

resolution by the county commissioners so that the amount of the issue as now authorized is as follows:

Total amount \$78,000, payable in 3 installments of \$10,000 each on September 1st of each of the years 1923 to 1925 and 6 installments of \$8,000 each, payable each year on the 1st day of September of the years 1926 to 1931, inclusive.

I suggest that your resolution of purchase be amended accordingly.

Respectfully,

JOHN G. PRICE,

Attorney-General.

3218.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS, ASHTABULA, LAWRENCE AND MADISON COUNTIES.

COLUMBUS, OHIO, June 14, 1922.

Department of Highways and Public Works, Division of Highways, Columbus, Ohio.

3219.

APPROVAL, BONDS OF CLINTON TOWNSHIP RURAL SCHOOL DISTRICT, KNOX COUNTY, \$25,000.

COLUMBUS, OHIO, June 15, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

3220.

STATUS, ABSTRACTS TO COVER TITLE TO PREMISES SITUATED IN SCIOTO COUNTY, FIVE PIECES OF LAND AS OUTLINED HEREIN.

COLUMBUS, OHIO, June 16, 1922.

HON. L. J. TABER, *Director of Agriculture, Columbus, Ohio.*

DEAR SIR:—With your communication of May 16, 1922, you enclosed a number of abstracts purporting to cover the title to premises situated in the county of Scioto, which it is understood the following owners desire to convey to the state, in the acreages as indicated:

- 1. Edward Cunningham..... 109 acres
- 2. Frank Moulton and Edward Cunningham..... 211 acres
- 3. Simon Labold and Edward Cunningham.....1,969.94 acres
- 4. Simon Labold.....4,397.14 acres

5. Mary C. Moulton, Frank W. Moulton, Arthur S. Moulton, Mabel A. Moulton, John N. Moulton, Earl C. Moulton, and Jane Moulton Rickey, heirs of Chandler J. Moulton, deceased----- 500 acres

Said premises are fully described in the abstracts and deeds executed by the grantors, which are enclosed herewith.

The property referred to as Nos. 1 and 2 above is covered by the abstracts certified by Frank W. Moulton, attorney, May 4, 1922. The property referred to as No. 3 is covered by two abstracts prepared by Joseph Mitchell, abstractor, and certified on April 24, 1922, and May 1, 1922, and an abstract certified by John T. Johnley, attorney, April 21, 1922. The property covered by No. 4 is covered by the abstract prepared by John T. Johnley, attorney, certified by him April 21, 1922. The property covered by No. 5 is covered by the abstract prepared by Frank W. Moulton, certified May 4, 1922. A number of supplements have also been received and attached to the abstracts to which they relate.

An examination has been made of the abstracts, and while it is difficult to follow the chain of title in a number of instances, due to the irregularities of the early transfers, most of the property under consideration has been sold in court proceedings and the title conveyed by the State University in pursuance of an act to quiet the title to said premises, and the recent transfers are regular. It is believed that the abstracts show a sufficient title to said premises to be in the names of the parties as above named, subject to the encumbrances and defects hereinafter mentioned.

The taxes for the last half of 1921 are unpaid and a lien upon all of said properties; and taxes for 1922 are undetermined and unpaid, and became a lien on April 10th of the present year.

It is noted that in the abstract relating to the premises above referred to as No. 4, which are owned by Simon Labold, and more particularly referred to as being the fifth tract as described in the deed executed and submitted by Simon Labold, and being what is known as the Virginia Military Survey No. 15,835, there is some doubt as to the number of acres in said tract. According to a survey made September 17, 1890, by Lafayette Jones, Deputy Surveyor, in conjunction with others, said tract contains 2,584.78 acres. However, in the case of State University vs. Henry Cuppett et al., decided by the circuit court in 1896, the court made a finding of fact to the effect that said tract contains "2,268 acres of land or thereabout". However, it is believed that it was the title to said premises that was in dispute in this proceeding, and it was not material for the purposes of the questions involved to determine to a mathematical certainty as to the exact number of acres. In any event, I am of the opinion that the title to premises included within the boundaries of said survey No. 15,835, as described in said abstract, is good in Simon Labold, whatever the exact acreage may be.

The deeds executed by the parties above named and enclosed herewith have been examined and it is believed they have all been properly executed and are sufficient to convey the title of such grantors to the state when properly accepted and delivered.

Your attention is called to the fact that in all of said deeds the grantors warrant the title to the premises conveyed free from encumbrances, *excepting the taxes for the year 1922*. If these deeds are accepted you should see that grantors arrange for paying the taxes for the last half of 1921, and it will likewise be your duty to pay the taxes for 1922 when the same are determined, as said taxes are now a lien. According to the abstract no examination was made in the United States courts.

You have submitted Encumbrance Estimate No. 2404, in triplicate, which contains the certificate of the director of finance to the effect that there are unencumbered balances legally appropriated, in the aggregate sum of \$35,935.45, to cover the purchase of the premises heretofore indicated in numbers 1, 2, 3, 4 and 5. Said encumbrance estimate is herewith enclosed.

The deeds should be recorded in Scioto county and then filed with the abstracts in the office of the auditor of state.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

3221,

BIDS AND BIDDERS—PROPOSAL FORM USED BY COUNTY IN TAKING BIDS FOR ROAD IMPROVEMENT MAKES PROVISION FOR BOTH UNIT PRICES AND LUMP SUM PRICE—WHEN COUNTY COMMISSIONERS MAY AWARD CONTRACT TO ONE WHO SUBMITS LOWEST LUMP SUM OFFER OMITTING UNIT PRICE ON ONE SMALL ITEM.

Where a proposal form used by a county in taking bids for a road improvement (Secs. 6945 and 6948 G. C.) makes provision for both unit prices and a lump sum price, and states that comparison of bids will be made on the basis of estimated quantities and that the right is reserved to the county to increase or diminish quantities or omit items, the county commissioners may in their discretion award the contract to one who submits the lowest lump sum offer, notwithstanding that he has omitted to specify a unit price on one small item named in the specifications.

COLUMBUS, OHIO, June 16, 1922.

HON. R. M. OSTRANDER, *Prosecuting Attorney, Painesville, Ohio.*

DEAR SIR:—You have requested the opinion of this office as to the following:

“Our county commissioners are now in a controversy with a contractor regarding the sufficiency of a bid. The county commissioners advertised for bids as provided in section 6945. The county engineer uses the enclosed proposal blank.

It seems the plans and specifications called for the removing of five trees which the lowest contractor neglected to bid on. The lowest bidder, however, filled out item No. 39 which was a lump sum bid on the whole work. The county commissioners awarded this contract to him. The next lowest bidder complained that the lowest bidder's bid was not sufficient in law.

My contention is under section 6945 that the county commissioners may award this bid either upon the basis of a unit price bid or on the lump sum bid and that they have within their discretion the right to award the contract to any bidder who fills out item No. 39 of the enclosed proposal blank, even though he neglects to fill out the other items.

The county surveyor tells me that the county commissioners awarded the contract upon the basis of a lump sum bid but called for unit price bids in order to ascertain as near as possible upon what basis the bidder