

<p>DISTRICT COURT, LARIMER COUNTY, COLORADO  Larimer County Justice Center  201 Laporte Avenue, Suite 100  Fort Collins, CO 80521-2761  (970) 498-6100</p> <hr/> <p><b>Plaintiff: ERIC SUTHERLAND,</b></p> <p><b>v.</b></p> <p><b>Defendant: THE CITY OF FORT COLLINS</b></p> <p><b>Indispensable Party: Angela Myer, Larimer County Clerk and Recorder</b></p>	<p>COURT USE ONLY</p>
<p>Kimberly B. Schutt, #25947  WICK &amp; TRAUTWEIN, LLC  P.O. Box 2166  Fort Collins, CO 80522  Phone: (970) 482-4011  Email: <a href="mailto:kschutt@wicklaw.com">kschutt@wicklaw.com</a></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: <a href="mailto:jduval@fcgov.com">jduval@fcgov.com</a></p>	<p>Case Number: 2017 CV 219</p> <p>Courtroom: 5C</p>
<p style="text-align: center;"><b>DEFENDANT CITY'S UNOPPOSED MOTION  FOR SUBMISSION OF LEGAL BRIEFS</b></p>	

**COMES NOW**, the Defendant City of Fort Collins (“City”), by and through its counsel, the Fort Collins City Attorney’s Office and Wick & Trautwein, LLC, and respectfully submits the following unopposed motion for leave to submit a legal brief prior to the expedited hearing required by C.R.S. §1-11-203.5(2). In support thereof, the City states as follows:

1. **RULE 121 CERTIFICATION:** Undersigned counsel states that she has conferred in good faith with the plaintiff regarding the relief requested in this motion. He has indicated he does not oppose the motion on the condition that he is allowed to submit a legal brief in support of his position as well. The City does not oppose that condition, as discussed further below.

2. The Plaintiff has initiated the above-captioned action pursuant to C.R.S. §1-11-203.5, contesting the form and content of the ballot measure relating to the City’s proposed Broadband Charter Amendment, as contained in Ordinance No. 101, 2017.

3. Under C.R.S. §1-11-203.5, the Court is required to set the matter for an expedited hearing to occur within 10 days of the date of the filing of the answer by the City. The City is filing its Answer today, August 24, 2017, in conjunction with the filing of this motion.

4. The Plaintiff's Petition contains a number of legal arguments and conclusions relating to the proposed Broadband Charter Amendment, which issues will have to be addressed by the Court at the expedited hearing.

5. The City has generally denied the Plaintiff's various legal arguments and conclusions in its Answer, pursuant to the general rules of pleading under Rules 8 and 12 of the Colorado Rules of Civil Procedure, but believes it would be helpful to the Court to have these issues more fully briefed prior to the expedited hearing set in this case.

6. Accordingly, the City respectfully requests the Court allow the parties to submit legal briefs on these issues prior to said hearing. Given the short 10-day timeframe in which the hearing must occur, the City would respectfully request the Court to allow both parties to simultaneously submit briefs prior to the hearing, with each side having an opportunity to rebut the others' positions via oral argument at the time of the hearing. Plaintiff has indicated his consent to this process.

WHEREFORE, the Defendant City of Fort Collins respectfully requests the Court to enter an order allowing both parties to submit legal briefs on the same deadline prior to the expedited hearing, and for whatever further relief the Court deems just and proper.

DATED this 24<sup>th</sup> day of August, 2017.

WICK & TRAUTWEIN, LLC

By: s/Kimberly B. Schutt  
Kimberly B. Schutt, #25947  
Attorneys for Defendant

And

FORT COLLINS CITY ATTORNEY'S OFFICE

By: s/John R. Duval  
John R. Duval, #10185  
Attorneys for Defendant

*[This document was served electronically pursuant to C.R.C.P. 121 §1-26. The original pleading signed by defense counsel is on file at the offices of Wick & Trautwein, LLC and the Fort Collins City Attorney's Office]*

**CERTIFICATE OF ELECTRONIC FILING**

The undersigned hereby certifies that a true and correct copy of the foregoing **DEFENDANT CITY'S MOTION FOR LEAVE TO FILE LEGAL BRIEF** was filed via Integrated Colorado Courts E-Filing System (ICCES) and served this 24<sup>th</sup> day of August, 2017, on the following:

Eric Sutherland  
3520 Golden Current Blvd.  
Fort Collins, CO 80521

A courtesy copy was also emailed to Mr. Sutherland at *sutherix@yahoo.com*

s/ Cary C. Alton

*[The original certificate of electronic filing signed by Cary C. Alton is on file at the Fort Collins City Attorney's Office]*