

2490.

APPROVAL—CONTRACT, STATE OF OHIO, THROUGH DIRECTOR, DEPARTMENT OF HIGHWAYS, WITH BOARD OF COUNTY COMMISSIONERS, CUYAHOGA COUNTY, OHIO, FOR IMPROVEMENT, CLEVELAND-BUFFALO ROAD, STATE HIGHWAY No. 2, U. S. ROUTE No. 20, EAST CLEVELAND, OHIO, \$60,000.00.

COLUMBUS, OHIO, May 19, 1938.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*

DEAR SIR: You have submitted, as provided by statute, for my approval as to form and legality of a certain contract in duplicate, by and between the Board of County Commissioners of Cuyahoga County and the State of Ohio, by John Jaster, Jr., State Highway Director of Ohio, for the improvement of a portion of the Cleveland-Buffalo Road, State Highway No. 2, U. S. Route No. 20, located within the corporate limits of the City of East Cleveland, Ohio, which contract calls for the payment by the Board of County Commissioners of said county, the sum of \$60,000.00 to the State Highway Director of Ohio as the co-operative share of the Board of County Commissioners in the above improvement.

I find attached to the contract form a certificate of Mr. R. K. Connor, Auditor, Department of Highways, State of Ohio, that there has been appropriated from the funds of the Department of Highways of Ohio the sum of \$48,000.00 to the credit of Cuyahoga County for this improvement.

There is also attached the certificate of Mr. M. Ray Allison, Director of Finance of the State of Ohio, that the sum of \$48,000.00 has been appropriated to the Department of Highways and not otherwise encumbered and set aside as the State's share of the improvement of the above described road.

There is also attached County Auditor's certificate, Mr. John A. Zangerle, County Auditor of Cuyahoga County, certifying that the sum of \$60,000.00 required for the county's share of the cost and expense of this improvement is in the county treasury to the credit of or has been levied, placed on the duplicate and in process of collection for the state and county road improvement fund and not otherwise appropriated, or is being obtained by sale of bonds of said county, issued on account of said improvement, which bonds are now sold or in the process of delivery.

After examination, it is my opinion that said proposed contract is in proper legal form and constitutes a binding agreement between the County Commissioners of Cuyahoga County and the State of Ohio, acting by its State Highway Director. I have accordingly endorsed my approval thereon and am returning the same, together with pertinent papers submitted in this connection to you.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2491.

COUNTY COMMISSIONERS—EXPRESSLY AUTHORIZED TO PURCHASE BY INSTALLMENT PAYMENTS A BUILDING NECESSARY FOR ANY PURPOSES STATED IN SECTION 2433 G. C.—NO AUTHORITY TO ISSUE NON-INTEREST BEARING NOTES AND EXECUTE AND DELIVER A MORTGAGE AS SECURITY.

SYLLABUS:

1. *Under the provisions of Section 2433, General Code, the county commissioners are expressly authorized to purchase by installment payments a building deemed necessary for any of the purposes mentioned in said section.*

2. *There is no authority whereby county commissioners may issue non-interest bearing notes and execute and deliver a mortgage to secure the same.*

COLUMBUS, OHIO, May 20, 1938.

HON. RALPH FINLEY, *Prosecuting Attorney, New Philadelphia, Ohio.*

DEAR SIR: I am in receipt of your letter of recent date, requesting my opinion, which reads as follows:

"I am writing you for your opinion as to the construction to be placed upon Section 2433 of the General Code relative to the purchase of county buildings. A specific problem to which this statute is to be applied is as follows:

The commissioners have under consideration the question of purchasing a building for the sum of \$15,000.00, by the terms and conditions of which purchase they would