

OPINION
48-39

February 19, 1948 (OPINION)

CITY

RE: Purchase of Water - Ordinance and Contract to Be Approved by Voters

Yours of the 19th inst., requesting our opinion as to the proper procedure for your city to follow under section 40-3316 of the 1943 Revised Code, at hand.

It appears from this section that any contract for the purchase of water must be authorized by an ordinance. There is a possible question as to whether it is the contract or the ordinance that is to be submitted to the voters for approval. I would suggest that any question as to this uncertainly might be resolved by drafting your ordinance authorizing the proposed contract and incorporate the contract in the ordinance. Since the contract must be authorized by the ordinance, it would seem to us that the contract should not be executed until the ordinance and the proposed contract are approved at the election. Drawn in this way, the ordinance and the contract would both be submitted to the voters, and if approved, the city could execute a contract in exact conformity with the proposed contract in the ordinance. It is our opinion that this could be voted on at a special election, and the law relating to municipal elections as found in chapter 40-21 of the 1943 Revised Code would govern. Section 40-2116 indicates very clearly to us that this election should be held in the seven regularly established precincts less than the seven.

NELS G. JOHNSON

Attorney General