

**OPINION
50-203**

March 21, 1950 (OPINION)

VILLAGES

RE: Purchase of Fire Trucks

Re: Section 40-0509 N.D.R.C. 1943

Your letter re purchase of fire truck by your village, of March 15th, has been received and referred to my desk.

You state that your volunteer fire department has received donations in the sum of \$2500 to go toward purchase of a fire truck, and that your village board promised to contribute a like sum for the same purpose.

You state, also, that you have a surplus in your village treasury, some of it arising from surplus left out of funds budgeted in former years and part from liquor licenses, and that such surplus exceeds the amount needed to match the donations.

You further state that you have been informed that you cannot now purchase the fire truck but must wait until the necessary money has been budgeted.

Section 40-0509 clearly authorizes the purchase of a fire truck by your village. The section clearly assumes that the fire truck might be needed before the necessary money could be budgeted, since it provides for the purchase to be on contract for installment payments. It also provides that these installments "shall be paid from the authorized tax levy of the municipality." That is, that the necessary moneys may be provided for in future budgets. Of course, all moneys in the treasury at the end of the fiscal year must be included in the budget as resources. Then the necessary amount for payment on the contract may be budgeted as an expense to be paid out of the treasury in the coming fiscal year, and the tax levy will then be made in view of this surplus and the proposed contract payment.

Therefore, it is our opinion that your village may now purchase the truck, and may make the contract for payment of all or a part of the balance of purchase price after the budget is made. As you will have sufficient money in the treasury when the budget is made to pay the entire balance, the contract might be made providing that this balance be paid as soon as your budget is made and your appropriation ordinance has been adopted.

We suppose that the money donated will be available for a down payment on the contract. Surely, any company making fire equipment will be glad to sell you the truck on these terms. You will then be within the terms of section 40-0509 and the budget law.

We enclose a former opinion of this office for your information.

WALLACE E. WARNER

Attorney General