

The fourth instrument is simply an order from you to the resident engineer to proceed to make a survey of the project contemplated, and which, of course, is the means adopted by you in order to carry out the provisions of Section 1195, *supra*, in causing maps, plans, profiles, specifications and estimates for the construction of the work covered by such proposal to the county commissioners. Instrument number six is a copy of the estimate of cost of said construction.

The fifth instrument which you list is a copy of the resolution of the county commissioners adopting plans, specifications, estimates, etc., which is to be transmitted to the director under Section 1195, *supra*.

Number seven is the county auditor's certificate as to the existence of the funds as required under Sections 1200 and 5625-33, General Code.

The instrument designated as number eight is a copy of the final resolution of the county commissioners determining to co-operate on the basis of their proposals and requesting the director to proceed with the work under Section 1200, General Code.

In my opinion all of the heretofore mentioned instruments are sufficient as to form.

Consideration will now be given to instrument number nine which you enclosed and which is a form of contract between the county and state relative to such project, providing for the agreed proportion of expense as provided in Section 1200, General Code. Said section further provides:

“ * * * the form of such contract shall be prescribed by the Attorney General, and all such contracts shall be submitted to the Attorney General and approved by him before the director shall be authorized to advertise for bids. * * * ”

From the language above quoted, it seems the mandatory duty of the Attorney General to prescribe a form for such contract. In accordance with such duty, I hereby prescribe the form of contract marked “Exhibit A”, attached hereto, and made a part hereof.

In passing, your attention is called to the fact that each contract must be individually approved by the Attorney General before the advertisement is begun. Inasmuch as this proceeding involves a county having a tax duplicate of more than three hundred million dollars, of course, by the terms of Section 1191, General Code, as amended in 113 O. L. 605, there is no restriction as to the extent of the county's co-operation with respect to the width of the proposed improvement. It is further noted that this proceeding involves a road that is partly situated within a municipality, and by the terms of Section 1191, General Code, the consent of said municipality should be given to the performance of the work within its limits.

There is being returned herewith all of the papers which you have submitted.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1403.

APPROVAL, FINAL RESOLUTIONS AND CONTRACTS ON ROAD IMPROVEMENTS IN LUCAS COUNTY.

COLUMBUS, OHIO, January 13, 1930.

HON. ROBERT N. WAID, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—You have submitted for my approval as to form and legality, the

following co-operative contracts covering the proposed improvement of Section A, S. H. No. 56, Lucas County :

- Proposal No. 1—Type B.
- Proposal No. 1—Type C.
- Proposal No. 2—Type B.
- Proposal No. 2—Type C.
- Proposal No. 3—Type B.
- Proposal No. 3—Type C.

Said contracts are also accompanied by the final resolution of the commissioners of Lucas County and the certificate of the county auditor, to the effect that there are funds available for said purpose.

Respectfully,
 GILBERT BETTMAN,
Attorney General.

1404.

ELECTION—BOND ISSUE APPROVED BY ONE VOTE—AMOUNT AUTHORIZED INSUFFICIENT BECAUSE BASED ON AUDITOR'S MISCALCULATION—COLLECTION OF TAXES UNAUTHORIZED

SYLLABUS:

When the question of issuing bonds is submitted to the electors of a subdivision pursuant to the provisions of the Uniform Bond Act and the question carries by one vote, authorizing the issue and a tax levy outside of the fifteen mill limitation to pay the interest and principal of such bonds, in the event such levy has been miscalculated and is in fact approximately twenty-six per cent greater than authorized by the electors, such election is invalid and the people of such subdivision may not be taxed pursuant thereto.

COLUMBUS, OHIO, January 14, 1930.

HON. ISAAC E. STUBBS, *Prosecuting Attorney, Cambridge, Ohio.*

DEAR SIR:—Your letter of recent date is as follows :

“A rural school district board of education of this county duly passed the proper resolutions for a bond issue of \$30,000 for the building of a school building, to be voted on by the electors at the last November election, publication of notice for which being duly made.

The county auditor certified that the estimated average additional tax rate, outside of the fifteen mill limitation, was 2.18 mills and it was not published in the notice.

The bond issue carried by a margin of just one vote above the 55% required by law.

It is now discovered that the true tax rate that will be required above the fifteen mill limitation, is about 2.76 mills; and that the calculation made by the county auditor was incorrect; and that the 2.18 mills is insufficient to produce the amount required by said bond issue.

Assuming that everything is regular in this issue except the incorrectness of the rate as certified by the county auditor, I would like your opinion as to whether or not a bond issue of \$30,000 would be legal and binding obligations