; thence north $63^{\circ} 29'$ east on center line of highway 308.65 feet; thence south $59^{\circ} 11'$ east 334.65 feet; thence south $60^{\circ} 47'$ east 751.75 feet to place of beginning; containing 176.90 acres more or less; situated in DuPage County, Illinois.

TRACT D

An undivided one-half interest in the following described real estate;

That part of the east half of the northwest quarter of section 24, Township 38 North, Range 9 East of the third Principal Meridian, described as beginning at a point in the west line of said east half of the northwest quarter, 8.75 chains south of the center line of the Naperville and Oswego Road; thence south along said quarter section line 7.32 chains; thence north $68-3/4^{\circ}$ east 1105.35 feet; thence north $34-1/4^{\circ}$ west 476.8 feet; thence south $68-3/4^{\circ}$ west 12.15 chains to the place of beginning; containing ten acres more or less; situated in DuPage County, Illinois.

Six Local Improvement Bonds, Series 66-D Numbers 124 to 129 inclusive, of the City of Naperville, Illinois; original par value \$500.00 each; each of said bonds bearing the following indorsements: May 12, 1934, principal payment \$180.00; June 21, 1935, principal payment \$22.50; December 20, 1935, principal payment \$10.00; all of said bonds have attached thereto interest coupons due October 1, 1932 and October 1, 1933, principal amount \$30.00 each; interest coupons due October 1, 1932 reduced to \$14.25 by indorsement; interest coupons due October 1, 1933 reduced to \$11.70 by indorsement.

3.

Such conveyance and assignments are made, however, upon the following terms and conditions:

(A) The home in which the testatrix Caroline Martin Mitchell lived (located upon the real estate above described as Tract A), shall be preserved as a landmark on the community and shall be devoted to use as a museum for the storing and keeping of works of nature, art, curiosities and other articles having historical value; said museum shall be conducted by the City of Naperville, or by some commission or board established or provided for by the City of Naperville, or by some Citywide, Countywide or Statewide organization thereunto authorized by said City of Naperville, and which board or commission or organization may be authorized by said City of Naperville to adopt suitable rules and regulations governing the operation of said museum;

In case the entire space contained within said home is not required for the purpose of a museum, then the space remaining may be devoted to other public use by said City of Naperville, or by some organization or body thereunto authorized by said City of Naperville;

Said City of Naperville may make such changes or altera-

tions in, or additions to, said home as it may deem advisable or convenient, to serve the purpose of the use to which said home is devoted, or for the preservation and beautifying thereof;

Said City of Naperville, if it so desires, may charge an entrance fee to said museum and Century House, and any income derived from such fees shall be applied toward the cost of maintaining, preserving and operating said museum and Century House and said Tracts A and B.

The Tract of land on which said home is located, being the real estate hereinabove described as Tract A, containing 11.75 acres, shall be used and maintained for park, municipal or public purposes by the City of Naperville; no part of said Tract A shall be sold, conveyed or otherwise disposed of except such portion thereof as is deemed necessary or advisable by the City of Naperville for Public highway or similar public purpose.

Said City of Naperville shall keep said home insured against damage or destruction by fire, windstorm or other destructible force or element for its full insurable value, and in case of damage to or destruction of said home, such damage or destruction shall be repaired or replaced by said City of Naperville, applying the insurance money collected toward the cost thereof; provided, however, that in the event said building is more than Fifty per cent (50%) damaged or destroyed, said City of Naperville may, in its discretion, repair the damage, or replace the building with another building suitable for the purpose of this Trust.

After the expiration of Twenty (20) years after the date hereof, if, on account of conditions or circumstances then existing, it is no longer practicable to conduct a museum in said Home or building located upon said Tract A, and the public interest can better be served by the use of said home or building for purposes other than a museum, then said City of Naperville may devote said home or building to other charitable use or uses, upon approval

by the Circuit Court of DuPage County, Illinois, provided such use will carry out the general intention of the testatrix with as close approximation to her original plan as is reasonably practicable.

Said Home, or any building replacing it as herein provided, shall be known and designated by the name Caroline Martin Mitchell, suffixed by proper word or words describing the use thereof, for example: "Caroline Martin Mitchell Museum."

~~(B)~~ The house located North of Ogden Road, being the house referred to in said will as "Century House" (located upon the real estate hereinabove described as Tract B), shall be preserved and kept intact and suitably marked as a landmark as the property of the parents and grandparents of said Caroline Martin Mitchell, ---the George Martin Family; a suitable tablet shall be placed on or near said house with proper inscription;

~~The real estate on which said home is located, being the real estate hereinabove described as Tract B, containing 1.25 acres,~~ shall be used by the City of Naperville for park, municipal or public purposes; and no part of said Tract B shall be sold, conveyed or otherwise disposed of except such portion thereof as is deemed necessary or advisable by the City of Naperville to be dedicated for public highway or similar public purpose;

The barn and other buildings located on said real estate may be removed by the City of Naperville as it sees fit.

Said City of Naperville shall keep said Century House insured against loss by fire, windstorm or other destructible force or element for its full insurable value; in case of damage to the building the insurance money collected shall be used to repair the damage; in case of total destruction of said Century House then the insurance money collected shall be used to pay the cost of erecting a suitable monument upon the site where the Century House stood, with proper inscription containing the history of the

Century House and the property on which it stood.

(C) The said real estate hereinabove described as Tract C, containing 178.90 acres, or any part thereof less than the whole, may be used for park, municipal or public purpose by the said City of Naperville; any part or all of said Tract C may be sold or otherwise disposed of by said City of Naperville, if it sees fit, and a deed or deeds thereof by said City of Naperville shall be deemed a good and sufficient conveyance, and shall be considered as a conveyance of a fee simple title thereof;

The proceeds from the sale of any part or parts of said Tract C shall be used for the purpose of paying the cost of establishing, maintaining and operating the Trust herein provided for, or for the purpose of developing, maintaining and operating said Tracts A and B, and that part of Tract C remaining unsold.

(D) The one-half interest in the real estate hereinabove described as Tract D, may be sold or otherwise disposed of by said City of Naperville, as it sees fit, and a deed thereof by the City of Naperville shall be deemed a good and sufficient conveyance, and shall be considered as a conveyance of a fee simple title of said one-half interest.

(E) The proceeds from the sale of said Tract D and the proceeds from the sale or payment of said special assessment bonds, shall be applied toward the cost of establishing, maintaining and operating the Trust herein provided for, or for the development, maintenance and operation of said Tract C.

(F) The operation and maintenance of said Tracts A, B and C by said City may be done and performed by said City in connection with the operation and maintenance of Centennial Park owned by said City.

4.

Said Trustees shall report to the Circuit Court of DuPage County, Illinois, in the proceeding hereinbefore mentioned, Gen. No. 37-913 of said Court, their action of entering into this contract, and upon entry of an order by said Court approving their action said Trustees shall execute and deliver to said City of Naperville, the written documents required to make the conveyance and assignments hereinbefore provided for, and upon delivery of such documents said City of Naperville shall take possession of said real estate and personal property;

5.

Any monies now in the hands of said Trustees arising out of said Trust property, during the administration of the Trust by the Trustees, shall be used by said Trustees to pay any expenses or obligations pertaining to the Trust property in connection with their Trusteeship, including payment of the salary of Martin Jacqueminin, Caretaker, as provided in said will; in case such funds are not sufficient then said City of Naperville shall pay the deficit, which shall be chargeable to the trust; said City of Naperville shall not be required to continue hiring the services of said Martin Jacqueminin, as Caretaker of any of said trust property.

IN WITNESS WHEREOF, said Party of the First Part have hereunto set their Hands and Seals as Trustees of the Estate of Caroline Martin Mitchell, deceased, and said City of Naperville has caused this agreement to be executed by the Mayor of said City and attested by the City Clerk of said City, as of the

day and year first above written.

Ch. Hunter (SEAL)

Wm S Furch (SEAL)

Trustees of the Estate of
Caroline Martin Mitchell, deceased.

CITY OF NAPERVILLE, ILLINOIS

By

Mayor.

ATTEST:

City Clerk.



