

District Court, Eighth Judicial District,
Larimer County, Colorado
Court Address:
201 Laporte Avenue, Fort Collins, Colorado 80537

Plaintiff/Contestor: Larry Sarner
711 West Ninth Street
Loveland, Colorado 80537

v.

Defendant/Contestee: City of Loveland
300 East Third St.
Loveland, Colorado 80537

Indispensable party: Angela Myers, Larimer County Clerk & Recorder

COURT USE ONLY

Case Number:

16W230

Division:

Courtroom:

5C

DISTRICT COURT CIVIL SUMMONS

TO THE ABOVE NAMED DEFENDANT/CONTESTEE: City of Loveland

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court a response to the attached Complaint/Petition within 5 days after such service upon you per 1-11-203.5 Colorado Revised Statutes.

Court to which the action is being brought: District Court, Eighth Judicial District, Colorado

Political subdivision for which the contest is filed: City of Loveland, Colorado

Brief Statement of the grounds for contest:

Two ballot titles/questions set by the Contestee, City of Loveland, are alleged not to conform to the the requirements of statute and the Colorado Constitution. Three grounds for the contest are included in the petition to the court pursuant to 1-11-203.5 C.R.S., and a request for enforcement of 1-45-117 C.R.S. prohibiting the use of public funds for electioneering.

If you fail to file your answer or other response to the Complaint/Petition in writing within the applicable time period, the Court may enter judgment by default against you for the relief requested in the Complaint/Petition without further notice.

Dated: August 25, 2016


Clerk of Court/Clerk


Signature of Plaintiff/Contestor

711 West Ninth St.
Address of Plaintiff/Contestor

Loveland, Colorado 80537

970-667-7313
Plaintiff's Phone Number



2016 AUG 25 PM 3:32

District Court <u>LARIMER COURT</u> County, Colorado		COURT USE ONLY
Court Address: 201 LA PORTE AVENUE, SUITE 100 FORT COLLINS, CO 80521-2761		
Plaintiff(s): <u>Larry Sarnes</u>	<u>Angela Myers,</u> <u>Larimer Clerk</u>	▲
v.		
Defendant(s): <u>City of Loveland</u>	<u>(indispensable party)</u>	▲
Attorney or Party Without Attorney (Name and Address): <u>Larry Sarnes, pro se</u> <u>711 W 9th St, Loveland, CO 80537</u>		Case Number: <u>16CV230</u>
Phone Number: <u>970-662-7313</u>	E-mail: <u>larry.sarnes@gmail.com</u>	Division Courtroom <u>5C</u>
FAX Number:	Atty. Reg. #:	
DISTRICT COURT CIVIL (CV) CASE COVER SHEET FOR INITIAL PLEADING OF COMPLAINT, COUNTERCLAIM, CROSS-CLAIM OR THIRD PARTY COMPLAINT		

1. This cover sheet shall be filed with each pleading containing an initial claim for relief in every district court civil (CV) case, and shall be served on all parties along with the pleading. It shall not be filed in Domestic Relations (DR), Probate (PR), Water (CW), Juvenile (JA, JR, JD, JV), or Mental Health (MH) cases. Failure to file this cover sheet is not a jurisdictional defect in the pleading but may result in a clerk's show cause order requiring its filing.

2. Check one of the following:

☐ This case is governed by C.R.C.P. 16.1 because:

- The case is not a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding; AND
- A monetary judgment over \$100,000 is not sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

☐ This case is not governed by C.R.C.P. 16.1 because (check ALL boxes that apply):

☒ The case is a class action, domestic relations case, juvenile case, mental health case, probate case, water law case, forcible entry and detainer, C.R.C.P. 106, C.R.C.P. 120, or other similar expedited proceeding. (election contest)

☐ A monetary judgment over \$100,000 is sought by any party against any other single party. This amount includes attorney fees, penalties, and punitive damages; it excludes interest and costs, as well as the value of any equitable relief sought.

☐ Another party has previously indicated in a Case Cover Sheet that the simplified procedure under C.R.C.P. 16.1 does not apply to the case.

NOTE: In any case to which C.R.C.P. 16.1 does not apply, the parties may elect to use the simplified procedure by separately filing a Stipulation to be governed by the rule within 49 days of the at-issue date. See C.R.C.P. 16.1(e). In any case to which C.R.C.P. 16.1 applies, the parties may opt out of the rule by separately filing a Notice to Elect Exclusion (JDF 602) within 35 days of the at-issue date. See C.R.C.P. 16.1(d).

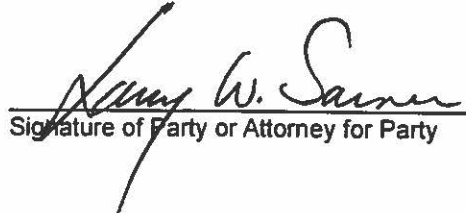
☐ A Stipulation or Notice with respect to C.R.C.P. 16.1 has been separately filed with the Court, indicating:

☐ C.R.C.P. 16.1 applies to this case.

☐ C.R.C.P. 16.1 does not apply to this case.

3. ☐ This party makes a **Jury Demand** at this time and pays the requisite fee. See C.R.C.P. 38. (Checking this box is optional.)

Date: 25 Aug 2016



Signature of Party or Attorney for Party

**EIGHTH JUDICIAL DISTRICT COURT,
STATE OF COLORADO**

Court Address:

Larimer County Justice Center

201 Laporte Avenue

Fort Collins, Colorado 80521

Telephone: 970-494-3500

▲ COURT USE ONLY ▲

Contestor/Plaintiff:

Larry Sarner, as an individual, *pro se*

v.

Contestee/Defendant: City of Loveland, a home rule
city in the State of Colorado;

Indispensable Party: Angela Myers, in her official
capacity as Clerk and Recorder of Larimer County;

Party without attorney:

Larry Sarner, *pro se*

711 West Ninth Street

Loveland, Colorado 80521

Telephone: 970-667-7313

larry.sarner@gmail.com

Case Number: 16 CV 230

Div.: SC

**A CONTEST CONCERNING THE FORM AND CONTENT OF AN
ELECTION BALLOT QUESTION,
AND FOR ENFORCEMENT OF C.R.S. §1-45-117 PROHIBITING
THE USE OF PUBLIC FUNDS FOR ELECTIONEERING**

THIS IS A TABOR ENFORCEMENT ACTION

Larry Sarner (the “Contestor”), a citizen and resident of Larimer County, does petition this Court for timely review and amendment of the form and content of ballot titles by summary adjudication pursuant to rights and procedures established under law, particularly the Constitution of the State of Colorado, and Colorado Revised Statutes (“CRS”) §1-11-203.5. Contestor also requests injunctive or other relief as the court may deem proper to prevent present and future electioneering in support of the ballot issue, the title and question for which is at issue in this petition, through the expenditure of public funds in violation of CRS §1-45-117.

PARTIES, VENUE AND JURISDICTION

1. Larry Sarner (the “Contestor”) resides at 711 West Ninth Street, Loveland, Colorado, and thereby is a resident, voter and taxpayer of the City of Loveland.
2. The City of Loveland (the “Contestee”, or the “City”) is a home-rule city organized under the laws and constitution of the State of Colorado, whose elected governing authority is its City Council. The City Council regularly meets, and the City Clerk maintains offices, at 300 East Third Street, Loveland, Colorado 80537, which is within Larimer County.
3. Angela Myers is Larimer County Clerk and Recorder (“the County Clerk”), and in that official capacity, she is responsible for placing ballot measures before the electors of Larimer County. Her office is in 200 West Oak Street, Fort Collins, Colorado. The County Clerk is an indispensable party to this contest (see ¶9).
4. This District Court sits for the Eighth Judicial District of the State of Colorado, which is the district court sitting for Larimer County within which this contest arises prior to a general election on November 8, 2016. The relevant decisions and actions taken by Contestee occurred in Larimer County, and all parties reside therein. Therefore, this court has jurisdiction over the parties, claims, contest, and enforcement of applicable state statutes.
5. This Court acquires jurisdiction over this contest and summarily adjudicates the contest pursuant to Colorado Revised Statutes (“CRS”) §1-11-203.5, a statutorily defined judicial procedure.
6. This Court also has jurisdiction and judicial authority to grant injunctive or other relief to enforce the provisions and prohibitions of CRS §1-45-117.

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7. The City Council took legislative action by adopting Ordinance #6037 (Exhibit 1) setting the form and content of two ballot questions, and ordering an election on November 8, 2016, to have voters decide those questions. Ordinance #6037 was adopted at a Council meeting on August 16, 2016, and ordered to be published in accordance with adoption procedures prescribed by the city charter of Loveland. The legislative action was finally accomplished with the publication of Ordinance #6037 on August 20, 2016 (Exhibit 1), and thereby bringing the Ordinance to public notice, of the setting of the ballot questions had been made. The City's charter in pertinent parts says:

Section 4.8(b) Except as otherwise provided in this Charter, all ordinances shall take effect ten (10) days after publication following final adoption. ...

Section 4.9(7) Upon final adoption, the ordinance shall be published either in full or by title only, as the Council may direct.

8. A contest on the form and content of these ballot questions became ripe at publication of Ordinance #6037, and the five-day period for filing this petition under CRS §1-11-203.5(2) began to run. (As also mentioned in *Cacioppo v. Eagle County Sch. Dist.* RE-50J, 92 P.3d 453 (Colo. 2004).
9. At the same meeting, City Council adopted Resolution #R-76-2016 (Exhibit 2), an administrative action which directed the City Clerk to execute a previously negotiated agreement with the County Clerk to order a coordinated election for November 8, 2016. That direction became effective upon adoption of the resolution, August 16, 2016, though actions in anticipation of the agreement had been taken prior to adoption, and actual execution thereunder by the City Clerk and County Clerk was not expected to be taken until later. The County Clerk is thereby made an indispensable party to this contest for enforcement of the orders of this Court.

APPLICABLE LAW AND STANDARD OF REVIEW FOR ELECTION CONTEST

10. In law, home-rule cities are to follow as nearly as practicable the procedures for municipal initiatives and referred measures under part 1 of article 11 of title 31, CRS. Accordingly, §31-11-111(3) provides:

In fixing the ballot title [ballot question], the legislative body or its designee shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes" or "no" vote would be unclear. ... The ballot title shall correctly and fairly express the true intent and meaning of the measure.

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11. Local ballot questions are not accompanied by ballot titles in the same manner as statewide ballot questions. Nevertheless, the legislative intent for the criteria to be employed in determining if a local ballot question conforms to the requirements of statute is nearly identical to the criteria employed for a statewide ballot issue. Because statewide ballot titles are frequently challenged and because these challenges are frequently heard by the Colorado Supreme Court, a substantial body of case law exists to provide clarity to the meaning of CRS §31-11-111(3) by way of application to statewide ballot issues. In the absence of other guidance to the contrary this body of law is persuasive. In particular the standard that has been set by the General Assembly upon adopting CRS §31-11-111(3) regarding avoidance of unclear ballot questions has been substantially defined.
12. The crux of the meaning of CRS §31-11-111(3) may be accurately stated by borrowing from the clear title requirement established by the Supreme Court, *In the Matter of the Title, Ballot Title and Submission Clause for 2015-2016 #156*, as follows:

In sum, the clear title requirement seeks to accomplish two overarching goals: prevent voter confusion and ensure that the title adequately expresses the initiative's intended purpose. If a title accomplishes these goals, the end result is that voters, "whether or not they are familiar with the subject matter of a particular proposal," should be able to "determine intelligently whether to support or oppose the proposal." Citing *In re 2015-2016 #73*, 369 P.3d at 568 (Colo. 2016).
13. By way of analogy, certain other important judicial review characteristics of statewide ballot issues are applicable to this contest. The substitution of the governing body, such as the City Council in the present instance, for the Colorado Title Commission is appropriate to complete such an analogy. So while the City Council is accorded wide discretion in the setting of a ballot question, and the court may employ presumptions in favor of the City Council's actions, nevertheless the court is also obliged to review ballot questions for clarity and accuracy, a District Court may reverse the City Council's action if the ballot questions are insufficient, unfair, or misleading. *Id.*, quoting *In re 2009-2010 #45*, 234 P.3d at 648 (Colo. 2012).
14. In making its determination, the Court can employ the general rules of statutory construction and accord the language of the proposed ballot questions their plain meaning. See *In re Title, Ballot Title & Submission Clause for 2011-2012 #3*, 274 P.3d 562, 565 (Colo. 2012).

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15. The role of the Court is not to consider the merits, efficacy, construction, or future application of a proposed ballot question, but instead to determine whether the City Council fulfilled its duty of ensuring that the ballot question meets constitutional and statutory requirements. *Id.*; also *In re 2013-2014 #89*, 328 P.3d at 176.
16. Also, the Taxpayer Bill of Rights (Const., Art. V, Sec. 20, or "TABOR") imposes minimal requirements for the form, content and substance of local ballot questions. In fact, the 1994 legislation that created the statutorily defined contest for ballot questions, CRS §1-11-203.5 was motivated by the popular adoption of the TABOR amendment in November 1992. See *Cacioppo, supra*.
17. Finally, prescriptive requirements of the Colorado Constitution's free and fair elections and due process/equal protection provisions (Art. II, Sections 5 and 25, respectively) also control the outcome of this contest, as well as corresponding provisions of the federal constitution (U.S. Const., XIVth Amendment).

FIRST GROUNDS FOR CONTEST: UNCONSTITUTIONALLY SUSPENDING LIMITATIONS ON CITY SPENDING

18. With the adoption of Ordinance #6037 (Exhibit 1), the City failed to consider the statutory requirements to avoid public confusion (see ¶12, *supra*), and inserted misleading language into both ballot questions, with respect to permanent exclusions of revenue from *any* limitation found in TABOR or any other law.
19. In the property tax question, the misleading language is found at the end of the question, to wit:

... AND SHALL THE CITY AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE REVENUES COLLECTED FROM SUCH TOTAL PROPERTY TAX RATE, INVESTMENT INCOME THEREON AND ANY OTHER LAWFUL SOURCE AS A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?
20. In the bond question, similarly misleading language is also found at the end of the question:

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... AND SHALL THE CITY AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND PROCEEDS AND INVESTMENT INCOME THEREON AS A VOTER-APPROVED REVENUE CHANGE, AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

21. The ballot language of each question is misleading for several reasons. These reasons are separated in the following paragraphs to first describe deficiencies in the purported exclusion of the limitations of TABOR.
22. Investment income on revenues received for the purpose of repaying debt are generally retained in a bond redemption fund and used exclusively for debt service. This is logical and consistent with current law. No exception to TABOR limitations is needed or would apply in the case of the bond issue. The bond issue question, however, destroys this understanding by purporting to authorize the expenditure of earnings on taxes for any purpose the Authority's Board or the city might wish to pursue. This putative meaning runs afoul of the interpretation of (3)(a) adopted by the Supreme Court in *Bickel v. City of Boulder*, 885 P.2d 215 (Colo. 1994). Quite simply, a revenue increase authorized by a bonded-debt ballot question cannot be used for general fund or other purposes. Instead, it must be used exclusively for debt service purposes and this bond issue ballot question misleadingly purports to authorize otherwise.
23. The limited ability to legislate at the ballot box or otherwise is subordinate to the TABOR amendment itself, which requires specific acts of voter approval for tax, debt and spending policy. However, only those actions that TABOR prescribes or requires voter approval for may be authorized by elections. One of the specific authorizations that TABOR does allow/require is a modification of the spending limitations of (7) by approval or by a revenue change as an *offset* in (7)(d). Thus, only those two conditions can survive this contest in the final ballot questions without misleading the voters or causing public confusion.

SECOND GROUNDS FOR CONTEST: UNLAWFULLY AUTHORIZING CITY DEBT

24. TABOR specifies that any increase in City debt must receive prior voter approval. In contrast to taxes, which a home-rule city may selectively impose or collect, debt is a city-wide obligation of City property taxpayers. No matter what the method chosen for repayment, the debt itself is an obligation without

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differentiation among taxpayers. TABOR requires such obligation to be approved in advance by those who will have the obligation. That means approval, by majority vote, of all persons eligible to vote in City elections. With the evidence of the notification provision found in TABOR (3)(b), the only intention of the constitutional language is that all registered electors residing within the City must be eligible to vote on any increase in debt.

25. In spite of the plain, unequivocal, and irrevocable requirement of TABOR for universal suffrage, the present bond issue is submitted to the approval of only a small subset of City voters, specifically those who are deemed eligible for voting by CRS §31-25-807(3)(b).
26. The vast majority of registered electors residing in Loveland, including the Contester, are *not* allowed to cast a vote on the bond issue. The right to vote is fundamental to a democratic republic. Denial of appropriate participation in an election is violative of the prescriptive requirements of the Colorado Constitution's free and fair elections and due process/equal protection provisions (Art. II, Secs. 5 and 25, respectively).
27. Residents of Loveland who are not registered electors, or not even eligible to register to vote (e.g., non-citizens, transients, undocumented aliens, and owners of property within the Downtown Development Authority), *are* allowed to vote on the bond issue. Moreover, corporate owners of property within the boundaries of the Loveland Downtown Development Authority (the "DDA") are allowed to vote by proxy. None of this was intended, or can be inferred to be intended, by the phrase "voter approval" in TABOR. Allowing ineligible voters to vote is also violative of the prescriptive requirements of the Colorado Constitution's free and fair elections and due process/equal protection provisions.
28. The ballot question for the bond issue is misleading in that it purports that those who are casting votes on the issue are able to raise City debt with a "yes" vote, which simply cannot be done by *them*.
29. Established constitutional interpretation must be such that the voter-eligibility provisions of CRS §31-25-807(3)(b) cannot be relied upon to override or ignore the clear and specific requirements of TABOR. Mere interpretation cannot force TABOR into *pari materia* with conflicting statutes; TABOR, as part of the constitution, is simply superior law. Moreover, the statutory provisions in §31-25-807(3)(b) were adopted in 1977, fifteen years before TABOR; the voters adopting the constitutional

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change in 1992 can be presumed to have intended superseding any conflicts with existing statutory provisions as much as barring future statutory conflicts.

THIRD GROUNDS FOR CONTEST: MISLEADING PROVISION FOR AN UNCERTAIN MEANS OF DEBT SERVICE

30. With the adoption of the Ordinance #6037 (Exhibit 1), the Contestee failed to consider the public confusion that might be caused by misleading language in the ballot question and referred a ballot question for which the general understanding of the effect of a "yes" or "no" answer would be unclear. By referring the bond-issue ballot question without adequately describing or explaining the effect of a "yes" or "no" vote by excluding any mention of the public entities that will provide all revenue for the debt service for the DDA, which is a political subdivision of the City, from the tax-allocation scheme generally known as "tax increment financing" (TIF), which generally violates the voter approval requirements of the TABOR amendment.

31. There is no mention in the ballot question about where the monies come from that meet the repayment costs for the bonds, except that—

SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY;

32. One immediately noticeable problem in the ballot language is that tax increment revenues are neither "levied" nor "collected". Such language could be easily corrected if the language was merely in error. In actuality, the chosen language is misleading by inadequately describing the effects of a "yes" or "no" vote by presuming prior knowledge on the part of voters as to what "tax increment revenues" are and how the DDA comes by them, which is a second purpose of the ballot question hidden from voters.
33. To understand how a second purpose has been hidden in the ballot question for the bond issue, a brief description of TIF is presented here. The DDA statute, specifically CRS §31-25-807, includes a property tax *revenue allocation* scheme. The governing body of the municipality, in this case the City Council, approves a plan in which a certain geographic area is defined as the area of focus (and in this case became the boundaries of the DDA). The "base" level of assessed valuation of taxable property is determined at the time of the approval of the plan. Thereafter, the assessed value of all *new*

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taxable property that is subsequently added to the plan area by construction, changes in zoning, etc. (i.e., “improvements”) is determined to be an “increment”. The taxing entities, such as the encompassing school district, receive the tax revenues generated by the base, as before. But the DDA, and only the DDA, receives the taxes generated by the increment.

34. Further, any subsequent increase in the mill levy rate of any taxing entity levying a tax in the DDA area that includes tax increment also results in a revenue increase for the DDA, over and above that initially approved by the voters of those taxing entities (or the DDA). This assumption of increased revenues is also a hidden reason for the language treating *all* subsequent revenues as being received and spent as part of a “voter-approved revenue change”. But the true nature and intent of that revenue change is never disclosed to the voters before getting their approval.
35. The tax increment impairs the finances of the other taxing entities in four ways. First, the other entities do not receive any tax revenues at all from the value of the property improvements attributed to the increment, so they do not share in this growth of the property tax base, as they would in all cases absent the , even though they may experience greater demands on their services as a result of this growth. Second, many if not all of the improvements are commercial, which have greater assessment percentages than residential, which compounds the adverse effect, just mentioned, of the omission of those improvements of commercial properties attributed to the increment. Third, at least in some cases such as with a school district, taxpayers outside the DDA are unjustly and unconstitutionally having their their total mill levies being automatically increased by some or all of the increment, without the knowledge or approval of the voters in those other taxing entities. And fourth — because the secondary increase in some mill levies cause a further increase in the size of the increment received by the DDA, which in turn causes still another, tertiary, increase in the total mill levies in the same fashion, and so on until the cycle dampens down the effect—the DDA receives compounding revenue windfalls, all at the expense of the other taxing entities.
36. There are at least six taxing entities whose finances, and those of their taxpayers, are unfairly and adversely affected by the DDA’s tax increment financing. These are Thompson School District R2-J (“TSD”), Larimer County, the City of Loveland (apart from the DDA itself), Larimer County Pest Control District, Loveland General Improvement District Number One, and Northern Colorado Water District. As just mentioned (§35), the vast majority of taxpayers in each of these six entities are given no part whatever

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in the decision to have their taxes raised by the DDA. Being denied the right to vote on matters where they have been given that right, as TABOR does with increases in property taxes, is violative of the denied voters' state and federal constitutional rights to due process and equal protection of the laws (XIVth Amendment to the U.S. Constitution). Contestee is a taxpayer and resident in at least five of the taxing entities mentioned above, but is *not* resident within the DDA, and so is not permitted to vote in this election.

37. Mention of the six other taxing entities in the ballot question and the effect of a "yes" vote upon their finances is a requirement of CRS §31-11-111. Recalling the previous section of this petition which laid out the standard of review for compliance with CRS §31-11-111:

In sum, the clear title requirement seeks to accomplish two overarching goals: prevent voter confusion and ensure that the title [question] adequately expresses the initiative's intended purpose. If a title accomplishes these goals, the end result is that voters, "whether or not they are familiar with the subject matter of a particular proposal," should be able to "determine intelligently whether to support or oppose the proposal." Citing *In re 2015-2016 #73*, 369 P.3d at 568 (Colo 2016).

Obviously, a voter cannot determine intelligently whether or not to support or oppose a proposal if he or she is not made aware of the terms of the proposal that is to be decided.

38. Mention in the ballot question of the diversion of tax revenues to pay for the improvement activities of the DDA is itself a requirement of the voter approval provisions in the TABOR amendment. In *Bickel, supra*, the Supreme Court established three factors that should be considered when determining whether substantial compliance of a particular provision such as the requirement for voter approval has occurred:

...the extent of the district's noncompliance with respect to the challenged ballot issue, that is, a court should distinguish between isolated examples of district oversight and what is more properly viewed as systematic disregard of Amendment 1 [TABOR] requirements, (2) the purpose of the provision violated and whether that purpose is substantially achieved despite the district's noncompliance, and (3) whether it can reasonably be inferred that the district made a good faith effort to comply or whether the district's noncompliance is more properly viewed as the product of an intent to mislead the electorate. *Bickel, supra*.

39. Both factors (2) and (3) in the *Bickel* test can be seen to weigh in this matter and prescribe inclusion of a mention of the diversion of tax revenues from the

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aforementioned taxing entities in the bond-issue ballot question. (It is evident from the language of Amendment 1 [TABOR] that the voters wanted to reserve for themselves the decisions on whether to increase debt or increase taxes, Bolt v. Arapahoe County School District Six, 898 P.2d 695)

40. On top of the foregoing, the DDA statute gives, in addition to registered electors resident in the DDA, a privilege to vote in *this* election to any natural person who is *not* a registered elector, including people who are excluded from registering as voters for any reason (including non-citizens and felons on parole), as long as they are any of the following: (a) residents of the DDA; (b) persons who are holders of real-property in the DDA, regardless of their status as registered electors; and (c) persons who vote as proxies for corporate holders of real-property in the DDA. Though the General Assembly may have had its reasons for including such voters in DDA elections in general, TABOR did not intend the participation of such people in deciding questions of ‘voter approval.’ Though this is a matter of first impression for the Courts, TABOR’s intentions are clearly shown by the requirement in TABOR (3)(b) that notices of ballot-issue elections be mailed to “each address of one or more *active registered electors*” [emphasis added]. To submit a ballot question the content of which is “voter approval” of tax or debt increases, is an abuse of process when persons not eligible to be registered electors may participate. By following the DDA statute for participation, instead of the intent and purpose of the constitution, the City has chosen the wrong content for the language for both ballot issues; it should not be seeking TABOR approval with either question. It is confusing and misleading to do so.

CLAIM FOR ENFORCEMENT OF CRS §1-45-117 PROHIBITING THE USE OF PUBLIC FUNDS FOR ELECTIONEERING

41. CRS §1-45-117 says in pertinent part:

(1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision of the state shall...make any donation to any other person for the purpose of making an independent expenditure, nor shall any such entity expend any moneys from any source, or make any contributions, to urge electors to vote in favor of or against any:...

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104(34.5);

42. Exhibit 3 is the first two pages of a Newsletter of the City of Loveland sent to all utility customers of the City in August 2016. The newsletter was created

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by the staff of the City and distributed (mailed) at public expense, necessarily costing more than fifty dollars. The first two pages of which newsletter consists solely of electioneering in favor of the ballot issues contested by this petition.

43. The content of the aforementioned two pages have many quotes of officials of the DDA and also of the Loveland Downtown Partnership, admitting that they and the agencies they represent, which are all run principally with public funds, are electioneering on behalf of the ballot issues contested by this petition, in violation of CRS §1-45-117.

PROPOSED ALTERNATIVE FORM AND CONTENT FOR THE CONTESTED BALLOT QUESTIONS AND TITLES

44. By attempting to impose an ad valorem tax pursuant to CRS §31-25-817, and by proposing to decide the mill-levy ballot question with unqualified persons voting on the question, the City has nullified the effects of a “yes” or “no” vote leading to a TABOR approval. Thereby, the question’s content is misleading and leads to public confusion (§40). The question should be withheld from the ballot.
45. If the Court does not withhold from the question for the mill-levy issue from the ballot, the form of the mill-levy ballot question should not include any of the language cited in ¶19, *supra*.
46. As stated in the “Second Grounds for Contest” (¶¶24-29), it is seemingly impossible to craft a bond-issue ballot question that passes constitutional muster for the ‘authorization’ of City debt with the DDA as the primary beneficiary. Moreover, by proposing to decide the bond-issue ballot question with unqualified persons voting, the City has nullified the question’s content as the TABOR approval it purports to be, leading to public confusion and misleading provisions (§40). Absent any other possible language to overcome its constitutional infirmities, the ballot question should be withheld from the ballot.
47. If the Court does not withhold from the bond-issue question from the ballot, then at a minimum the remaining language cited in ¶20 should be stricken from the language of the question as being misleading.
48. If the Court does not withhold from the question for the bond issue from the ballot, then it should replace all references to the “City of Loveland” with “Loveland Downtown Development Authority”. This change in wording is

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intended to convey the inability of those voting in this election to approve any increase in the *general* indebtedness of the entire city, and consequently not allow the City to obligate its taxpayers to assume repayment *under any circumstances* of any debt issued merely with the voter approval obtained in this election.

49. If the Court does not strike altogether the ballot question for the bond issue, then the question should be further amended to replace the confusing and misleading language of the question cited in ¶31 with the following:

SUCH DEBT AND THE DEBT SERVICE THEREON TO BE PAYABLE FROM REVENUES TAKEN FROM PROPERTY TAXES LEVIED FOR OTHER PURPOSES BY THOMPSON SCHOOL DISTRICT R2-J, LARIMER COUNTY, LARIMER COUNTY PEST CONTROL DISTRICT, CITY OF LOVELAND, LOVELAND GENERAL IMPROVEMENT DISTRICT NUMBER ONE, AND NORTHERN COLORADO WATER DISTRICT;

50. The ballot titles for the ballot issues are quite different from the language of their respective ballot questions. Just a reading of the titles finds them to be facially less complete, accurate and informative than are the ballot questions. No reason for these differences is given, nor are the effects of having such differences justified. To avoid any public confusion, and obfuscation of actual intent, related to these differences, the ballot title for each issue (not withheld from the ballot) should be precisely the alternative forms suggested for each contested ballot question, except as a declarative sentence instead of as a question.

PRAYER FOR RELIEF REQUESTED

51. A specific relief requested in this contest is an order of the Court requiring the County Clerk of Larimer County to replace the mill-levy ballot question set by the City with one including the Alternative stated in this petition (¶45).
52. Further relief is requested that the aforementioned order of the Court also withhold the bond-issue question from appearance on the ballot (¶46), or in the alternative, amend the bond-issue ballot question with the Alternatives stated in this petition (¶¶47-49).
53. Further relief is requested that the aforementioned order of the Court also reword each ballot title for each question as stated in this petition (¶50).

THIS IS A TABOR ENFORCEMENT ACTION

54. It is requested of the Court to enjoin, or otherwise to restrain, the City of Loveland from providing funds to the Loveland Downtown Development Authority, or the Loveland Downtown Partnership, LLC, from electioneering with public funds and to return all funds to the City that have been used to date for electioneering in favor of the ballot questions contested in this petition.
55. Contestor requests that the Court impose the cost of this action upon Contestee pursuant to CRS §1-11-203.5 and asks for payment of all Contestor's costs in bringing this *pro se* action against the Contestee.

Respectfully submitted this 25th day of August, 2016.

THIS IS A TABOR ENFORCEMENT ACTION

I, Larry Sarner, being first duly sworn upon my oath that I am over the age of eighteen years, that I am a registered elector and citizen of the City of Loveland, Larimer County, Colorado, and have prepared and read the foregoing, A **CONTEST CONCERNING THE FORM AND CONTENT OF AN ELECTION BALLOT QUESTION, AND FOR ENFORCEMENT OF C.R.S. §1-45-117 PROHIBITING THE USE OF PUBLIC FUNDS FOR ELECTIONEERING**, and the facts stated therein and exhibits added in appendage thereto are true and accurate to the best of my knowledge and belief.

Larry Sarner

STATE OF COLORADO)
COUNTY OF LARIMER) SS.

Subscribed and sworn to before me this 25th day of August, 2016, by Larry Sarner.

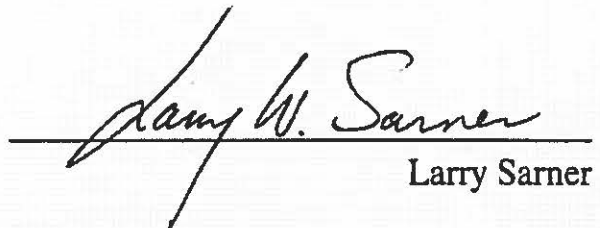
Notary Public

My Commission expires: _____

Witness my hand and official seal

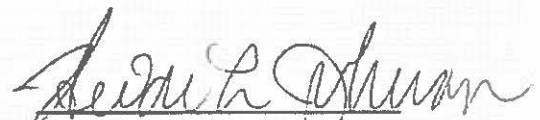
THIS IS A TABOR ENFORCEMENT ACTION

I, Larry Sarner, being first duly sworn upon my oath that I am over the age of eighteen years, that I am a registered elector and citizen of Larimer County, have prepared and read the foregoing, **A CONTEST CONCERNING THE FORM AND CONTENT OF AN ELECTION BALLOT QUESTION, AND FOR ENFORCEMENT OF C.R.S. §1-45-117 PROHIBITING THE USE OF PUBLIC FUNDS FOR ELECTIONEERING**, and the facts stated therein and exhibits added in appendage thereto are true and accurate to the best of my knowledge and belief.


Larry Sarner

STATE OF COLORADO)
COUNTY OF LARIMER) SS.

Subscribed and sworn to before me this 25th day of August, 2016, by Larry Sarner.


Notary Public

My Commission expires: 8/17/2019

Witness my hand and official seal



FIRST READING: August 2, 2016

SECOND READING: August 16, 2016

ORDINANCE NO. 6037

**AN ORDINANCE APPROVING A DOWNTOWN DEVELOPMENT
AUTHORITY ELECTION TO BE HELD NOVEMBER 8, 2016, TO
AUTHORIZE DEBT, TAXES AND REVENUE RETENTION**

WHEREAS, the City of Loveland, in the County of Larimer and State of Colorado (the "City") is a municipal corporation duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the City's Home Rule Charter (the "Charter"); and

WHEREAS, the members of the City Council of the City (the "City Council") have been duly elected and qualified; and

WHEREAS, the Loveland Downtown Development Authority, in the City of Loveland, State of Colorado (the "Authority"), is a body corporate duly organized and existing under laws of the State of Colorado; and

WHEREAS, the City Council has heretofore approved the Plan of Development (the "Plan") for the Authority; and

WHEREAS, the interest of the Authority and the public interest and necessity demand and require the financing of certain development projects described in the Plan (collectively, the "Projects"); and

WHEREAS, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for the creation of any debt, a mill levy increase or revenue retention above certain limits; and

WHEREAS, pursuant to Section 31-25-807(3)(b), C.R.S., the Board of the Authority has called an election on the question of issuing bonds or otherwise providing for loans, advances or indebtedness ("Financial Obligations") and pledging the tax increment revenues to the payment of such Financial Obligations; and

WHEREAS, Section 31-25-816(2)(b), C.R.S. provides the operations of the Authority may be financed by an ad valorem tax levied by the City, not exceeding five mills on the valuation for assessment of property located within the Authority; and

WHEREAS, TABOR requires elections on ballot issues (as defined in TABOR) to be held on limited election days; and

WHEREAS, November 8, 2016 is one of the election dates at which ballot issues may be submitted pursuant to TABOR; and

WHEREAS, pursuant to Section 31-25-807(3)(b), C.R.S., the City Council must approve calling the election; and

WHEREAS, pursuant to Section 31-11-111, C.R.S., the City Council must set the ballot titles for ballot questions; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

SECTION 1. Approval of DDA Election. The City Council hereby approves the holding of the Election on November 8, 2016 and the submittal of the following questions in substantially the following forms to the qualified electors and pursuant to Section 31-11-111, C.R.S., the City Council hereby determines that the following questions are the submission clause for each question:

(a) SHALL CITY OF LOVELAND TAXES BE INCREASED \$198,000 IN TAX COLLECTION YEAR 2017 AND BY SUCH AMOUNT AS MAY BE RAISED ANNUALLY THEREAFTER BY AN AD VALOREM PROPERTY TAX RATE OF NOT MORE THAN 5.00 MILLS ON TAXABLE REAL AND PERSONAL PROPERTY WITHIN THE BOUNDARIES OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY, FOR THE PURPOSES SET FORTH IN TITLE 31, ARTICLE 25, PART 8, C.R.S., INCLUDING WITHOUT LIMITATION, MAINTENANCE PROJECTS FOR SIDEWALKS, STREET CLEANING, LITTER PICKUP, AND LANDSCAPE MAINTENANCE; AND SHALL THE CITY AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE REVENUES COLLECTED FROM SUCH TOTAL PROPERTY TAX RATE, INVESTMENT INCOME THEREON AND ANY OTHER LAWFUL SOURCE AS A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

(b) SHALL CITY OF LOVELAND DEBT BE INCREASED \$75,000,000, WITH A REPAYMENT COST OF NO MORE THAN \$200,000,000, FOR THE PURPOSE OF FINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, INCLUDING WITHOUT LIMITATION, PARKING, UTILITIES, STREETS, SIDEWALKS, ALLEYWAYS AND BEAUTIFICATION, AND APPLICABLE PROVISIONS OF COLORADO LAW; SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY; AND SHALL SUCH DEBT BE EVIDENCED BY BONDS, NOTES, CONTRACTS OR OTHER

FINANCIAL OBLIGATIONS TO BE SOLD IN ONE SERIES OR MORE FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS PERMITTED BY LAW AND AS THE CITY MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO REDEEMED; AND SHALL THE CITY AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND PROCEEDS AND INVESTMENT INCOME THEREON AS A VOTER-APPROVED REVENUE CHANGE, AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

SECTION 2. Ballot Question Titles. Pursuant to Section 31-11-111, C.R.S., the City Council hereby sets the titles for questions (a) and (b) set forth in Section 1 above as follows;

The title for Question (a) in Section 1 above shall be:

AUTHORIZATION FOR THE CITY TO INCREASE PROPERTY TAXES IN THE DOWNTOWN DEVELOPMENT AUTHORITY BY NOT MORE THAN 5.00 MILLS AND OF A VOTER-APPROVED REVENUE CHANGE AS AN EXCEPTION TO THE LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW.

The title for Question (b) in Section 1 above shall be:

AUTHORIZATION FOR THE CITY TO INCUR DEBT OF UP TO \$75,000,000 FOR THE PURPOSE OF FINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, WITH SUCH DEBT PAYABLE FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY.

SECTION 3. Other Election Procedures. The City Clerk and other officers and employees of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance.

SECTION 4. Election Contest. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set, and for contests concerning the order of a ballot, within five days after the ballot order is set by the County Clerk and not thereafter.

SECTION 5. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer

shall not be construed to revive any such bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

SECTION 6. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.


SECTION 7. Publication. As provided in Charter Section 4-9(a)(7), this Ordinance shall be published by title only by the City Clerk after adoption on second reading unless the Ordinance has been amended since first reading in which case the Ordinance shall be published in full or the amendments shall be published in full.

SECTION 8. Effective Date. This Ordinance shall be in full force and effect ten days after its final publication, as provided in Charter Section 4-8(b).

ADOPTED this 16th day of August, 2016.


Cecil A. Gutierrez, Mayor

ATTEST:


City Clerk




APPROVED AS TO FORM:


City Attorney

Ordinance # 6037

I, Teresa G. Andrews, City Clerk of the City of Loveland, Colorado, hereby certify that the above and foregoing Ordinance was introduced at a regular (or special) meeting of the City Council, held on August 2, 2016 and was initially published in the Loveland Daily Reporter-Herald, a newspaper published within the city limits, in full on August 6, 2016 and by title except for parts thereof which were amended after such initial publication which parts were published in full in said newspaper on August 20, 2016.


City Clerk

Effective Date: August 30, 2016

RESOLUTION NO. R-76-2016**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE LARIMER COUNTY CLERK AND RECORDER CONCERNING THE COORDINATED GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016**

WHEREAS, on June 7, 2016, the Loveland City Council adopted Resolution #R-38-2016 authorizing the Loveland City Clerk ("City Clerk") to notify the Larimer County Clerk and Recorder ("County Clerk") of the City of Loveland's intention to participate in the November 8, 2016, election and to coordinate the City's participation in that election with the County Clerk; and

WHEREAS, on July 5, 2016, the Loveland City Council adopted Ordinance No. 6023 authorizing that the City's November 8, 2016, special municipal election be governed by the Colorado Uniform Election Code of 1992 to the extent necessary in order to conduct the election as a coordinated election with the County Clerk held on November 8, 2016; and

WHEREAS, C.R.S. §1-7-116(2) of the Uniform Election Code provides that when the County Clerk is conducting a coordinated election with a municipality, the County Clerk is required to enter into an agreement with that municipality concerning the conduct of that election; and

WHEREAS, the County Clerk has presented to the City an "Intergovernmental Agreement For Coordinated Election," a copy of which is attached hereto as **Exhibit "A"** and incorporated by reference ("the Election Agreement"); and

WHEREAS, in order for the City to participate in the coordinated election with the County Clerk, it is therefore necessary for the City to enter into the Election Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, that:

Section 1. The Election Agreement is hereby approved and the Mayor is authorized to enter into it on behalf of the City.

Section 2. The City Clerk shall comply with the provisions of the Election Agreement and shall act as the City's designated local election official in all matters related to the November 8, 2016, special municipal election. The City Clerk shall also comply with the applicable provisions of the City Charter, of the Municipal Election Code of 1965 and, to the extent required by Ordinance No. 6023, with the applicable

IMAGED

provisions of the Uniform Election Code of 1992 in conducting the November 8, 2016, special municipal election as a coordinated general election with the County Clerk.

Section 3. This Resolution shall go into effect as of the date of its adoption.

SIGNED this 16th day of August, 2016.

Tim P. Gatsing
Mayor

ATTEST:

Shirley S. Andrews
City Clerk



APPROVED AS TO FORM:

Wann Yelton
City Attorney

'Champions, promoters, advocates, dreamers

Loveland Downtown Partnership, DDA: All eyes on Election Day

Voters have special challenges this election year, not the least of them dealing with ballots that might have more boxes to check than any voter has seen on a single Election Day.

A bunch of missionaries who work in office space on Cleveland Avenue, just a door south of Fourth Street in the heart of downtown Loveland, know they have to cut through lots of election-season clutter to reach those voters who hold the keys to pushing a plan for downtown revitalization forward.

Missionaries? Anyone who has ever worked for a company, attended a school, or taught in one, attended a church or volunteered for a non-profit organization, has encountered along the way a mission statement.

Convene the champions

The Loveland Downtown Partnership, the non-profit group with members appointed by the Loveland City Council and that fostered the creation of Loveland's Downtown Development Authority, this year set forth as its mission statement "to convene the champions, the promoters, the advocates and the dreamers, and together build a strong, energetic and economically viable Downtown Loveland."

LDP Chairman and downtown activist Dan Johnson spelled out his group's mission for



Downtown Development Authority Executive Director Jacque Wedding-Scott, left, DDA Chairman Cl Caldwell, center, and Loveland Downtown Partnership Chairman Dan Johnson stand in the group's office at 350 N. Cleveland Ave., where they and others work to coordinate an effort to get out the vote.

City Councilors during a July presentation, with a near-apology for the wording.

"I know those sound like lofty terms, but we think our goal is that larger, more encompassing role of convening people," Johnson said. "How do we make sure we have a partnership that is inclusive of that kind of person, who really wants to make a vibrant downtown?"

This summer, under a banner bearing a striking new logo, the LDP and its "brick-and-mortar" Downtown Development Authority

arm are engaged in the single-minded pursuit of securing enough votes to fulfill the mission.

"We're election-centric now," said Jacque Wedding-Scott, who just marked her first year as executive director of the DDA. "It is all we are doing from now on."

Questions for voters

Homeowners, commercial property owners, and even tenants in residential, office and retail space in an elongated north-south zone in Loveland's core will decide these issues:

(see DDA page 2)

DDA (from page 1)

- Will they give the green light to a 5-mill increase in property taxes in the district to operate and maintain downtown facility improvements?
- Will they authorize the Downtown Development Authority to take on debt by issuing bonds that would raise as much as \$75 million for major downtown capital projects?

The 5-mill property tax increase would mean an annual residential increase of \$39.80 annually per \$100,000 of market value, while commercial increases would be \$145.00 yearly per \$100,000 of market value.

The separate question authorizing bond debt pegs the repayment to future increases in property values and rising sales tax revenue that would result from investment in downtown development projects. Debt would not be authorized without the capacity to repay through those two future sources.

The partnership's election task is not as simple as getting people to check off a box on their general election ballots. Some eligible voters will have to jump through a couple of hoops to obtain a special ballot and return it.

"It's not the usual election process," Loveland City Clerk Terry Andrews said. "This is

A 'how to' for voters

The Loveland Downtown Partnership, the Downtown Development Authority and the Loveland City Clerk have worked to make the voting process in the City's special DDA election easier to negotiate.

Visit the partnership website at www.LovelandPartnership.org and click on "Downtown district voter eligibility information" for a printable affidavit for DDA-qualified voters.

The website also tracks progress of the South Catalyst Project, and offers previews of other downtown development proposals, including the four-story residential and retail Heartland Café Block on the northeast corner of Fourth Street and Lincoln Avenue.

something that some people will have to do for themselves, if they want to participate. For some it's more than just registering to vote, and getting a ballot in the mail."

Hunt for voters

Andrews in late July sent letters to as many potential voters within the DDA district as could be identified through public records. While active, registered voters within the district will automatically receive mail-in ballots containing the downtown questions, others in the district will not.

This election is the fledgling DDA's second trip to the polls seeking voter authorization for a property tax increase. It failed narrowly in November 2015 in a low-turnout, off-year election.

"One thing the voters said they were concerned with last year was that we didn't clearly articulate the projects that we were interested in doing in the downtown," Wedding-Scott told City Councilors during a July meeting. "That was very accurate. We had difficulty understanding what it was we were trying to accomplish. This year our ballot question will be very comprehensive."

The ballot language this year will describe what voters are being asked to pay for, with a list of specific public improvements including street work, curbs and gutters, water and electric system upgrades, alley improvements, lighting and beautification projects.

And, this year the election is set against the backdrop of progress on the South Catalyst Project, the sweeping redevelopment of parts



The DDA boundary, shown in green, contains a mix of residential and commercial properties in the City core.

of three city blocks in the southern downtown district. The planned residential, office, retail and entertainment space, supported by a multi-level parking structure, will embody the kind of revitalization that the downtown "dreamers" speak of.

Downtown team members have set up shop at downtown gatherings – such as the "BBQ, Bands & Brews" festival and Cher Pie Festival that shared downtown crowds on the same July weekend – drumming up interest in the upcoming election.

DDA board chairman Clay Caldwell, owner of Fourth Street eatery Mo Betta Gumbo, said keeping the downtown fold together would be an important part of the election strategy.

"We're a very diverse group," he said, "and we represent a lot of different points of view."