

<p>DISTRICT COURT, LARIMER COUNTY, COLORADO 201 La Porte Ave., Suite 100 Fort Collins, CO 80521</p> <hr/> <p><b>Plaintiff: VIRGINIA FARVER,</b></p> <p><b>v.</b></p> <p><b>Defendants: CITY OF FORT COLLINS, FORT COLLINS CITY COUNCIL, DARIN ATTEBERRY, FORT COLLINS UTILITIES, FORT COLLINS UTILITIES MANAGEMENT and STAFF, DENNIS SUMNER, STEVE CATANACH; and DOES 1-100.</b></p>	<p>SERVED ONLY: December 29, 2016 3:08 PM FILING ID: 7CFE6C9D1112D CASE NUMBER: 2016CV144</p> <p>COURT USE ONLY</p>
<p>Kimberly B. Schutt, #25947 WICK &amp; TRAUTWEIN, LLC 323 South College Avenue, Suite 3 P.O. Box 2166, Fort Collins, CO 80522 Phone Number: (970) 482-4011 E-mail: kschutt@wicklaw.com FAX Number: (970) 482-8929</p> <p>John R. Duval, #10185 FORT COLLINS CITY ATTORNEY'S OFFICE P.O. Box 580 Fort Collins, CO 80522 Phone: (970) 221-6520 Email: jduval@fcgov.com</p>	<p>Case Number: 2016 CV 144</p> <p>Courtroom: 5B</p>
<p align="center"><b>DEFENDANTS' C.R.C.P. 26(e) SUPPLEMENTAL DISCLOSURES</b></p>	

COMES NOW all of the above-named defendants (“Defendants”), by and through counsel, Kimberly B. Schutt of Wick & Trautwein, LLC, and John R. Duval of the Fort Collins City Attorney’s Office, and hereby provide the following supplemental disclosures pursuant to C.R.C.P. 26(e):

**I. INDIVIDUALS WITH DISCOVERABLE INFORMATION**

The City hereby supplements the initial disclosure of witness testimony for the following individuals, as follows:

- Brian Janonis**, 1316 W. Oak Street, Fort Collins, CO 80521-2347

Mr. Janonis is currently retired from serving as the Utilities Executive Director for the City of Fort Collins; He served in that role from approximately 2006 through 2014. Prior to serving as the Utilities Executive Director, he was the Director of Water Resources and

Treatment for the City of Fort Collins. He also served as the Project Manager for Water Treatment, during which he oversaw the largest capital project ever adopted by the City of Fort Collins.

In his capacity as Utilities Executive Director, Mr. Janonis was part of the executive advisory board providing regular management oversight to the Advanced Meter Fort Collins Project and participated in City Council work sessions and meetings related to said Project, along with Steve Catanach, Dennis Sumner and Kraig Bader. He therefore has extensive knowledge and information relating to the implementation of the Project, and is expected to testify consistently with the testimony of Steve Catanach, Dennis Sumner and Kraig Bader, as contained in the City's initial disclosures.

By way of summary, Mr. Janonis will testify that utilities in general are very complex systems, but the electric utility in particular is an especially complex system. The Project was designed to provide better control and management of that complex system. While the federal grant that provided monies to do so was a big impetus for getting the Project done in the City, there were many reasons why this type of system was desirable even before the federal grant became available. Most importantly, the new Smart Meter technology allows the City to better monitor system failures and outages and to even predict and prevent them, which allows the utility staff to be more proactive in operating the electric utility. For example, after implementation of the Project, the City's Electric Utility staff was able to identify wild voltage variations in a specific transformer and to address the problem before the transformer blew out, thereby preventing an extensive interruption in power supply to citizens. It also allows the Electric Utility staff to better monitor and control usage, particularly during high-demand times, and to identify and adjust for areas of inefficiency to reduce energy expenditures. These types of benefits are what made it an important component of the City's Climate Action Plan specifically adopted by City Council in 2008.

In addition, prior to implementation of the Project, the City maintained a large staff of meter readers and it was both inefficient and hazardous to have meter readers visiting each property in the City to monitor electric usage. The meter readers were exposed to hazards such as dog bites, slips and falls, etc., which sometimes resulted in workers' compensation claims for the City. Likewise, because the Smart Meters allow the Electric Utility to better identify and prevent outages, it significantly reduced the need for Utility staff to go out into the field to do so. Before the Smart Meters, utility lineman and other workers would often have to go out into residential neighborhoods, sometimes at night, and climb over fences and enter yards in order to determine the source of a particular outage. These employees would often be exposed to injury and other hazards in the course of doing so, and these types of problems were significantly reduced by the adoption of the Smart Meter technology.

Mr. Janonis will testify that he and other representatives of the Electric Utility attended City Council meetings and work sessions to get the Project implemented, discussing issues such as how customers would be notified of the Project, how to handle customers who rejected the new meters, and the fees to be charged for manual meter reading.

During these City Council meetings, citizens had an opportunity to address Council on these issues and often did express opinions on these issues. It was during these meetings and work sessions that the Electric Utility obtained direction from Council, including approval of the federal grant agreement and appropriations made for implementation of the Project.

Mr. Janonis will further testify that, as the Utilities Executive Director, he was responsible for general oversight of the Project. He often participated in the utility executive team meetings during implementation of the Project, and he would receive regular reporting on the implementation of the Project from Steve Catanach. He also attended monthly meetings with the City Manager and other City department heads at which he reported on the Project and received feedback and direction on implementation of the Project from the City Manager and other departments which were implicated by the Project, such as the purchasing and technology departments.

Mr. Janonis will express the opinion that the Electric Utility went to great measures to research safety issues related to the Smart Meters, including consulting with the Larimer County Health Department and investigating national studies. He will testify that credible, peer-reviewed scientific studies supported a conclusion that the meters do not present a danger to the public health. In fact, the Smart Meters are considered a standard for the industry and have been adopted by a large number of municipal utilities nationwide, as reflected in the ConEdison report attached hereto as part of these supplemental disclosures. That report reflects that, as of June 2014, over 50 million Smart Meters had been adopted in the United States, reflecting 43% of U.S. homes at that time. That percentage is expected to be higher today, more than two years later.

Mr. Janonis will also testify regarding the extensive measures that the City undertook to notify the public about implementation of the Project and the alternatives to the Smart Meters offered to customers who objected to them, as set forth in the disclosures of testimony of Steve Catanach and Dennis Sumner. The notice was given through written notice in utility bills, stories in the newspaper, door hangers, etc. He is also expected to testify that Fort Collins had a very informed citizen population and one of the smallest percentages of persons opting out of the Project compared to other municipalities of similar sizes.

With regard to the \$11 monthly fee set for customers who opted out of having a Smart Meter and needed to have a manual meter reading, Mr. Janonis will testify that the City's utility staff researched what other municipalities of similar size were charging customers for manual meter reading in an attempt to determine a reasonable fee for that service. It was also calculated based upon what it was expected to actually cost the City to have meter readers going out to various parts of the City to read just one or two meters in one area and then traveling to other parts of the City to read a few other meters. He will explain that the City's rate was on the low side, based on assumptions of maximum efficiency in how this process would work once implemented.

2. **Judy Dahlgren**, 700 Wood Street, Fort Collins, CO 80521; (970) 224-6087.

Ms. Dahlgren is an Electric Standards Project Manager for the City of Fort Collins and has served in that capacity since 1988. Ms. Dahlgren has extensive information relating to the history and implementation of the Project, including her involvement as the liaison on the federal grant. She will testify that she was charged with providing regular reports to the Department of Energy [“DOE”] in conjunction with the grant process, fulfilling the DOE audits of the Project which were a standard part of the grant process, scheduling of meetings with DOE representatives, etc. In this capacity, she often participated in the regular executive meetings held by the members of the Electric Utility management staff overseeing implementation of the Project.

Ms. Dahlgren was also heavily involved in the process of notifying Utility customers about implementation of the Project and fielding customer questions and concerns. She worked with the City’s Utility crews and the contractor involved in switching out the meters to keep them apprised of customer issues during that process. In that capacity, she was present with Dennis Sumner at the Plaintiff’s residence on the date when the electric meter at the residence was replaced by City representatives. Ms. Dahlgren is expected to testify regarding her observations and other details of that event, and to authenticate a sound recording she made of the discussion with the Plaintiff that day.

3. **Angel Anderson**, 700 Wood Street, Fort Collins, CO 80521; (970) 221-6789.

Angel Anderson is currently a Water Engineering Field Operations Administrative Assistant with the City of Fort Collins, but was an Administrative Assistant for the City of Fort Collins Light & Power Utility during implementation of the Project. She worked in this capacity for the Electric Utility from 2008 until her recent transition to the Water Utility in August 2016. Ms. Anderson was the Advanced Meter Fort Collins (AMFC) Project Coordinator and the Project Manager for the Web Portal, Demand Response, and Single-Sign-On implementations for the City of Fort Collins Light & Power. She also was a member of the AMFC Project Executive Team and the primary Federal reporting lead for the Smart Grid Investment Grant (SGIG) project that funded a portion of the AMFC project. She therefore has extensive knowledge and information relating to the history and implementation of the Project, to which she will testify at trial.

In her capacity as Administrative Assistant for the Electric Utility during implementation of the Project, Ms. Anderson regularly attended the weekly Executive Team meetings and kept detailed notes of the issues discussed during those meetings. Those extensive meeting notes are included with these supplemental disclosures, and Ms. Anderson would be expected to authenticate them for evidentiary purposes at trial, if needed. She also managed some of the letters and other notifications sent to customers as part of her job duties, and fielded some of the customer phone calls early on in the Project, addressing their questions about the Project.

4. **Wanda Winkelmann**, City Hall West, 300 LaPorte Avenue, Fort Collins, CO, 80521; (970) 221-6515.

Ms. Winkelmann has been the City Clerk since July 2012 and will testify regarding all matters set forth in these Defendants' initial Rule 26(a)(1) disclosures regarding her anticipated testimony, as well as the matters contained within her affidavit attached to the Defendants' Motion for Summary Judgment, to the extent not disclosed previously.

5. **Darin Atteberry**, City Hall West, 300 LaPorte Avenue, Fort Collins, CO, 80521; (970) 221-6505.

Darin Atteberry is the City Manager for the City of Fort Collins and will testify regarding all matters set forth in these Defendants' initial Rule 26(a)(1) disclosures regarding his anticipated testimony, as well as the matters contained within his affidavit attached to the Defendants' Motion for Summary Judgment, to the extent not disclosed previously.

6. The Defendants will supplement these disclosures with additional information as it becomes available, as allowed by C.R.C.P. 26(e).

## **II. DOCUMENTS AND THINGS**

1. U.S. Smart Meter Overview (Bate stamped CITY 001560)
2. Electric Utility executive team meeting notes kept by Angel Anderson from 2010 through 2015 (Bate stamped CITY 001561-2421).

3. Videos taken by the Plaintiff or her associates, found at the following links:

<http://stopsmartmeters.org/2014/03/29/fort-collins-smart-meter-qa-with-josh-hart/>

<http://stopsmartmeters.org/2014/04/01/interview-with-city-of-fort-collins-light-and-power/>

<http://stopsmartmeters.org/2014/04/01/interview-with-craig-and-firginia-farver/>

<http://stopsmartmeters.org/2014/04/01/stop-smart-meters-raises-awareness-and-utility-ire-at-colorado-rural-electric-association/>

4. All documents attached to the Defendants' Motion for Summary Judgment, to the extent not previously disclosed.

DATED this 29<sup>th</sup> day of December, 2016.

WICK & TRAUTWEIN, LLC

*This document was filed electronically pursuant to C.R.C.P. 121 §1-26. The original pleading signed by Kimberly B. Schutt is on file at the offices of Wick & Trautwein, LLC.*

By: /s/ Kimberly B. Schutt  
Kimberly B. Schutt, #25947  
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And

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**CERTIFICATE OF ELECTRONIC SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing DEFENDANTS' C.R.C.P. 26(e) SUPPLEMENTAL DISCLOSURES was SERVED via U.S. Mail this 29<sup>th</sup> day of December, 2016, on the following:

Virginia L. Farver  
1214 Belleview Drive  
Fort Collins, CO 80526  
*Pro se Plaintiff*

*All documents referenced herein are provided on CD to plaintiff with this disclosure document.*

s/Jody L. Minch

*[The original certificate of electronic filing signed by Jody L. Minch is on file with the offices of Wick & Trautwein, LLC]*