

3696.

APPROVAL, CERTIFICATE OF TITLE, WARRANTY DEED FORM, CONTRACT ENCUMBRANCE RECORD NO. 23, CONTROLLING BOARD CERTIFICATE RELATING TO THE PROPOSED PURCHASE BY THE MUSKINGUM WATERSHED CONSERVANCY DISTRICT OF LAND IN ASHLAND COUNTY.

COLUMBUS, OHIO, December 28, 1934.

*The Board of Directors of the Muskingum Watershed Conservancy District, New Philadelphia, Ohio.*

GENTLEMEN:—Through your attorneys you have submitted to me for my examination and approval a certificate of title, warranty deed form, contract encumbrance record No. 23, Controlling Board certificate and other files relating to the proposed purchase by the Muskingum Watershed Conservancy District of a tract of land owned of record by one Francis C. Lavengood in Mifflin Township, Ashland County, Ohio, which tract of land is a part of the northeast quarter of Section Thirty-five (35), Town Twenty-three (23) North, Range Seventeen (17) West of the Ohio River Survey, and being a part of the forty-three and one-half ( $43\frac{1}{2}$ ) acre tract conveyed by William H. Lavengood to Francis C. Lavengood and recorded in Deed Book 150, page 296, and being more particularly bounded and described as follows:

Beginning at an iron pin on the north line of said Section 35, said pin being seven hundred and forty-two and seven-tenths (742.7) feet more or less measured easterly along said north section line from a stone at the northwest corner of the northeast quarter of said Section 35; thence along the north line of said Section 35, South eighty-six degrees and thirty-five minutes East (S 86 deg. 35' E) eight hundred and seventy-five and one-tenth (875.1) feet more or less, to an iron pin on the westerly bank of Black Fork of the Mohican River; thence continuing along the north line of said Section 35 South eighty-six degrees and thirty-five minutes East (S 86 deg. 35' E) thirty-seven and one-half ( $37\frac{1}{2}$ ) feet to a point on the centerline of said Black Fork, said centerline being also the dividing line between the lands of said Lavengood on the west and the lands of Carrie Culler on the east; thence southerly along the centerline of said Black Fork by the following six (6) courses and distances, South thirty-seven degrees and forty minutes East (S 37 deg. 40' E) one hundred and forty-three and six-tenths (143.6) feet; thence South fifty degrees and fifty-six minutes East (S 50 deg. 56' E) two hundred and seventy-nine (279) feet; thence South six degrees and six minutes East (S 6 deg. 06' E) two hundred and eighty-five and four-tenths (285.4) feet; thence South forty degrees and seventeen minutes West (S 40 deg. 17' W) three hundred and forty-five and eight-tenths (345.8) feet, thence South sixty-three degrees and twenty-nine minutes West (S 63 deg. 29' W) four hundred and sixty-nine and four-tenths (469.4) feet; thence South eighteen degrees and four minutes West (S 18 deg. 04' W) two hundred and twenty-eight and five-tenths (228.5) feet more or less to a point on the said centerline of Black Fork; thence on a new line North eighty-six degrees and thirty-five minutes West (N 86 deg. 35' W) forty-six (46) feet more or less to

an iron pin on the westerly bank of said Black Fork; thence continuing on said new line North eighty-six degrees and thirty-five minutes West (N 86 deg. 35' W) five hundred and thirty-six (536) feet more or less to an iron pin on the dividing line between the lands of said Lavengood on the east and the lands of George Milligan on the west; thence along said dividing line, North two degrees and seventeen minutes East (N 2 deg. 17'E) one thousand two hundred and eighty-five (1285) feet more or less to the place of beginning and containing twenty-nine and seven-tenths (29.7) acres, be the same more or less, together with all rights which the grantors or their predecessors in title have or claim to have, either directly or indirectly, by way of reversion or remainder; but subject to all legal highways.

Upon consideration of the certificate of title executed by one Nettie Nulton, an attorney on the legal staff of the Muskingum Watershed Conservancy District supplemented by a report made by her on the title to this property as disclosed by the abstract of title of the property, which abstract of title has likewise been submitted to me for the purpose of this examination, I find that said Francis C. Lavengood has a good merchantable fee simple title to the above described property and that the same is free and clear of all encumbrances except taxes on this property and on the larger tract of 43.5 acres of which the same is a part, which taxes are as follows, to-wit:

Delinquent and certified taxes for the year 1932.....	\$39.34
with penalty and interest:	
Delinquent and certified taxes for the year 1933.....	31.64
with penalty and interest:	

The undetermined taxes for the year 1934 which are likewise a lien.

In addition to the taxes above referred to these premises are subject to the lien of special assessments as follows:

Special Road:

Delinquent, for 1932.....	\$20.88
“ “ 1933.....	6.96
Future installments:	
(To be paid out in June, 1935).....	1.00
(“ “ “ “ “ “ 1936).....	23.32
Total .....	<u>\$52.16</u>

Upon examination of the deed form of the warranty deed to be executed by Francis C. Lavengood and by Sarah Lavengood, his wife, I find that the form of this proposed warranty deed is such that the same upon the execution and acknowledgment thereof by Francis C. Lavengood and Sarah Lavengood will be legally effective and sufficient to convey to the Muskingum Watershed Conservancy Dis-

tract, as a body corporate and as a political subdivision of the State of Ohio, a full fee simple title in and to the above described property, free and clear of the dower interest of Sarah Lavengood in the premises and with a general warranty upon the part of the grantors that said premises are free and clear of all encumbrances whatsoever.

On examination of contract encumbrance record No. 23, which has been submitted as a part of the files relating to the purchase of this property. I find that the same has been properly executed by the Director of Finance as provided for in and by Section 2288-2, General Code. This contract encumbrance record has been prepared upon a form used by departments of the State for the purpose of encumbering funds for the purchase of property and for other contract purposes. And it is noted that this contract encumbrance record has been signed by T. J. Haley, Executive Director of the District, as "Head of Division or Institution" and by one C. W. Ullom as "Head of Department". It appears that said T. J. Haley and C. W. Ullom signed this contract encumbrance record in the manner respectively above indicated, pursuant to the authority of resolution of the Board of Directors of the Muskingum Watershed Conservancy District, adopted by said board under date of November 16, 1934. This resolution was not, of course, effective to give to these persons the status of state officers or agents for the purpose of making contracts on behalf of the State of Ohio or otherwise. Inasmuch, however, as in and by House Bill No. 61, enacted by the 90th General Assembly in its Second Special Session, under date of March 27, 1934, and which Act went into effect as an emergency law on its approval by the Governor under date of April 7, 1934, it was provided that the moneys appropriated by said Act for the uses and purposes of the Muskingum Watershed Conservancy District should be distributed to said Conservancy District upon such terms and conditions as might be mutualy agreed upon by and between the Controlling Board and the Board of Directors of the Muskingum Watershed Conservancy District, and since it has apparently been determined by and between the authorities above referred to that the moneys appropriated for the use of the Conservancy District by this Act shall not be distributed to the district for the purpose of purchasing real estate otherwise than in and for the payment of the purchase price of particular tracts of land purchased under contract or agreement by the authorized officers and agents of the Conservancy District, I can see no possible objection to this resolution which designates the officers or agents of the Conservancy District, Who, by signing this contract encumbrance record form, authenticate the fact that the particular tract of land described in the instrument has been purchased or contracted for by the Conservancy District as a predicate to the certificate of the Director of Finance that there is a sufficient encumbrance balance in the appropriation account for the purchase of the property described in the instrument. In reaching this conclusion I am assuming, of course, that the moneys appropriated in and by the Act above referred to for the use of the Muskingum Watershed Conservancy District are to be used for a public purpose within the constitutional limitation with respect to the expenditure of moneys raised by taxation, and that said Act is otherwise constitutional.

I am of the opinion therefore that, for the purpose above indicated, this contract encumbrance record is in proper form and that since it further appears that the Controlling Board has released from the appropriation account money sufficient to pay the purchase price of the property herein questioned, which purchase price is the sum of \$1000.00, you are authorized to issue your warrant to cover the purchase price of this property upon the voucher submitted by the auditor of the Conservancy District if you find the same to be in proper form, and if you find

that proper arrangements have been made or will be made to take care of the taxes and assessments which are a lien upon this property.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3697.

APPROVAL, BONDS OF SUMMIT COUNTY, OHIO—\$31,000.00.

COLUMBUS, OHIO, December 28, 1934.

*Industrial Commission of Ohio, Columbus, Ohio.*

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3698.

APPROVAL, BONDS OF SHAKER HEIGHTS CITY SCHOOL DISTRICT,  
CUYAHOGA COUNTY, OHIO—\$137,355.70.

COLUMBUS, OHIO, December 28, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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3699.

APPROVAL CONDITIONALLY—CERTIFICATE OF TITLE, WARRANTY DEED FORM, CONTRACT ENCUMBRANCE RECORD No. 14 AND CONTROLLING BOARD CERTIFICATE RELATING TO THE PROPOSED PURCHASE OF THREE TRACTS OF LAND BY THE MUSKINGUM CONSERVANCY DISTRICT.

COLUMBUS, OHIO, December 28, 1934.

*The Board of Directors of the Muskingum Watershed Conservancy District, New Philadelphia, Ohio.*

GENTLEMEN:—You have submitted for my examination and approval a certificate of title, warranty deed form, contract encumbrance record No. 16 and Controlling Board certificate relating to the proposed purchase by the Muskingum Watershed Conservancy District of three tracts or parcels of land which are owned of record by one Carrie B. Culler in Mifflin Township, Ashland County, Ohio, which parcels of land are more particularly described by metes and bounds as follows: