

STATE OF INDIANA) IN THE MONROE CIRCUIT COURT
)
COUNTY OF MONROE) CAUSE NO. 53C06-2203-PL-000509

COUNTY RESIDENTS AGAINST ANNEXATION, INC.,
an Indiana not for profit corporation, *et al.*

Remonstrators/Appellants/Petitioners,

v.

THE COMMON COUNCIL of the City of Bloomington,
Monroe County, Indiana, *et al.*
Respondents.

**BLOOMINGTON’S RESPONSE TO PETITIONERS’
FIRST SET OF REQUESTS FOR PRODUCTION**

The City of Bloomington and the Common Council of the City of Bloomington, Indiana (collectively “the City” or “Bloomington”), by counsel, respond to the petitioners’ Requests for Production as follows:

DOCUMENTS TO BE PRODUCED

1. All documents reviewed or referenced by the City of Bloomington or the Common Council of the City of Bloomington to prepare its responses to the Petitioners’ First Set of Interrogatories.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

2. All documents reviewed or referenced by the City of Bloomington or the Common Council of the City of Bloomington to prepare its responses to the Petitioners’ First Set of Requests for Admission.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

3. Each and every exhibit, including any demonstrative exhibits, the City of Bloomington or the Common Council of the City of Bloomington will introduce at the time of any Motion, hearing, or trial in this cause.

RESPONSE: Bloomington objects to this request to the extent it is premature. The decision as to which exhibits will be introduced at or with any motion, hearing, or trial has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such exhibit will come from the materials produced by any party or nonparty.

4. Each and every exhibit the City of Bloomington will introduce at trial of this matter demonstrating that it complied with the requirements of Indiana Code § 36-4-3-1.7.

RESPONSE: Bloomington objects to this request to the extent it is premature. The decision as to which exhibits will be introduced at trial has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such exhibit will come from the materials produced by any party or nonparty.

5. A copy of each map showing the proposed boundaries of the Annexation Territory the City of Bloomington provided as part of any public outreach program or public information meeting it conducted in accordance with Indiana Code § 36-4-3-1.7 in relation to the annexation of the Annexation Territory.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

6. A copy of each proposed plan for extension of capital and noncapital services in the Annexation Territory, including proposed dates of extension, the City of Bloomington provided as part of any public outreach program or public information meeting it conducted in accordance with Indiana Code § 36-4-3-1.7 in relation to the annexation of the Annexation Territory.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

7. A copy of all information and documents regarding the expected fiscal impact on taxpayers in the Annexation Territory as a result of annexation of the Annexation Territory, including an increase in taxes and fees the City of Bloomington provided as part of any public outreach program or public information meeting it conducted in accordance with Indiana Code § 36-4-3-1.7.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

8. A copy of the notice required by Indiana Code § 36-4-3-11.1(c) of the applicability of the remonstrance process the City of Bloomington published in accordance with Indiana Code § 5-3-1-0.2 *et. seq* in relation to the annexation of the Annexation Territory.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

9. A copy of the county auditor's tax list relied upon by the City of Bloomington to send notice of any public hearing held regarding annexation of the Annexation Territory via certified mail to each owner of real property in the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to that objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

10. A copy of the notice required by Indiana Code § 36-4-3-11.1(c) of the applicability of the remonstrance process the City of Bloomington sent to the circuit court clerk and the owners of real property in the Annexation Territory.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

11. Each and every exhibit the City of Bloomington will introduce at trial of this matter demonstrating that it complied with the requirements of Indiana Code § 36-4-3-11.1 in relation to the proposed annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request to the extent it is premature. The decision as to which exhibits will be introduced at trial has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such exhibit will come from the materials produced by any party or nonparty.

12. Each and every notice published by the City of Bloomington for each public information meeting conducted in relation to the proposed annexation of the Annexation Territory.

RESPONSE: Bloomington understands this request to be seeking those notices published in a newspaper or similar publication and is responding accordingly. Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

13. Each and every notice of the public information meeting(s) conducted by the City of Bloomington in relation to the annexation of the Annexation Territory sent to each owner of land in Annexation Territory via certified mail.

RESPONSE: If this request is asking for copies of each notice sent to each land owner, Bloomington objects because the request is overly broad, seeks information that by statute is not

relevant, and creates an undue burden on Bloomington. If this request is asking for the form notices, which is how Bloomington understands it, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

14. Each and every document which demonstrates the City of Bloomington sent notice of public information meetings to each owner of land in the Annexation Territory via certified mail, including, but not limited to return receipts, green cards, log books, computer files, or any other document which contains information regarding this subject.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Seeking ‘each and every’ document demonstrating that the City sent notice of public information meetings (including the exemplar types of documents referenced in the request) exceeds the requirements Indiana Code 36-4-3-1.7, which provides that the municipality is only required to file proof that notices were sent and proof of publication. Bloomington is limiting its response accordingly. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

15. Each and every tax duplicate relied upon by the City of Bloomington to send notice to owners of land in the Annexation Territory in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Seeking ‘each and every’ document demonstrating that the City sent notice of public information meetings (including the exemplar types of documents referenced in the request) exceeds the requirements Indiana Code 36-4-3-1.7, which provides that the municipality is only required to file proof that notices were sent and proof of publication. Bloomington is limiting its response accordingly. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

16. The minutes from each and every public meeting or hearing conducted by the City of Bloomington regarding annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant

to the proceeding. This request exceeds that scope. See *Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

17. Each and every notice of public hearing regarding the annexation of the Annexation Territory published by the City of Bloomington to comply with Indiana Code § 36-4-3-2.1.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. See *Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

18. Each and every notice of any public hearing the City of Bloomington conducted regarding the annexation of the Annexation Territory sent via certified mail to the owner of real property in the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. See *Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

19. Each and every document which demonstrates the City of Bloomington sent notice of public hearings to each owner of land in the Annexation Territory via certified mail as required by Indiana Code § 36-4-3-2.2, including, but not limited to return receipts, green cards, log books, or any other document which contains information regarding this subject.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. See *Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Seeking ‘each and every’ document demonstrating that the City sent notice of public hearing (including the exemplar types of documents referenced in the request) is excessive and beyond the scope of what is relevant or appropriately discoverable. Bloomington is limiting its response to the notices, mailing lists, and related information. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

20. Each and every auditor’s tax list relied upon by the City of Bloomington to send any notice or correspondence to owners of land in the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

21. Each and every fiscal plan adopted by the City of Bloomington in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. Further, a trial court hearing a remonstrance is not an examiner conducting an audit of a challenged fiscal plan; the only issue is whether the plan represents a credible commitment by the municipality to provide the annexed area with comparable capital and non-capital services. As such, the only fiscal plan that is relevant is the September 10, 2021 – Version 5.0 fiscal plan. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

22. Each and every amendment, update, or supplementation of any fiscal plan adopted by the City of Bloomington in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. Further, a trial court hearing a remonstrance is not an examiner conducting an audit of a challenged fiscal plan; the only issue is whether the plan represents a credible commitment by the municipality to provide the annexed area with comparable capital and non-capital services. As such, the only fiscal plan that is relevant is the September 10, 2021 – Version 5.0 fiscal plan. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

23. Earlier drafts of the fiscal plan adopted by the City of Bloomington in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant

to the proceeding. This request exceeds that scope. Further, a trial court hearing a remonstrance is not an examiner conducting an audit of a challenged fiscal plan; the only issue is whether the plan represents a credible commitment by the municipality to provide the annexed area with comparable capital and non-capital services. As such, the only fiscal plan that is relevant is the September 10, 2021 – Version 5.0 fiscal plan. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, Bloomington objects to the overbreadth of the request. Unadopted drafts are not relevant when the adopted versions are being produced and speak for themselves; nor is a request seeking unadopted drafts reasonably calculated to lead to the discovery of admissible evidence. Bloomington has previously committed to producing the final versions of the adopted fiscal plans and objects to producing more. Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

24. Each and every source relied upon to prepare the fiscal plan adopted by the City of Bloomington in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. Further, a trial court hearing a remonstrance is not an examiner conducting an audit of a challenged fiscal plan; the only issue is whether the plan represents a credible commitment by the municipality to provide the annexed area with comparable capital and non-capital services. As such, the only fiscal plan that is relevant is the September 10, 2021 – Version 5.0 fiscal plan. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, Bloomington objects to the overbreadth of the request. A request for “each and every” source document relied upon in developing the fiscal plan seeks information that is not relevant when the fiscal plans themselves have been produced; nor is a request seeking every source document reasonably calculated to lead to the discovery of admissible evidence. The issue with respect to the fiscal plan is whether it represents a credible commitment by the municipality to provide the annexed area with comparable capital and non-capital services. *City of Carmel v. Certain Southwest Clay Tp. Annexation Territory Landowners*, 686 N.E.2d 793, 799 (Ind. 2007). Bloomington has previously committed to producing the final versions of the adopted fiscal plans and objects to producing more. Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

25. Each and every draft map, diagram, or other such document which depicts the boundaries of proposed annexation areas 1A and 1B and areas nearby.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, Bloomington objects to the overbreadth of the request. A request for “each and every” draft map, diagram, or other such document depicting the boundaries of areas

1A and 1B seeks information that is not relevant, cumulative, and unduly burdensome on Bloomington to compile. The boundaries are the boundaries, and are reflected in several maps that are publicly available and in maps Bloomington is being produced in response to these requests.

26. Each and every map showing proposed boundaries for the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, Bloomington objects to the overbreadth of the request. A request for “each and every” map showing the boundaries of areas 1A and 1B seeks information that is not relevant, cumulative, and unduly burdensome on Bloomington to compile. The boundaries are the boundaries, and are reflected in several maps that are publicly available and in maps Bloomington is being produced in response to these requests.

27. Each and every map showing proposed boundaries for all of the territory the City of Bloomington sought to annex.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, Bloomington objects to the overbreadth of the request. A request for “each and every” map showing the proposed boundaries for annexation areas that are not a part of this case seeks information that is not relevant, cumulative, and unduly burdensome on Bloomington to compile. The boundaries of 1A and 1B are the boundaries, and are reflected in several maps that are publicly available and in maps Bloomington is being produced in response to these requests. Boundaries of other areas are irrelevant to this case and unrelated to any claim or defense.

28. A true and accurate copy of the policy adopted by resolution by the Common Council of the City of Bloomington which meets the requirements of Indiana Code § 36-4-3-13 in relation to the annexation of the Annexation Territory.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

29. Each and every notice of annexation ordinances published by the City of Bloomington in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections

11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

30. A certified copy of each annexation ordinance adopted by the City of Bloomington.

RESPONSE: Bloomington objects to the extent this request seeks certified copies of resolutions for territories other than 1A and 1B. Resolutions concerning other areas are irrelevant and unrelated to any claim or defense in this case. Subject to this objection, Bloomington will produce certified copies of the ordinances for Areas 1(A) and 1(B).

31. If the City of Bloomington contends the Ordinances Nos. 17-09 and 17-10 include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory, each and every [document] relied upon to make said contention.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, the terms and conditions referenced in the request can be found in the ordinances, resolutions, and fiscal plan, which are being produced in response to other requests.

32. Each and every document which demonstrates that the City of Bloomington complied with the requirements of Indiana Code § 36-4-3-7 in relation to the annexation of the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. Further, Bloomington objects to this request because there are several “requirements” in Section 7 that have nothing to do with the claims or defenses in this remonstrance trial, and requiring Bloomington to produce “each and every” document pertaining to those requirements presents an undue burden. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to these objections, Bloomington is producing copies of its notices, ordinances, and fiscal plans in response to other requests.

33. Each and every notice of the applicability of remonstrance process in relation to the annexation of the Annexation Territory which was:

- a. Published in accordance with Indiana Code § 5-3-1-0.2 *et. seq.*;
- b. Sent to the Monroe County circuit court clerk; and

- c. Sent to the owners of real property as shown on the county auditor's current tax list whose real property is located in the Annexation Territory

RESPONSE: Bloomington objects to this request because it is repetitive of other requests. Bloomington further objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, Bloomington notes that it is producing the requested information in response to other requests.

34. Each and every document provided by the Common Council of the City of Bloomington to the Monroe County Auditor regarding any valid waiver of the right of remonstrance that existed on properties within the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Subject to this objection, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

35. Each written notice the City of Bloomington provided to a property owner in the Annexation Territory notifying said property owner that a waiver of the right to remonstrate exists with respect to the property as required by Indiana Code § 36-4-3-11.7.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Further, if this request is asking for copies of each notice sent to each land owner, Bloomington objects because the request is overly broad, seeks information that by statute is not relevant, and creates an undue burden on Bloomington. If this request is asking for the form notices, which is how Bloomington understands it, subject to the objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

36. Each and every document the City relied upon to determine the population density of proposed annexation Area 1A.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

37. Each and every document the City relied upon to determine the population density of proposed annexation Area 1B.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

38. Each and every document the City relied upon to determine that 60% of the territory of proposed annexation Area 1A is subdivided.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

39. Each and every document the City relied upon to determine that 60% of the territory of proposed annexation Area 1B is subdivided.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

40. Each and every document the City relied upon to determine that territory of proposed annexation Area 1A is zoned for commercial, business, or industrial uses.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

41. Each and every document the City relied upon to determine that territory of proposed annexation Area 1B is zoned for commercial, business, or industrial uses.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

42. If the City of Bloomington contends the annexation will not have a significant financial impact on the residents or owners of the land located in the Annexation Territory, each and every document relied upon for said contention.

RESPONSE: Bloomington objects to this request to the extent it reverses the burden of proof in the statute. The landowners must prove that the annexation will have a significant financial impact on the residents of owners of land, without consideration of the personal or business finances of a resident or owner of land. Ind. Code § 36-4-3-13(e)(2)(B). Bloomington further objects to this request to the extent it is premature. The decision as to which documents will be relied upon to show the lack of significant financial impact has not yet been made. Bloomington

also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such document will come from the materials produced by any party or nonparty or expert reports.

43. If the City of Bloomington contends the annexation is in the best interest of the owners of land in the Annexation Territory, each and every document relied upon for said contention.

RESPONSE: Bloomington objects to this request to the extent it is premature. The decision as to which documents will be relied upon to show that the annexation is in the best interests of the land owners has not yet been made. Bloomington also objects to the extent the request calls for the disclosure of attorney mental impressions and work product. Subject to these objections, Bloomington states that any such document will come from the materials produced by any party or nonparty or expert reports.

44. Each and every contract, agreement, check, invoice, bill, demand for payment, letter, correspondence, note, report, e-mail, memo, telephone message, photograph, video tape, audio recording or other document or thing given to or received from any witness the City of Bloomington intends to call as an expert at the trial of this cause.

RESPONSE: Bloomington objects to this request because it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) of that order limits expert discovery by stating what the expert's report must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its production of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

45. A copy of all reports, notes, memoranda or other documents prepared by any expert expected to testify on behalf of the City of Bloomington in this matter.

RESPONSE: Bloomington objects to this request because it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) of that order limits expert discovery by stating what the expert's report must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its production of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

46. All reports, records, documentation, notes, correspondence, memoranda, or other materials reviewed, relied upon, utilized, by any expert expected to testify on behalf of the City of Bloomington in this matter.

RESPONSE: Bloomington objects to this request because it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) of that order limits expert discovery by stating what the expert's report

must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its production of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

47. Curriculum vitae and fee schedule for all experts retained by the City of Bloomington in connection with this litigation and a list of the cases in which each has testified.

RESPONSE: Bloomington objects to this request because it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) of that order limits expert discovery by stating what the expert's report must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its production of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

48. Fully identify each and every exhibit including all demonstrative exhibits which each expert intends to introduce at trial, and state for each proposed exhibit the following:

- a. Name, address and occupation of the individual(s) who prepared the exhibit(s);
- b. The purpose of its preparation; and
- c. The date of its preparation.

RESPONSE: Bloomington objects to this request as it exceeds the scope of permissible expert discovery set forth in the court's April 25, 2023, case management order. Specifically, Section 1(E) of that order limits expert discovery by stating what the expert's report must contain and declaring as privileged drafts of reports and communications with counsel except for the items specified in the order. Bloomington will limit its production of expert materials to what is set forth in the order, and it will provide that information within the time required by the order.

49. Each and every in lieu agreement regarding annexation the City has entered into pursuant to Indiana Code § 36-4-3-21 with any individual, entity, company, corporation, etc. from January 1, 2000 to current.

RESPONSE: Records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

50. Evidence of all payments the City of Bloomington has received pursuant to any in lieu agreement it has entered into pursuant to Indiana Code § 36-4-3-21.

RESPONSE: Bloomington objects to this requests because it is overly broad and unduly burdensome. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

51. All communications from January 1, 2017 to August 2, 2023 sent by any employee or elected official of the City of Bloomington regarding annexation or the Annexation Territory.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Moreover, this request does not describe the requested information with reasonable particularity as required by Trial Rule 34(B). Lacking that reasonable particularity, this request seeks any and all communications about annexation without regard for whether the information relates to any claim or defense of any party. In that way, it is an impermissible fishing expedition and imposes an undue burden on Bloomington. *See In re WTHR-TV*, 693 N.E.2d 1, 7 (Ind. 1998). Bloomington, more than once, proposed to Remonstrators' counsel investigating ways to make this request more particular, including through the use of search terms. Those efforts were rebuffed. Consequently, except for the privileged records discussed next, Bloomington is producing records in response to this request precisely as Remonstrators requested. Particularly given the lack of facial relevance this request has to a remonstrance trial, Bloomington objects to any attempt by Remonstrators to shift the blame or burden associated with Bloomington's production in response to this request and objects to any argument that the number of records responsive to this request (more than 35,000 records) presents a basis to continue the April 2024 trial date. Further, this request as drafted includes materials covered by the attorney client privilege and the work product doctrine. The request makes no effort to avoid communications sent to or from Bloomington's inhouse attorneys or its outside counsel. Bloomington's search results for the six years, seven months, and two days covered by this request show that its counsel were involved in thousands of potentially privileged communications concerning annexation. Because the request is not framed in a reasonably particular way and the burden of individually logging nearly 22, 000 records outweighs the proportional need Remonstrators may articulate for privileged materials, Bloomington objects to this request, will not produce privileged records, and will not provide a privilege log. Bloomington further notes that as the time of this response, Remonstrators have not produced any communications (email or otherwise) responsive to Bloomington's document requests. Subject to these objections, records responsive to this request will be produced at a mutually convenient time and location or provided by way of a file sharing protocol.

52. All communications from January 1, 2017 to August 2, 2023 sent to any employee or elected official of the City of Bloomington regarding annexation or the Annexation Territory.

RESPONSE: See the objections and response to Request No. 51.

53. All communications from January 1, 2017 to August 2, 2023 sent by any employee or elected official of the City of Bloomington the subject lawsuit or the claims made by the Petitioners therein.

RESPONSE: See the objections and response to Request No. 51.

54. All communications from January 1, 2017 to August 2, 2023 sent to any employee or elected official of the City of Bloomington the subject lawsuit or the claims made by the Petitioners therein.

RESPONSE: See the objections and response to Request No. 51.

55. Each and every agreement the City has entered into to extend sewer or water services to land located in the Annexation Territory from January 1, 2000 to current.

RESPONSE: Bloomington objects to this request because it exceeds the scope of admissible and discoverable evidence for a remonstrance trial. A remonstrance proceeding is not a regular lawsuit, but rather a special proceeding the General Assembly may control. Only Sections 11-13 of Indiana Code § 36-4-3-1, et seq., and the requirements of those subsections are relevant to the proceeding. This request exceeds that scope. *See Bradley v. City of New Castle*, 764 N.E.2d 212, 215-18 (Ind. 2002). Moreover, this request does not describe the requested information with reasonable particularity as required by Trial Rule 34(B). Lacking that reasonable particularity, this request seeks any and all communications about annexation without regard for whether the information relates to any claim or defense of any party. In that way, it is an impermissible fishing expedition and imposes an undue burden on Bloomington. *See In re WTHR-TV*, 693 N.E.2d 1, 7 (Ind. 1998). Subject to these objections, Bloomington states that it will produce maps showing the location of its sewer and water facilities in the Annexation Territory.

Respectfully submitted,

/s/ Andrew M. McNeil

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following via electronic mail this 15th day of December, 2023:

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/s/ Andrew M. McNeil

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