

the State of Ohio, acting by the Department of Public Works on behalf of Miami University, Oxford, Ohio, and R. E. Condit Company, Dayton, Ohio, for the furnishing of trash cans, mop bucket truck, hand truck and wood dolley, which contract calls for a total expenditure of seventy-three and 99/100 dollars (\$73.99).

You have also submitted proof of publication, the recommendation of the State Architect and Engineer to the University and the direction of the Board of Trustees of Miami University to the Director of Public Works to enter into contracts, the approval of the P.W.A. in Ohio, the tabulation of bids and the certificate of the availability of funds certified by the Secretary of the Board of Trustees of Miami University.

Also submitted is a contract bond signed by The United States Fidelity & Guaranty Company in the amount of \$75.00, the power of attorney of its signer and the certificate of compliance of the surety company with the laws of Ohio.

Finding said contract and bond in the proper legal form, I have this day noted my approval thereon and return the same herewith to you, together with all other pertinent papers submitted in this connection.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

1140.

APPROVAL—ABSTRACT OF TITLE, TRUSTEE'S DEED, AND  
CONTRACT ENCUMBRANCE RECORD RELATING TO  
THE PURCHASE OF A TRACT OF LAND IN GOSHEN  
TOWNSHIP, TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, September 11, 1937.

*The Ohio State Archacological and Historical Society, The Ohio State  
Muscum Building, Columbus, Ohio.*

GENTLEMEN: This is to acknowledge the receipt of your recent communication with which you submit for my examination an abstract of title, trustee's deed, contract encumbrance record No. 3 and other files relating to the purchase by your Society for and in the name of the State of Ohio of an 11.01-acre tract of land in Goshen Township, Tuscarawas County, Ohio, and which is more particularly described in the trustee's deed conveying this property to the State of Ohio, as follows:

In the new Schoenbrunn allotment of the Franch J. Wills' farm, formerly the Jacob's farm, and known as Lot Number Eighty-two (82) of the J. C. Adair and C. A. Leech's subdi-

vision of Schoenbrunn as platted and recorded in Plat Book Number 5, Page 37 in the Recorder's Office of said County, containing Twenty (20) Acres, but subject to the legal highway in front of said premises. This is made subject to the condition for the benefit of said grantors, and their heirs and assigns recorded in Volume 162, at Page 39 of the Records of the aforesaid county.

From the above Twenty (20) Acres, the following exceptions are herein noted, which has since been sold:

1. Known as part of Lot Number 82 of New Schoenbrunn, beginning at the north-west corner of Lot Number 82 and the north-east corner of Lot Number 80 of New Schoenbrunn; thence with the north line of Lot Number 82, south eighty-nine degrees fifty-nine minutes east Thirty-four and four-tenths (34.4) feet; thence north eighty-five degrees fifty-eight minutes east 867.46 feet to a point; thence south fifty-one degrees and seventeen minutes west and at right angles to the New Philadelphia and Uhrichsville road 418.64 feet; thence south eighty-five degrees fifty-eight minutes west 595.14 feet; thence north twelve degrees and forty-six minutes east 251.27 feet to the place of beginning, said tract to contain Four (4) Acres. This tract conveyed by John McDevitt and wife to Henry M. and Barbara Graybill by deed dated November 17, 1908 and recorded in Volume 164, at Page 175 of the Deed Records of said County.

2. Also a part of Lot Number 82 in J. C. Adair and C. A. Leech's subdivision of Schoenbrunn as platted and recorded in Volume 5, at Page 37 of the Plat Records of Tuscarawas County, Ohio, and being a part of a twenty acre tract heretofore conveyed by Francis M. Wills and wife to John McDevitt by deed dated June 18, 1907, and recorded in Volume 162, at Page 39 of the Tuscarawas County Deed Records, the part hereby conveyed being bounded and described as follows: Beginning at a stake at the southwest corner of the above-mentioned Lot Number 82; thence along the west line of Lot Number 82 north fourteen degrees and fifteen minutes east 325.5 feet to a post; thence leaving said west line north eighty-seven degrees and fifty-seven minutes east 561.5 feet to a stake; thence south fourteen degrees and fifty-five minutes west 488 feet to a stake on the north line of Willis Avenue; thence along the north line of Willis Avenue north seventy-five degrees west

532.4 feet to the place of beginning, containing 4.99 Acres. This property conveyed by John McDevitt's Trustee to the State of Ohio, by deed dated January 7, 1927, recorded in Volume 205, Page 287 of the Deed Records of said County.

On examination of the abstract of title of the above described tract of land, which tract of land is being purchased by your Society pursuant to the authority conferred upon you for this purpose by Amended Senate Bill No. 201 enacted by the 92nd General Assembly under date of May 11, 1937, I find that James B. McDevitt, as sole surviving trustee under the last will and testament of John McDevitt, deceased, has a good and indefeasible legal title to the above described 11.01-acre tract of land and that as such surviving trustee, he is authorized to sell and convey this property to the state of Ohio.

I further find that said James B. McDevitt, as sole surviving trustee under the last will and testament of John McDevitt, deceased, owns and holds the legal title to this property free and clear of all encumbrances except the taxes on this property for the last half of the year 1937, amounting to \$18.71, and except the undetermined taxes on the property for the year 1937. These taxes are, of course, a lien upon the property.

In addition to the exception above noted with respect to the lien for taxes on this property, the following further exceptions are noted:

1. At Section 26 of the abstract of title it appears that on January 10, 1896, one Francis M. Wills, who was then the owner of the above described and other real property, granted an easement to The Central District and Printing Company for the purpose of enabling said company to construct, operate and maintain lines over and along the property then owned by Mr. Wills, including the necessary poles and fixtures along the roads, streets or highways adjoining said property, together with the right to set the guy wires and brace poles that might be necessary in the construction of said line. This encumbrance on the property has never been released or canceled by any act of said company or otherwise.

2. At Section 28 of the abstract of title it appears that in the deed under date of March 28, 1907, in and by which the above described and other real property was conveyed by Francis M. Wills and wife to John McDevitt, the conveyance to McDevitt was made subject to a condition therein stated for the benefit of said grantor, his heirs and assigns that no building should be erected or maintained on the premises conveyed by said deed nearer than fifty feet from the public road in front of said premises. As to the matters referred to in the exception last above noted, it is suggested that the authorized officers and agents of your Society having in charge the matter of the purchase and acqui-

tion of the above described property as a part of the site of Schoenbrunn Park, determine to what extent, if at all, the easement and condition hereinabove referred to will interfere with the use which is to be made of this property as a part of Schoenbrunn Park.

Upon examination of the deed tendered to the state of Ohio by James B. McDevitt, as trustee of the estate of John McDevitt, deceased, I find that this deed has been properly executed and acknowledged by said trustee and that the form of this deed is such that the same is legally sufficient to convey the above described property to the State of Ohio by fee simple title, subject only to the exceptions above noted, there being no warranty of title or warranty against encumbrances contained in this deed.

Contract encumbrance record No. 3, which has been submitted as a part of the files relating to the purchase of this property, shows a sufficient balance, otherwise unencumbered, in the appropriation account to pay the purchase price of the above described property, which purchase price is the sum of \$7,250.00. In this connection, it is noted that this contract encumbrance record is properly made out in the name of James B. McDevitt trustee of the estate of John McDevitt, deceased, as the recipient of the purchase price of the property above described and referred to in said contract encumbrance record. In this connection, it is noted that under date of August 4, 1937, J. B. McDevitt, trustee of the estate of John McDevitt, deceased, signed an instrument in writing, submitted to me as a part of the files in this matter, in and by which he assigned to C. W. Burry of New Philadelphia, Ohio, the proceeds from the sale of the above described tract of 11.01 acres of land and authorized the payment of the purchase price of the property in the amount of \$7,250.00 to one C. W. Burry. Notwithstanding this assignment, I am of the view that said contract encumbrance record was properly made out in the name of James B. McDevitt, as trustee of the estate of John McDevitt, deceased, and that, likewise, the voucher covering the purchase price of this property should be made by you in the name of James B. McDevitt, as trustee of the estate of John McDevitt, deceased.

It further appears that the purchase of this property has been approved by the Controlling Board and that said Board has released from the appropriation account the money necessary to pay the purchase price of this property in the amount above stated.

Subject only to the exceptions above noted, I am herewith approving the abstract of title, trustee's deed and other files submitted to me in connection with the purchase of this property and I am herewith returning

the same to you for your further action in closing the transaction in and by which this property is to be conveyed to the State of Ohio.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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1141.

APPROVAL—ABSTRACT OF TITLE, WARRANTY DEED AND  
CONTRACT ENCUMBRANCE RECORD OF LAND OWNED  
BY OTIS P. MORRIS IN GOSHEN TOWNSHIP, TUSCARA-  
WAS COUNTY, OHIO.

COLUMBUS, OHIO, September 11, 1937.

*The Ohio State Archaeological and Historical Society, The Ohio State  
Museum Building, Columbus, Ohio.*

GENTLEMEN:

You have submitted for my examination and approval an abstract of title, warranty deed, contract encumbrance record No. 2 and other files relating to the recent purchase by your Society for and in the name of the State of Ohio of a parcel of land heretofore owned of record by one Otis P. Morris in Goshen Township, Tuscarawas County, Ohio, which parcel of land is described in the deed conveying the same to the State of Ohio as follows:

Being a part of Lot Number Nine (9) of the Schoenbrunn Tract, bounded and described as follows: Beginning at an iron pin on the South line of Lot No. 9, said pin being South 88° 23' East, 490.0 feet from an iron pin at the southwest corner of said lot, said beginning point being the southeast corner of a 20.33 acre tract, part of said Lot No. 9, conveyed by Otis P. Morris and wife to the State of Ohio by deed dated January 24, 1928, recorded in Volume 207, Page 97, Deed Records; thence along the east line of said 20.33 acre tract, North 27° 02' East 621.5 feet to an iron pin; thence South 20° 58' East 176.9 feet to a point; thence South 3° 32' West 399.4 feet to an iron pin on the South line of said Lot 9, the same being also the southwest corner of a 1.03 acre tract heretofore conveyed by said Otis P. Morris and wife to Clyde J. Knisely; thence North 88° 23' West 330 feet to the place of beginning, containing 2.45 acres, more or less.