

**OPINION**  
**62-41**

February 1, 1962 (OPINION)

CITIES AND VILLAGES

RE: Water Supply - Election

This office is in receipt of your letter under date of January 26, 1962 in which you say that the city of Dickinson is in immediate need of a supply of water in addition to 1100 acre-feet annually which the city, on September 24, 1949, agreed to purchase from the United States over a period of forty years, pursuant to the terms of a contract entered into with the United States, acting through the Bureau of Reclamation of the U. S. Department of the Interior.

You say that the city has completed negotiations with the United States for the purchase of 900 acre-feet annually in addition to the 1100 acre-feet of water annually which the city agreed to purchase in 1949. You say that the additional water may be purchased at a cost per acre-foot considerably less than the city agreed to pay under contract in 1949. You say further that the contract for additional water will, if entered into, terminate when the 1949 agreement ends.

You say also that there is no other source from which the city can obtain the needed additional water.

You request our opinion as to whether the proposed contract for the purchase of additional water from the United States must be submitted to a vote of the electors of Dickinson for approval, since section 40-33-16 of the Century Code provides that "any such contract shall be authorized by an ordinance submitted to the voters for approval by a majority of those voting on the proposition before it takes effect."

The source of section 40-33-16 of the Century Code is chapter 184 of the Session Laws of 1943. It is our opinion that it was not the intention of the Legislature in enacting chapter 184 of the 1943 Session Laws to require approval of the voters of a city before a contract may be entered into to purchase a quantity of water to supplement water purchased pursuant to the terms of a contract which has been approved by the voters thereof, for it is common knowledge that the requirements of a municipality may vary from time to time and that the quantity of water needed must of necessity be left to the judgment and determination of its governing board.

It is therefore our opinion that, since the city of Dickinson was authorized in 1949 to purchase water from the United States, and since the city can obtain needed additional water on better terms than it agreed to under the agreement entered into in 1949, that the city may now enter into a contract, without the approval of voters, to purchase the quantity

needed to supplement and augment the quantity of water which the city has already agreed to purchase.

LESLIE R. BURGUM  
Attorney General