

**STATE OF WISCONSIN  
BEFORE THE ELECTIONS COMMISSION**

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Yiping Liu, Kathleen Johnson, Susan N. Timmerman,  
Mary Baldwin, Bonnie Held

Complainants,

Case No. EL 21-33

v.

MEAGAN WOLFE, in her capacity as Administrator  
of the Wisconsin Elections Commission, SATYA  
RHODES-CONWAY, in her capacity as Mayor of the  
City of Madison, and MARIBETH WITZEL-BEHL,  
in her capacity as City Clerk of the City of Madison,

Respondents.

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**ANSWER OF RESPONDENTS RHODES-CONWAY AND WITZEL-BEHL**

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Respondents Satya Rhodes-Conway in her capacity as Mayor of the City of Madison, and Maribeth Witzel-Behl, in her capacity of City Clerk of the City of Madison (collectively, “Respondents”), by and through its attorneys Michael Haas and Steven Brist, hereby submit the following response to the Complaint filed by Yiping Liu, Kathleen Johnson, Susan N. Timmerman, Mary Baldwin and Bonnie Held (collectively, “Complainants”) with the Wisconsin Elections Commission (“Commission”).

**INTRODUCTION**

As the Commission is aware, it administers state and federal election laws as enacted by the Wisconsin Legislature and U.S. Congress, and as interpreted by state and federal courts. Chief among the many flaws in the Complainants’ allegations and theories is this plain fact: The claim that Wisconsin municipalities are prohibited from accepting private funds to assist in the administration of elections has been rejected by the Eastern District of Wisconsin federal court in

the case of *Wisconsin Voters Alliance, et al. v. City of Racine, et al.* No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020); *Wisconsin Voters All. v. City of Racine*, No. 20-C-1487, 2021 WL 179166 (E.D. Wis. Jan. 19, 2021). While the plaintiffs in that case choose to disregard the requirement in Wis. Stat. § 5.06 that complaints against local election officials first be brought to the Commission, now that the Court has ruled, Complainants cannot ask the Commission to disregard the Court’s ruling, especially given that this Complainants’ counsel also represented the plaintiffs in the *Wisconsin Voters Alliance* litigation.

Likewise, the Commission cannot ignore the federal court’s rulings and create a prohibition on municipalities using private grant funds when such a provision appears nowhere in state law. The Legislature has acknowledged that current law includes no such provision by its ongoing attempts to enact such a law. *See 2021 Senate Bill 207 and 2021 Assembly Bill 173*. A copy of the Wisconsin Voter Alliance decisions are attached to this Answer as Exhibit A.

The Complainants’ disagree with the City of Madison’s (“City”) acceptance and use of grant funds from the Center for Tech and Civic Life (“CTCL”). However, Complainants fail to point to any law which prohibits the City’s acceptance of outside funds in order to provide a safer voting experience for its electorate, or even any law they claim was violated. As with the federal case in the Eastern District of Wisconsin and numerous other jurisdictions across the country, the Complaint fails to state a valid legal basis for any challenge to the City’s administration of the 2020 elections and must be dismissed accordingly.

### **FACTUAL BACKGROUND**

Respondents dispute the facts as alleged by Complainants in their entirety as factually inaccurate and grossly misstated. Attached as Exhibit B is the sworn Affidavit of City Clerk

Maribeth Witzel-Behl which summarizes pertinent facts related to the City's acceptance and use of CTCL grant funds in connection with the 2020 General and Presidential Election.

In addition, with respect to the grant agreement, the CTCL grant requires the City to sign an agreement "promising to use the grant funds in compliance with United States tax laws." See, Exhibit C, page 1. As a municipal corporation, the City is already required to comply with state and federal laws. Notably, contrary to ¶ 24 of Complaint, the agreement does not state that the City is required "to return the moneys to . . . CTCL if [CTCL] disagreed how [sic] those moneys were spent." Furthermore, the City was one of 218 municipalities in Wisconsin to receive grant funds from CTCL ("WI-218"). See <https://www.techandcivillife.org/our-work/election-officials/grants>. The Complaint conveniently ignores that CTCL grants were issued to municipalities without regard to their partisan make-up of their electorates.

## **ARGUMENT**

The Commission should dismiss the instant Complaint for several reasons. First, the Complaint is not timely nor sufficient as to form, and it does not set forth facts establishing probable cause to believe that a violation of law has occurred. Additionally, the arguments offered by Complainants find no basis in Wisconsin law or any other applicable election law, as has been determined by the Eastern District of Wisconsin as well as several other courts. Finally, and perhaps most significantly, Complainants seek to have the Commission do administratively that which is the sole purview of the Legislature: craft new election law. For all of these reasons, the Complaint should be dismissed.

### **I. Timeliness, Sufficiency as to Form, Probable Cause**

The Elections Commission's Administrative Code contemplates that the Administrator will serve a gatekeeper function with respect to complaints: within ten days, they shall determine

whether the complaint is timely, is sufficient as to form, and states probable cause. Based on that determination, the Administrator will determine whether to return the complaint to the complainant to cure any defect, or forward it to the respondent for an answer. WIS. ADMIN. CODE §§ EL 20.04(1)-(3).

Administrator Meagan Wolfe is named as a Respondent in the Complaint along with the City Respondents, and two adjudicators have been appointed to serve in her place. Though the adjudicators are standing in for the Administrator, it is unclear to the City Respondents whether any initial determination has been made as to whether the Complaint is timely, is sufficient as to form, and/or states probable cause.<sup>1</sup> Respondents therefore respectfully submit that the Complaint is not timely and does not state probable cause, and should therefore be dismissed.

A. Timeliness

The Complaint was made pursuant to Wisconsin Statutes section 5.06, (Compl. at 2.), which requires that “[a] complaint filed under this section shall be filed promptly so as not to prejudice the rights of any other party.” WIS. STAT. § 5.06(3) (2019-20).<sup>2</sup> Where a term is not defined, “statutory language is given its common, ordinary, and accepted meaning.” *State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶ 45, 271 Wis. 2d 633, 681 N.W.2d 110. A filing is understood to be “prompt” if it is done at once or without unreasonable delay. The doctrine of laches is also instructive in applying Section 5.06(3). Laches applies to bar a claim when there is an unreasonable delay in bringing the claim, a lack of knowledge the claim would be raised, and prejudice to the responding party. *State ex rel. Wren v. Richardson*, 2019 WI 110, ¶ 15, 389 Wis.

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<sup>1</sup> In an email response to a question from City Attorneys representing other four other municipalities named as respondents in similar complaints concerning the probable cause determination, the adjudicators stated, “Any respondent who wishes to contest probable cause as referenced in the below email may do so in his or her response.”

<sup>2</sup> All references to the Wisconsin Statutes are to the 2019-2020 version unless otherwise indicated.

2d 516, 936 N.W.2d 587. Importantly, the Wisconsin Supreme Court has noted the particular applicability of laches in the election context:

Extreme diligence and promptness are required in election matters, particularly where actionable election practices are discovered prior to the election. Therefore, laches is available in election challenges. . . . Such doctrine is applied because the efficient use of public resources demands that a court not allow persons to gamble on the outcome of an election contest and then challenge it when dissatisfied with the results, especially when the same challenge could have been made before the public is put through the time and expense of the entire election process.

*Trump v. Biden*, 2020 WI 91, ¶ 11, 951 N.W.2d 568 (quoting 29 C.J.S. Elections § 459 (2020)).

Complainants unreasonably delayed bringing this Complaint, and their claims should therefore be barred as untimely and prejudicial.

What constitutes an unreasonable delay for purposes of laches varies depending on the circumstances of a particular case. *Id.* at ¶ 13. Whether a delay is reasonable “is based not on what litigants know, but what they might have known with the exercise of reasonable diligence.” *Id.* The allegations of wrongdoing in the Complaint center around the City’s acceptance and use of grant funds from CTCL, which occurred during the summer of 2020, yet Complainants waited until April 2021 to file this Complaint, almost a year after the City had accepted and started spending grant funds in support of the November 2020 election, six months after Election Day, and four months after the certification of the Electoral College results. Complainants cannot assert in good faith that they promptly filed the Complaint.

The CTCL grant was approved by the Madison Common Council at its July 14, 2020 meeting and the public notice of that meeting included two items related to 1) authorizing the City Clerk to apply for and accept a \$10,000 planning grant and 2) authorizing the City Clerk to apply for and accept a grant of \$1,271,788 from CTCL and making corresponding budget adjustments. See, Exhibit D, items 14 and 15. The Common Council unanimously approved both items. Complainants, all apparently City of Madison electors, are imputed with knowledge of actions

taken in public meetings. When the Wisconsin Supreme Court examined former President Trump's decision to wait until after the election to challenge certain events that had occurred well before November, despite the fact that it could have made such a challenge when the events were announced, the court called the delay "patently unreasonable." *Trump v. Biden*, 2020 WI 91, ¶ 21. The same is true here: Complainants could and should have brought their concerns to the Commission when the grants were accepted; to wait over 10 months before filing the Complaint is patently unreasonable.

In addition, the Wisconsin Voters Alliance filed its Complaint asserting that the City's acceptance of CTCL grant funds violated state or federal law on September 24, 2020, and the Court issued a decision denying preliminary relief on October 14, 2020 and its final order dismissing the action on January 19, 2021. Despite the fact that Complainants are represented by the same counsel which initiated that litigation, the Complainants failed to bring their identical concerns to the Commission until eight months after the Wisconsin Voters Alliance Complaint was filed.

Presumably as a justification for the delay, Complainants point to certain open records requests that were filled in the early part of this year. However, when records requests were submitted or fulfilled is irrelevant to whether a complaint is timely, because the requests themselves do not constitute circumstances giving rise to a complaint. Rather, the pertinent inquiry is when the Complainants knew or should have known of those circumstances. In the months following the City's acceptance of the CTCL grant funds, none of the Complainants filed any records requests with the City, nor took any actions to object to the public actions of the City. That Complainants failed to read public notices, request records in a timely manner, or monitor the proceedings in a high profile litigation involving the same issues and legal counsel does not excuse their delay in bringing this action.

Moreover, although Complainants go to great lengths to detail the contents of many of those records request responses, the contents of those responses do not appear to have given rise to new legal arguments, as those proffered in the Complaint mirror those asserted in the unsuccessful cases decided last fall. Additionally, even though they now have extensive records at their disposal, Complainants make many of their allegations “on information and belief,” and ask the Commission to conduct additional investigations based solely on those spurious allegations. All of which, taken together, makes it clear that Complainants and their counsel seek to use the complaint procedure under Section 5.06 to sow further doubt relative to the outcome of the November 2020 election, or for other political purposes, rather than to make any credible allegations of violations of elections law by Respondents.

The Complainants knew or should have known about the circumstances giving rise to their Complaint in July of 2020. Yet they failed to exercise the “[e]xtreme diligence and promptness [that] are required in election matters, particularly where actionable election practices are discovered prior to the election,” *Trump v. Biden*, 2020 WI 91, ¶ 11, and instead unreasonably delayed over 10 months before filing the Complaint, and have provided no justification for such a delay. The first element of laches is therefore satisfied. *Id.* at ¶ 13.

The second element of laches requires that the Respondents lack knowledge that the Complaint would be filed. *Id.* at ¶ 23. Respondents and officials from myriad other jurisdictions have already had to respond to identical legal arguments in federal court, and, without exception, those legal arguments have been rejected.<sup>3</sup> In fact, Complainants’ counsel brought an action in

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<sup>3</sup> Although the plaintiffs in those actions were different from the Complainants here, Complainants’ counsel was an attorney of record for several such cases. *E.g.*, *Wisconsin Voters Alliance v. City of Racine, et al.*, No. 20-C-1487, 2020 WL 6578061 (E.D. Wis. Sept. 25, 2020); *Iowa Voters Alliance v. Black Hawk County*, No. C20-2078-LTS, 2020 WL 5894582 (N.D. Iowa Oct. 1, 2020); *Minnesota Voters Alliance v. City of Minneapolis*, No. 20-cv-2049-MJD-TNL, 2020 WL 5755725 (D. Minn. Sept. 24, 2020); *Pennsylvania Voters Alliance v. Centre County*, No. 4:20-cv-1761-MWB, 2020 WL 6578066 (M.D.Pa. Oct. 12, 2020); *Election Integrity Fund v. City of Lansing*, No. 20-cv-950, 2020 WL 5814277 (W.D. Mich. Sept. 29, 2020).

the Eastern District of Wisconsin against the Cities of Milwaukee, Madison, Green Bay, Racine, and Kenosha—against all of whom complaints substantially similar to the one at issue here have now been filed with the Commission—on the same grounds as those asserted in the Complaint, and that case was dismissed in its entirety after the Court determined that the plaintiffs were not likely to succeed on the merits. *Wisconsin Voters All. v. City of Racine*, No. 20-C-1487, 2020 WL 6129510 (E.D. Wis. Oct. 14, 2020); *Wisconsin Voters All. v. City of Racine*, No. 20-C-1487, 2021 WL 179166 (E.D. Wis. Jan. 19, 2021). Given the City’s previous success against the same legal arguments asserted here, as well as the failure of those arguments in federal courts across the country, Respondents did not have any reason to expect that they would be subject to yet another proceeding, in yet another forum, to relitigate this matter. In fact, if the Complainants subsequently initiate an appeal of the Commission’s dismissal of the Complaint to circuit court, the Court is likely to find that Complainants and their Counsel are pursuing a frivolous action.

Additionally, the City had spent the majority of the CTCL grant funds by Election Day, with most of the rest earmarked for paying employees and poll workers. Respondents had no reason to expect they would be subject to another proceeding about those grant funds when there had been plenty of time between the receipt of the funds and Election Day during which any challenges could have been brought, but none aside from the unsuccessful federal lawsuit had been. The Eastern District federal court had already issued its order before the election denying preliminary relief based on its finding that the plaintiffs in that case were unlikely to succeed on the merits. The second element of laches is therefore satisfied. *See Trump v. Biden*, 2020 WI 91, ¶ 23.

The final element of the laches analysis examines prejudice to the Respondents. “What amounts to prejudice . . . depends upon the facts and circumstances of each case, but it is generally



held to be anything that places the party in a less favorable position.” *Wren*, 389 Wis. 2d 516, ¶ 15. Respondents are prejudiced in several ways by Complainants’ unreasonable delay.

Respondents are also prejudiced by again having to respond to baseless claims that have already been addressed and rejected in several other fora. Back in September 2020, Complainants’ counsel, representing a different group of plaintiffs, brought suit against the City, as well as the Cities of Racine, Kenosha, Milwaukee, and Madison, based on the same legal theories. *Wisconsin Voters Alliance v. Racine*, 2020 WL 6578061. Rather than doing so concurrently with that lawsuit—or prior to filing that suit, as required by statute, WIS. STAT. § 5.06(2)—Complainants’ counsel did not file anything with the Commission until filing this Complaint six months after Judge Griesbach had already rejected the legal arguments contained therein.<sup>4</sup> Respondents should not have to relitigate previously decided issues simply because of Complainants’ counsel’s failure to utilize the proper avenue—that is, filing a complaint with the Commission—from the outset.

Relatedly, the principles of claim preclusion and issue preclusion are instructive here. Claim preclusion bars the relitigation of an entire *claim* between two parties to a lawsuit who were also parties in a previous lawsuit in which the same claim was resolved; issue preclusion prevents a party from relitigating an *issue* that was resolved in a previous lawsuit, even if the issue is related to a different claim in the new lawsuit. The underlying rationale for both of these doctrines is the idea that parties should not be given multiple “kicks at the can”; once an issue is decided, the parties cannot continue to sue one another in an attempt to yield a different outcome.

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<sup>4</sup> Judge Griesbach’s decision in *Wisconsin Voters Alliance v. City of Racine, et al.*, was one of many federal decisions concluding that, among other things, there was no merit to the claims that acceptance of CTCL grant funds constituted a violation of the Elections clause, the Supremacy Clause, and/or the Help America Vote Act. 2020 WL 6129510; also see, e.g., *Iowa Voter Alliance*, 2020 WL 6151559; *Texas Voters Alliance v. Dallas County*, 495 F. Supp. 3d 441; *Georgia Voter Alliance v. Fulton County*, 499 F. Supp. 3d 1250.

That idea is particularly applicable to this matter. Here, Respondents are prejudiced by having to respond to legal claims and issues identical to ones that have already been considered and rejected in other fora, including federal court and even complaints before this Commission. Not only have the legal theories advanced in the Complaint been universally rejected by federal courts across the country, as discussed in more detail below, but the Commission itself has already opined on the acceptance and use of private grant funds. Commission Administrator Meagan Wolfe testified to the Wisconsin Assembly Committee on Campaigns and Elections about complaints to the Commission that raised those specific issues, explaining, “[t]he Commission dismissed the complaint, noting that there is nothing in Wisconsin elections statutes which prohibits, proscribes, or even discusses grant funding.” (*Informational Hr’g on Green Bay Election Before the Assemb. Comm. on Campaigns and Elections*, 2021-22 Sess. (March 31, 2021) (testimony of Meagan Wolfe, Administrator, Wisconsin Elections Commission), [available at https://wiseye.org/2021/03/31/assembly-committee-on-campaigns-and-elections-14/](https://wiseye.org/2021/03/31/assembly-committee-on-campaigns-and-elections-14/) (4:40-5:15).)

The principles underlying claim and issue preclusion provide guidance on the issue of prejudice in this matter. In the same way that claim and issue preclusion protect a party to a lawsuit from harassment by another party who may otherwise endlessly file successive lawsuits and attempt to relitigate settled issues and/or claims, Respondents should be protected from having to relitigate the same specious arguments time and again, especially given that it has already been the subject of numerous lawsuits, appeals, hearings, investigations, and reports focused on substantially the same issues.

Complainants’ unreasonable delay further fundamentally prejudices Respondents because the City has accepted and spent the CTCL grant funds and Respondents had no reason to expect

that a Complaint such as this would be brought against them so long after the events complained occurred and were approved by a federal court. The proper time for bringing this matter to the Commission was after the City had accepted the grant funds and/or while the money was being spent. A complaint under Section 5.06 would have been more appropriate at that time, as Complainants could have asked the Commission to restrain Respondents from taking any actions the Commission determined were inconsistent with the law — including, if appropriate, spending any more of those funds. WIS. STAT. § 5.06(1). Instead of using section 5.06 to correct erroneous behavior as it is happening — in other words, in the manner in which it was intended to be used — Complainants waited months to file a Complaint that instead asks the Commission to examine the 2020 elections and use its findings to create forward-looking election laws about what money can be received and used by municipalities to fund future elections. A retrospective investigation followed by declarations of law to be applied to future elections is far less helpful than a timely-filed Complaint, and is not in line with the intent of section 5.06.

Respondents needed to know immediately if any error is made during the administration of any election, so as to correct the error, return the funds, and make adjustments to its election planning and processes. To claim error in this manner several months after an election, when it is too late for the City to take any corrective action, not only prejudices the City Respondents, but it prejudices every voter within the City of Madison who participated in the election according to the improved procedures and practices that the City was able to implement due to the CTCL grant funds.

Finally, the City has been and continues to be prejudiced by the ceaseless attacks on the free and fair election that occurred on November 3, 2020, and that prejudice has been amplified each time a new action, complaint, investigation, etc., has been initiated against the City. One

potentially significant impact of such a substantial delay in filing this Complaint is the continued undermining of public confidence in the legitimacy of the City's elections over an extended period of time. This is especially true when Complainants waited almost half a year, and then attempt to call the entire election into question yet again by dredging up the same legal arguments that have failed so many times before. Under these circumstances, prejudice to the City and its entire electorate is obvious, as is the harm to the City Respondents' credibility as public servants. As the Wisconsin Supreme Court succinctly put it:

Unreasonable delay in the election context poses a particular danger—not just to municipalities, candidates, and voters, but to the entire administration of justice. The issues raised in this case, had they been pressed earlier, could have been resolved long before the election. Failure to do so affects everyone, causing needless litigation and undermining confidence in the election results.

*Trump v. Biden*, 394 Wis. 2d 629, ¶ 30.

Complainants did not file the Complaint “promptly so as not to prejudice the rights of” the Respondents. WIS. STAT. § 5.06(3). They unreasonably delayed filing, doing so in May 2021, rather than July 2020, when the circumstances complained of arose; Respondents had no reason to suspect that they would be sued again after successfully overcoming a nearly identical challenge in federal court months ago; and Respondents have been prejudiced by that unreasonable delay. Accordingly, under both Section 5.06(3) and the doctrine of laches, the Complaint should be dismissed as untimely.

B. Probable Cause

Wisconsin Statutes section 5.06(1) requires that a complaint “set forth such facts . . . to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur.” *See also* WIS. ADMIN. CODE § EL 20.03(3). “Information which may establish probable cause includes allegations that set forth which persons are involved; what those persons are alleged to have done; where the activity is believed to have occurred; when the activity is alleged to have

occurred and who are the witnesses to the events.” *Id.* The Complaint does not establish probable cause that a violation of law has occurred, and therefore it should have been returned to Complainants upon initial review.<sup>5</sup>

As an initial matter, Mayor Rhodes-Conway is not a proper party to the Complaint based on the alleged wrongdoing. Wis. Stat. § 5.06 permits an elector to file a complaint against a local election official serving the elector’s jurisdiction. The Mayor is not a local election official.

More significantly, Complainants have not presented any legal argument in support of a claim of a violation of election laws which has not already been rejected by numerous courts across the country, as discussed in more detail later in this Answer. Though Complainants’ counsel was faulted by numerous courts for failing to articulate a *specific* provision of federal or state law that prohibits the acceptance of private grant funds to fund an election, *see, e.g., Wisconsin Voters Alliance*, 2020 WL 6129510; *Iowa Voter Alliance v. Black Hawk County*, No. C20-2078-LTS, 2020 WL 6151559 (N.D. Iowa Oct. 20, 2020); the instant Complaint also fails to identify with any specificity the election laws containing such a prohibition. (*See generally* Compl.) Without citing a statute that actually prohibits the conduct complained of, Complainants have fallen well short of demonstrating probable cause to believe that a violation of law or abuse of discretion occurred.

Requiring a probable cause finding before requesting an answer of Respondents is intended to screen out frivolous complaints which have no basis in law or fact. If the Commission received a complaint with allegations that contradicted clear statutes or court decisions, or its own precedent – such as an appeal to not enforce the Voter Photo ID Law, or to prohibit municipal clerks from issuing any absentee ballots -- it would reject it out of hand as lacking probable cause. Declining

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<sup>5</sup> Respondents respectfully submit that rather than requiring an Answer from Respondents, the adjudicators, standing in Administrator Wolfe’s position, should have conducted an initial determination as required by Wis. Admin. Code section EL 20.04(1) and sent the Complaint back to Complainants for being untimely and lacking probable cause.

to do so in this instance constitutes a failure to properly administer the § 5.06 process and a tremendous waste of time for the Respondents as well as the Commission.

Additionally, even after 30 pages of allegations related to the November 2020 election, Complainants make a prayer for relief that asks the Commission to conduct an investigation into the election and determine whether any state or federal election laws were violated. (Compl. p. 31.) They even request that said investigation consist of extensive fact-gathering via “document production, depositions, and testimony” of a whole host of individuals. (*Id.*) Even Complainants seem to be aware that they have not sufficiently shown probable cause to believe any election laws were violated: rather than articulating the specific legal and factual bases demonstrating probable cause, and requesting corresponding relief, Complainants instead ask the Commission to conduct an “investigation”— in essence, a fishing expedition — in the hopes of *possibly* finding some violation of the law. Complainants are far from providing the requisite who, what, where, when, and how required to show probable cause. WIS. ADMIN. CODE § EL 20.03(3). Accordingly, the Complaint should be dismissed, both as untimely and for failing to show probable cause to believe that a violation of law has occurred.<sup>6</sup>

## **II. Complainants’ Theories Find No Basis in Law**

Complainants assert that the City violated both Wisconsin and federal election laws by accepting the CTCL grant funds. Specifically, they assert that by accepting those funds, the City violated the Electors and Elections Clauses of the U.S. Constitution, as well as provisions of state law that delegate election administration authority exclusively to the Commission. As explained in this section, all of Complainants’ arguments fail—and in fact most have failed before.

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<sup>6</sup> Among their more bizarre allegations, the Complainants note concerns about compliance with the Open Meetings Law, and a jest from CTCL staff member that they should create “WI-5 t-shirts.” Neither the Open Meetings nor the production of t-shirts by private organizations are within the jurisdiction of the Commission as part of its 5.06 review.

Complainants also offer a second argument, alleging that Respondents also violated state law by agreeing to the conditions placed on the grant of funds by CTCL. Complainants point to no specific statutory provision that prevents a municipality receiving grant funds subject to conditions from the grantor. Moreover, as detailed in this section, multiple courts, including the U.S. District Court for the Eastern District of Wisconsin, have concluded that the arguments asserted in the Complaint fail to support the broader proposition—that is, that *any* receipt of private grant funds is a violation of applicable law. *E.g.*, *Wisconsin Voters Alliance*, 2020 WL 6129510, \*2 (“[T]he Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.”). Given that Complainants have not provided any legal support for their broader argument against all private grant funds, they certainly cannot provide such support for the more specific assertion that receipt of private grant funds *with conditions attached* is also prohibited. Accordingly, these two interrelated arguments will be treated as one for purposes of this Answer.

1. *Neither the Elections nor Electors Clause Prohibits Receipt of Grant Funds*

Complainants also assert that the City’s receipt of the CTCL grant funds violates the Elections and Electors Clauses of the U.S. Constitution. Those same assertions have been rejected in courts across the country, however, for the reasons explained in this section.

The Elections Clause gives state legislatures the authority to set the “times, places and manner” of federal elections, and gives Congress the authority to alter those regulations. U.S. Const. art. I, § 4, cl. 1. Federal laws concerning the time, place, and manner of federal elections are controlling when they directly conflict with state law. *Foster v. Love*, 522 U.S. 67, 69, 118 S. Ct. 464 (1997). Absent a directly contradictory federal law that conflicts with state law, however,

state law controls by default. *Texas Voters Alliance v. Dallas Cty.*, 495 F. Supp. 3d 441, 467, (E.D. Tex. 2020).

Complainants allege that “the election authority of Congress, the Wisconsin state legislature, the Commission and the Madison City Clerk “was and will continue to be illegally and unconstitutionally diverted by the Respondents to entities and persons including Madison's Common Council, its Mayor, private corporations and their employees,” ostensibly in violation of the Elections Clause. Complainants make no attempt to explain with specificity how the Elections Clause is implicated, however. Additionally, this same argument has already been rejected in other federal actions.

Analyzing an equivalent argument in the *Georgia Voters Alliance* case, Judge May, federal district court judge for the Northern District of Georgia, explained: “Fulton County[, Georgia]’s acceptance of private funds, standing alone, does not impede Georgia’s duty to prescribe the time, place, and manner of elections, and Plaintiffs cite no authority to the contrary.” *Georgia Voter Alliance v. Fulton County*, 499 F. Supp. 3d 1250, 1255 (N.D. Ga. 2020); *see also Iowa Voter Alliance*, 2020 WL 6151559, at \*3. Similarly, here, Complainants have not articulated any way in which the City’s acceptance of the CTCL funds has interfered with either the State of Wisconsin’s ability to prescribe the time, place, and manner of elections, or the ability of the federal government to alter those prescriptions. Accordingly, as they did in the federal cases, Complainants’ arguments on this point must fail.

The other law on which Complainants attempt to base their argument is the Electors Clause, which states that each state shall appoint a number of presidential electors “in such manner as the legislature thereof may direct.” U.S. Const. art. II, § 1, cl. 2. In support of their claim that Respondents may have violated the Electors clause, Complainants rely on a quote from the Seventh



Circuit’s decision in *Trump v. Wisconsin Elections Commission*, 983 F.3d 919, in which the court explained that in other cases, courts have found that departure from “legislative scheme for appointing electors”—that is, the statutory apportionment of responsibility for election administration—may constitute a violation of the Electors clause. 983 F.3d at 926-27 (citing *Bush v. Gore*, 531 U.S. 98, 116, 121 S. Ct. 525 (2000) (Rehnquist, C.J., concurring) (finding departure from election administration scheme in when Florida Supreme Court rejected the Secretary of State’s interpretation of election laws); *Carson v. Simon*, 978 F.3d 1051, 1060 (2020) (holding that the Minnesota Secretary of State likely violated the Electors Clause by extending the deadline for receipt of absentee ballots without having statutory responsibility for election administration)). Complainants conveniently truncated the paragraph when including it in the Complaint, however—the remainder of the paragraph states, “[b]y contrast, whatever actions the Commission took here, it took under color of authority expressly granted to it by the Legislature. And that authority is not diminished by allegations that the Commission erred in its exercise.” *Trump v. WEC*, 983 F.3d at 927. In other words, an officer or entity legislatively endowed with election-administration authority does not violate the Electors clause when acting under color of that authority.

As part of the “legislative scheme” for appointing electors in Wisconsin, the legislature has divided responsibility for the administration of elections. The legislature created the Commission in 2015 and endowed it with the responsibility for the administration of election laws. WIS. STAT. § 5.05. However, the legislature has also assigned significant authority and duties under state election laws to municipal clerks. *Id.* at § 7.15. Among their many statutory responsibilities, clerks are directed to “[e]quip polling places,” “[p]rovide for the purchase and maintenance of election equipment,” “[p]repare” and “distribute ballots and provide other supplies for conducting all

elections,” “[p]repare official absentee ballots,” “[p]repare the necessary notices and publications in connection with the conduct of elections or registrations,” “[t]rain election officials” and “advise them of changes in laws, rules and procedures,” and educate voters. WIS. STAT. §§ 7.15(1), (9), (11). The City Clerk’s office took necessary actions to fulfill its responsibilities for the administration of the elections in 2020. Those actions were taken under color of the authority granted by the Wisconsin Legislature, and, just as in the *Trump v. WEC* case, “that authority is not diminished by allegations that [the Clerk] erred in its exercise.” 983 F.3d 927. Just as with all of the other legal theories they have proffered, Complainants’ Electors Clause argument fails entirely.

## 2. *Home Rule Authority*

Complainants’ arguments also fail for reasons beyond the complete lack of federal or state law prohibiting the use of private grant funds. For one, municipalities, and municipal clerks in particular, possess broad authority with respect to the administration of elections within their jurisdictions. *See, e.g.*, WIS. STAT. § 7.15. This is also consistent with the long-established principles of home rule. Elements of the administration of elections are matters of statewide concern; accordingly, the legislature has created a statutory structure within which all elections must be administered, and has designated the Commission as the entity to administrate those laws.

Certain other elements of election administration, however, are matters of local concern, subject to local control under municipal home rule authority. Wis. Const. art. XI, § 3. A municipality may exercise its home rule authority to design the most appropriate solutions to fit its unique circumstances. This includes the state leaving it up to municipalities to fund election expenditures that exceed federal and state funds. Interpreting a substantially similar provision of Iowa law regarding the authority of counties, which administer elections in that state, Judge Leonard Strand, federal district court judge for the Northern District of Iowa, noted that “the duty

to fund elections is delegated to the counties,” and that accepting private grants to assist in fulfilling that obligation was consistent with that home rule authority. *Iowa Voter Alliance*, 2020 WL 6151559, at \*3.

In 2020, the City’s unique local circumstances included being in the middle of the COVID-19 pandemic, expecting exponentially higher numbers of absentee ballots than in past years, facing a critical shortage of poll workers, having spent the entire budget for all 2020 elections on the April 2020 election alone, and myriad other difficulties. Due to the absence of additional state funding and restrictions on the ability to municipalities to adequately fund local elections under these circumstances, the only workable solution was an influx of grant money to ensure that the City had necessary equipment and staff to make the fall elections run efficiently, smoothly, and in accordance with State laws and directives from the Legislature and the Commission. No statutory provision prohibits the City from accepting outside funding for the purpose of administering an election; the City was therefore well within its rights to seek out and accept the grant funds from CTCL, and to put those funds to use as described above.

### 3. *Commission Precedent and Estoppel*

As mentioned above, the Commission may have already addressed the issue of municipal receipt of private grant funds. Administrator Wolfe told the Assembly Committee on Campaigns and Elections that Commission staff worked with the City and others “to ensure that local election officials had the information and resources they needed to administer a successful election in November.” (*Informational Hearing on the Green Bay Election Before the Assemb. Comm. on Campaigns and Elections*, 2021-22 Sess. (March 31, 2021) (testimony of Meagan Wolfe, Administrator, Wisconsin Elections Commission), *available at* <https://wiseye.org/2021/03/31/assembly-committee-on-campaigns-and-elections-14/> (4:03-4:16)).

Administrator Wolfe further informed the Committee that a complaint concerning whether municipal election entities could accept and use private grant funds had been filed with the Commission, and that “the Commission dismissed the complaint, noting that there is nothing in Wisconsin elections statutes which prohibits, proscribes, or even discusses grant funding.” (*Id.* at 4:40 to 5:15.) The same is true about federal law. In short, there is nothing in any law Complainants cite, whether federal or state, that addresses the issue of private grant funding, let alone prohibits it. Accordingly, consistent with Commission precedent and the many federal cases that have preceded it, the Complaint should be dismissed.

### **III. Complainants Ask the Commission to Exceed Its Authority**

Complainants have seemingly chosen to bring their Complaint to the Commission because it provides them another venue in which to assert the same legal arguments that courts across the country have rejected. Rather than bringing a complaint alleging violations of specific provisions of state or federal law, however, Complainants instead attempt to politicize the complaint process established in Section 5.06 in a manner in which it was not intended to be used.

Perhaps even more egregiously, however, Complainants would have the Commission exceed its statutory authority by creating new election laws — essentially usurping legislative authority to do so. Wisconsin law gives the Commission responsibility for the *administration* of election laws, not authority to create new ones. WIS. STAT. § 5.05(1). That authority lies squarely within the purview of the legislature, as Judge Griesbach aptly explained:

Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. . . . These are all matters that may merit a *legislative* response but the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL.

*Wisconsin Voters Alliance*, 2020 WL 6129510, \*2 (emphasis added). Whether changes to existing laws should be made in order to prevent municipal acceptance of private grant funds is a question most appropriately decided in the Legislature, as it is not only far beyond the scope of a complaint under Section 5.06, it also exceeds the Commission's authority. Election laws are the purview of the legislature, and certainly should not be created by the Commission under circumstances such as these. Indeed, the Legislature is currently considering such legislation and if it is enacted the Commission and Wisconsin municipalities will be obligated to comply with it, presumably even in the face of a pandemic that disrupts and debilitates public services such as election administration.

### CONCLUSION

Concurring in the dismissal of the Wisconsin Voters Alliance's petition for an original action in the Wisconsin Supreme Court, Justice Brian Hagedorn commented on the legal and factual deficiencies in said petition, and offered the following caution:

At stake, in some measure, is faith in our system of free and fair elections, a feature central to the enduring strength of our constitutional republic. . . . Judicial acquiescence to such entreaties built on so flimsy a foundation would do indelible damage to every future election. . . . This is a dangerous path we are being asked to tread. The loss of public trust in our constitutional order resulting from the exercise of this kind of judicial power would be incalculable.

*Wisconsin Voters Alliance v. Wisconsin Elections Commission*, 2020AP1930-OA, Dismissal Order (Wis. Sup. Ct. Dec. 4, 2020) (Hagedorn, J., concurring). Though this action is in front of the Commission, rather than the courts, Justice Hagedorn's concerns are no less applicable. Complainants and others, often linked by shared counsel, have continually pursued frivolous claims against the City despite those same claims having failed in other fora. Respondents respectfully request that the Commission not indulge them any further.

For the foregoing reasons, Respondents respectfully request that the Commission dismiss the Complaint on its merits, with prejudice.

Dated this 15th day of June, 2021.

Respectfully submitted,



Michael Haas (State Bar No. 1020889)

Steven Brist (State Bar No. 1005479)

*Attorneys for Respondents City of Madison*

210 Martin Luther King, Jr. Blvd., Room 401

Madison, WI 53704

Telephone: (608) 266-4511

[mhaas@cityofmadison.com](mailto:mhaas@cityofmadison.com)

[sbrist@cityofmadison.com](mailto:sbrist@cityofmadison.com)

VERIFICATION

I, MICHAEL HAAS, being first duly sworn upon oath, state that I personally read the above verified Response, and that the above Response and attached Exhibits are true and correct based upon my personal knowledge.

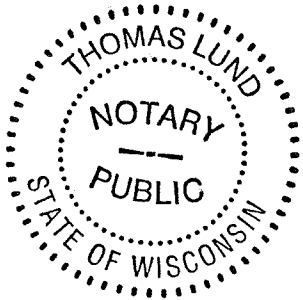
Dated June 15, 2021

Michael Haas  
Michael Haas  
City Attorney, City of Madison  
State Bar No. 102889

STATE OF WISCONSIN            )  
  )ss.  
COUNTY OF DANE                )

Signed and sworn before me this 15<sup>th</sup> day of JUNE, 2021, by  
THOMAS LUND

(Seal)



Thomas Lund  
Signature

CERTIFIED MUNICIPAL CLERK  
Title

My commission expires: 04/01/2023

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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WISCONSIN VOTERS ALLIANCE, et al.,

Plaintiffs,

v.

Case No. 20-C-1487

CITY OF RACINE, et al.,

Defendants.

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**ORDER DENYING MOTION FOR PRELIMINARY RELIEF**

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Plaintiffs Wisconsin Voters Alliance and six of its members filed this action against the Cities of Green Bay, Kenosha, Madison, Milwaukee, and Racine seeking to enjoin the defendant Cities from accepting grants totaling \$6,324,527 from The Center for Tech and Civic Life (CTCL), a private non-profit organization, to help pay for the upcoming November 3, 2020 election. Plaintiffs allege that the defendant Cities are prohibited from accepting and using “private federal election grants” by the Elections and Supremacy Clauses of the United States Constitutions, the National Voters Registration Act (NVRA), 52 U.S.C. §§ 20501–20511, the Help America Vote Act (HAVA), 52 U.S.C. §§ 20901–21145, and Section 12.11 of the Wisconsin Statutes, which prohibits election bribery. The case is before the Court on Plaintiffs’ Motion for a Temporary Restraining Order. The defendant Cities oppose Plaintiffs’ motion and have filed a motion to dismiss for lack of standing. Having reviewed the affidavits and exhibits submitted by the parties and considered the briefs and arguments of counsel, the Court concludes, whether or not Plaintiffs have standing, their Motion for a Temporary Restraining Order should be denied because Plaintiffs have failed to show a reasonable likelihood of success on the merits.

Exhibit A



It is important to note that Plaintiffs do not challenge any of the specific expenditures the defendant Cities have made in an effort to ensure safe and efficient elections can take place in the midst of the pandemic that has struck the nation over the last eight months. In other words, Plaintiffs do not claim that the defendant Cities are using funds to encourage only votes in favor of one party. It is the mere acceptance of funds from a private and, in their view, left-leaning organization that Plaintiffs contend is unlawful. Plaintiffs contend that CTCL's grants have been primarily directed to cities and counties in so-called "swing states" with demographics that have progressive voting patterns and are clearly intended to "skew" the outcome of statewide elections by encouraging and facilitating voting by favored demographic groups.

The defendant Cities, on the other hand, note that none of the federal laws Plaintiffs cite prohibit municipalities from accepting funds from private sources to assist them in safely conducting a national election in the midst of the public health emergency created by the COVID-19 pandemic. The defendant Cities also dispute Plaintiffs' allegations concerning their demographic make-up and the predictability of their voting patterns. The defendant Cities note that municipal governments in Wisconsin are nonpartisan and that, in addition to the five cities that are named as defendants, more than 100 other Wisconsin municipalities have been awarded grants from CTCL. The more densely populated areas face more difficult problems in conducting safe elections in the current environment, the defendant Cities contend, and this fact best explains their need for the CTCL grants.

Plaintiffs have presented at most a policy argument for prohibiting municipalities from accepting funds from private parties to help pay the increased costs of conducting safe and efficient elections. The risk of skewing an election by providing additional private funding for conducting the election in certain areas of the State may be real. The record before the Court, however, does

not provide the support needed for the Court to make such a determination, especially in light of the fact that over 100 additional Wisconsin municipalities received grants as well. Decl. of Lindsay J. Mather, Ex. D. Plaintiffs argue that the receipt of private funds for public elections also gives an appearance of impropriety. This may be true, as well. These are all matters that may merit a legislative response but the Court finds nothing in the statutes Plaintiffs cite, either directly or indirectly, that can be fairly construed as prohibiting the defendant Cities from accepting funds from CTCL. Absent such a prohibition, the Court lacks the authority to enjoin them from accepting such assistance. To do so would also run afoul of the Supreme Court's admonition that courts should not change electoral rules close to an election date. *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1207 (2020).

The Court therefore concludes that Plaintiffs have failed to show a reasonable likelihood of success on the merits. Plaintiffs' Motion for a Temporary Restraining Order and other preliminary relief is therefore **DENIED**. A decision on the defendant Cities' motion to dismiss for lack of standing will await full briefing.

**SO ORDERED** at Green Bay, Wisconsin this 14th day of October, 2020.

s/ William C. Griesbach  
\_\_\_\_\_  
William C. Griesbach  
United States District Judge

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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WISCONSIN VOTERS ALLIANCE, et al.,

Plaintiffs,

v.

Case No. 20-C-1487

CITY OF RACINE, et al.,

Defendants.

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**DECISION AND ORDER GRANTING DEFENDANTS' MOTION TO DISMISS**

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Plaintiffs Wisconsin Voters Alliance and seven of its members filed this action for injunctive and declaratory relief against five Wisconsin cities (Green Bay, Kenosha, Madison, Milwaukee, and Racine) that received grants totaling \$6,324,527 from the Center for Tech and Civic Life (CTCL), a private non-profit organization, to help pay for the November 3, 2020 general election. Plaintiffs allege that, in accepting conditional grants from a private corporation to conduct federal elections, the defendant Cities violated the Elections Clause and the First, Ninth, and Fourteenth Amendments to the United States Constitution. Plaintiffs allege that, in unconstitutionally pursuing and using “private conditional moneys to conduct federal elections,” the Cities undermined the integrity of “the election process as a social contract to maintain our democratic form of government.” Am. Compl. at 1, Dkt. No. 39.

On October 14, 2020, the Court denied Plaintiffs’ motion for preliminary relief enjoining the defendant Cities from accepting or using “private federal election grants” on the ground that they failed to show a reasonable likelihood of success on the merits. Order Denying Motion for Preliminary Relief at 1, Dkt. No. 27. The case is now before the Court on the defendant Cities’

motion to dismiss Plaintiffs' Amended Complaint for lack of standing. For the following reasons, the motion will be granted and the case will be dismissed.

## **BACKGROUND**

Plaintiffs consist of the Wisconsin Voters Alliance organization and residents of the various defendant Cities. Am. Compl. ¶¶ 5–11. The Wisconsin Voters Alliance is an organization that seeks to ensure “public confidence in the integrity of Wisconsin’s elections, in election results and election systems, processes, procedures, and enforcement, and that public officials act in accordance with the law in exercising their obligations to the people of the State of Wisconsin.” *Id.* ¶ 4. “The Wisconsin Voters Alliance also works to protect the rights of its members whenever laws, statutes, rules, regulations, or government actions . . . threaten or impede implied or expressed rights or privileges afforded to them under our constitutions or laws or both.” *Id.*

The CTCL is a private non-profit organization, funded by private donations of approximately \$350 million, that provides federal election grants to local governments. *Id.* ¶¶ 20–21. The CTCL distributed approximately \$6.3 million of federal election grants to the defendant Cities. *Id.* ¶ 23. The CTCL grants provided conditions governing the use of those private moneys, including that each city report back to the CTCL regarding the moneys used to conduct federal elections. *Id.* ¶¶ 89, 35. The local government entities accepted the conditions and agreed to adhere to the CTCL’s conditions. *Id.* ¶ 90. Plaintiffs allege that the conditions, as adopted by each defendant City, are additional regulations in the conduct of federal elections. *Id.* ¶ 96.

Plaintiffs allege that the local governments unconstitutionally pursued and used private conditional moneys to conduct federal elections, which undermined the “integrity of the election process as a social contract to maintain our democratic form of government.” *Id.* at 1. Plaintiffs claim that the use of conditional grants of private moneys violates the United States Constitution,

namely the Elections Clause under Article 1, Section 4, Clause 1 as well as the First, Ninth, and Fourteenth Amendments.

### ANALYSIS

Defendants assert that the amended complaint must be dismissed because Plaintiffs do not have Article III standing to assert claims against them. Standing is not an esoteric doctrine that courts use to avoid difficult decisions. Our system of government is designed to place the power to enact laws and implement policy in the hands of the people and their elected representatives, not unelected federal judges. Article III of the United States Constitution limits the jurisdiction of federal courts to actual “cases” or “controversies” brought by litigants who demonstrate standing. *Groshek v. Time Warner Cable, Inc.*, 865 F.3d 884, 886 (7th Cir. 2017). The doctrine of standing “serves to prevent the judicial process from being used to usurp the powers of the political branches.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 408 (2013). “In light of this ‘overriding and time-honored concern about keeping the Judiciary’s power within its proper constitutional sphere, we must put aside the natural urge to proceed directly to the merits of an important dispute and to “settle” it for the sake of convenience and efficiency.’” *Hollingsworth v. Perry*, 570 U.S. 693, 704–05 (2013) (quoting *Raines v. Byrd*, 521 U.S. 811, 820 (1997)) (alterations omitted). “In order to have standing, a litigant must prove that he has suffered a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable decision.” *Remijas v. Neiman Marcus Grp., LLC*, 794 F.3d 688, 691–92 (7th Cir. 2015) (citation omitted). The plaintiff bears the burden of pleading sufficient factual allegations that “plausibly suggest” each element. *Groshek*, 865 F.3d at 886 (citation omitted). “A case becomes moot when it no longer presents a case or controversy under Article III, Section 2 of the Constitution. ‘In general a case becomes moot when the issues presented are no longer live or the parties lack a

legally cognizable interest in the outcome.” *Eichwedel v. Curry*, 700 F.3d 275, 278 (7th Cir. 2012) (quoting *Murphy v. Hunt*, 455 U.S. 478, 481 (1982)).

### **A. Individual Plaintiffs**

The court concludes that the individual plaintiffs have failed to demonstrate that their injury is likely to be redressed by a favorable decision. “A plaintiff’s remedy must be tailored to redress the plaintiff’s particular injury.” *Gill v. Whitford*, 138 S. Ct. 1916, 1934 (2018) (citing *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 353 (2006)). “Relief that does not remedy the injury suffered cannot bootstrap a plaintiff into federal court; that is the very essence of the redressability requirement.” *Steel Co.*, 523 U.S. at 107. The plaintiff must demonstrate that it is “likely,” not merely “speculative,” that the injury he alleges will be “redressed by a favorable decision.” *Lujan*, 504 U.S. at 561 (citation omitted).

Plaintiffs assert that they have suffered an injury as a party to the “social contract” entered into between the government and the voter. Plaintiffs explain the social contract as follows: the government has agreed to protect the fundamental right to vote and maintain the integrity of an election as fair, honest, and unbiased, through federal and state election laws, and the voters agree to accept the government’s announcement of the winner of an election. Plaintiffs allege that each individual voter resides within the boundaries of a city that has added another regulatory level to elections, by a nongovernmental corporation, by accepting conditions for moneys in the conduct of elections and that they are harmed by the loss of the uniformity in the election process. They claim that, if a congressional house rejects the elected representatives after a finding that the election results are invalidated, the votes of each member of the Wisconsin Voters Alliance and the individual Plaintiffs will not count and they will lose representation in their individual districts. Am. Compl. ¶¶ 127–28. They maintain that, as a result, each voter from the local governmental

entities that accepted private grant moneys is disadvantaged and will suffer an injury. *Id.* ¶ 130. Plaintiffs assert that their disadvantage is not shared by all American people; it arises from the boundary within the city in which they reside and is not shared with voters residing in other cities that did not accept the conditions of nongovernmental corporate entities for conducting the election.

Plaintiffs have not established that any purported harm is likely to be redressed by a favorable decision. Plaintiffs' alleged harm is that the votes in their district may not count if the congressional house invalidates the election results in their districts because the municipalities in which they reside accepted CTCL grants. They request that the Court declare that the defendant Cities' acceptance of private funds through federal election conditional grants is unconstitutional under the Elections Clause, the First and Ninth Amendments of the United States Constitution, and the Equal Protection Clause and issue an injunction enjoining the defendant Cities from accepting or using the CTCL's private federal election grants.

It is unclear whether Plaintiffs have suffered an injury, let alone an injury that may be repeated in the future. A case becomes moot "when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome." *Murphy*, 455 U.S. at 481 (citation omitted). A congressional house did not invalidate the election results or reject Wisconsin's elected representatives. These circumstances forestall any occasion for meaningful relief. In addition, enjoining the defendant Cities from using the funds it has already received and spent will not redress Plaintiffs' purported injuries. The court is unable to grant relief that would effectively redress the alleged injury Plaintiffs claim to suffer.

Plaintiffs' amended complaint raises issues concerning a municipality's acceptance of funds from private parties to help pay for the increased costs of conducting safe and efficient

elections. The receipt of private funds for public elections may give an appearance of impropriety. While this concern may merit a legislative response, the “Federal Judiciary [must respect] ‘the proper—and properly limited—role of the courts in a democratic society.’” *Gill*, 138 S. Ct. at 1929 (quoting *Allen v. Wright*, 468 U.S. 737, 750 (1984)). The individual Plaintiffs have not established standing.

### **B. Wisconsin Voters Alliance**

As an organizational plaintiff, the Wisconsin Voters Alliance must demonstrate that it has standing “in its own right” because the organization itself has suffered a legally sufficient harm or “as the representative of its members.” *Warth v. Seldin*, 422 U.S. 490, 511 (1975). Wisconsin Voters Alliance asserts that it has associational standing. “[S]uch standing exists when: (a) the organization’s members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Com. Cause Indiana v. Lawson*, 937 F.3d 944, 957 (7th Cir. 2019) (internal quotation marks, alterations, and citations omitted). Wisconsin Voters Alliance cannot establish associational standing because its members cannot establish standing. Therefore, Wisconsin Voters Alliance lacks standing.

### **CONCLUSION**

Though this is a federal lawsuit seeking relief in a federal court, Plaintiffs have offered only a political argument for prohibiting municipalities from accepting money from private entities to assist in the funding of elections for public offices. They do not challenge any specific expenditure of the money; only its source. They make no argument that the municipalities that received the funds used them in an unlawful way to favor partisan manner. Their brief is bereft of any legal argument that would support the kind of relief they seek. They cite Article I, section 4,



of the United States Constitution, but that section governs the election of senators and representatives, and they fail to explain how, even if they had standing, the Cities' use of funds donated by a private party could have affected any such election. For these reasons, Defendants' motion to dismiss Plaintiffs' complaint for lack of standing (Dkt. No. 23) is **GRANTED**. This case is dismissed. The Clerk is directed to enter judgment accordingly.

**SO ORDERED** at Green Bay, Wisconsin this 15th day of January, 2021.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge

**STATE OF WISCONSIN  
BEFORE THE ELECTIONS COMMISSION**

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Yiping Liu, Kathleen Johnson, Susan N. Timmerman,  
Mary Baldwin, Bonnie Held

Complainants,

Case No. EL 21-33

v.

MEAGAN WOLFE, in her capacity as Administrator  
of the Wisconsin Elections Commission, SATYA  
RHODES-CONWAY, in her capacity as Mayor of the  
City of Madison, and MARIBETH WITZEL-BEHL,  
in her capacity as City Clerk of the City of Madison,

Respondents.

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**AFFIDAVIT OF MARIBETH WITZEL-BEHL**

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STATE OF WISCONSIN)

:ss

COUNTY OF DANE)

Maribeth Witzel-Behl, being first duly sworn, states as follows:

1. I am employed as the City Clerk by the City of Madison, Wisconsin (herein "City"). I have held this position since 2006.
2. The City applied for a grant in 2020 from the Center for Tech and Civic Life (herein "CTCL") in the amounts and for the purposes listed in the Grant Agreement and Wisconsin Safe Voting Plan (collectively "Agreement"). A copy of the signed Agreement is attached as part of this filing as Exhibit C.
3. The Safe Voting Plan referred to by the parties was part of the Grant Agreement and can be found as the Appendix to Exhibit C, starting at page 5 of the document.
4. The City received a grant in the amount of \$1,271,788.00 from CTCL.

**Exhibit B**

5. The CTCL grant was approved by the Madison Common Council at its July 14, 2020 meeting and the public notice of that meeting included two items related to 1) authorizing the City Clerk to apply for and accept a \$10,000 planning grant and 2) authorizing the City Clerk to apply for and accept a grant of \$1,271,788 from CTCL and making corresponding budget adjustments. A copy of the Agenda for the July 14 meeting is attached as Exhibit D to this filing.
6. In my capacity as City Clerk, I examined the Agreement, which awarded CTCL grant funds to the City and then set rules for how the funds were to be spent in support efforts to ensure safe voting in the 2020 election process.
7. Pursuant to the Agreement, the City was required to use the CTCL grant funds exclusively for the purpose of planning and operationalizing safe and secure election administration in the City in accordance with the Wisconsin Safe Voting Plan.
8. My office administered the CTCL grant for the City.
9. All of the CTCL grant money spent was done in accordance with the requirements set forth in the Agreement.
10. None of the CTCL grant money was used to engineer a certain election result or for any partisan purpose.
11. The CTCL grant money was used City-wide to protect the right to vote and provide for the safety of voters and those working at the polls during the COVID-19 pandemic. For example, the City of Madison used grant funds for the following purposes: rent for polling places in the community to replace free public places unavailable due to pandemic closures, plexiglass safety screens, hand sanitizer and equipment for workers at polling places, secure ballot bags, and public advertising to encourage members of the public to create their own safe voting plan and inform them of their options.
12. In addition, the City spent grant monies to pay for COVID-19 stipends as follows: \$750 to each polling place and \$8.17/per hour of COVID-19 hazard pay in addition to the regular hourly wage to each of approximately 4,237 poll workers who were not volunteers.
13. I did not interpret the terms of the CTCL grants as imposing “private corporate conditions” on the conduct of Madison elections. The City of Madison received its grant money pursuant to a “Safe Voting Plan” which was wholly consistent with the public policy underpinnings of free and fair elections, and which was approved by the Madison Common Council on July 14, 2020.

14. My role as City Clerk was not relegated to that of an “election administration bystander” during the conduct of the 2020 elections, as alleged in the Complaint, and I continued to supervise the conduct of the elections and election inspectors as required under Wisconsin Statutes.
15. I was not instructed or required by CTCL to use any particular services or partnering entities in carrying out Madison’s Safe Voting Plan.
16. Based upon my 14 years of experience as City Clerk, my training and understanding of my duties under Wisconsin law, all of the uses to which Madison put the grant funds were within my authority and part of my duties pursuant to Wis. Stats. Sec. 7. 15.

Maribeth Witzel-Behl

Maribeth Witzel-Behl, City Clerk

City of Madison

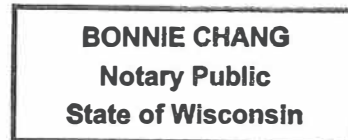
Subscribed and sworn to before me  
this 14 day of June, 2021.

Bonnie Chang

Bonnie Chang

Notary Public, Dane County, WI.

My Commission is/expires Sept 16, 2024





CENTER FOR  
TECH AND  
CIVIC LIFE

July 24, 2020

City of Madison

Dear Mayor Rhodes-Conway,

I am pleased to inform you that the Center for Tech and Civic Life ("CTCL") has decided to award a grant to support the work of the City of Madison.

The following is a description of the grant:

**AMOUNT OF GRANT:** One million, two hundred seventy-one thousand, seven hundred eighty-eight US dollars (USD \$1,271,788.00).

**PURPOSE:** The grant funds must be used exclusively for the public purpose of planning and operationalizing safe and secure election administration in the City of Madison in accordance with the Wisconsin Safe Voting Plan 2020 ("Appendix").

Before we transmit these funds, we ask that you sign this agreement promising to use the grant funds in compliance with United States tax laws. Specifically, by signing this letter you agree to the following:

1. The City of Madison is a U.S., state, or local government unit or political subdivision in the meaning of 26 USC 170(c)(1).

Exhibit C

2. This grant shall be used only for the public purpose described above, and for no other purpose.
3. The City of Madison shall not use any part of this grant to give a grant to another organization unless CTCL agrees to the specific sub-recipient in advance, in writing.
4. The City of Madison has produced a plan for safe and secure election administration in 2020, including an assessment of election administration needs, budget estimates for such assessment, and an assessment of the impact of the plan on voters. This plan is attached to this agreement as an Appendix. The City shall expend the amount of this grant for purposes contained in this plan by December 31, 2020.
5. This grant is intended to support and shall be used solely to fund the activities and purposes described in the plan produced pursuant to paragraph 4.
6. The City of Madison shall produce a report documenting how this grant has been expended in support of the Appendix. This report shall be provided to CTCL by January 31, 2021.
7. The City of Madison shall not reduce or otherwise modify planned municipal spending on 2020 elections, including the budget of the City Clerk of Madison ("the Clerk") or fail to appropriate or provide previously budgeted funds to the Commission for the term of this grant. Any amount reduced or not provided in contravention of this paragraph shall be repaid to CTCL up to the total amount of this grant.
8. CTCL may discontinue, modify, withhold part of, or ask for the return of all or part of the grant funds if it determines, in its sole judgment, that (a) any of the above conditions have not been met or (b) it must do so to comply with applicable laws or regulations.
9. The grant project period of June 15, 2020 through December 31, 2020 represents the dates between which covered costs may be applied to the grant.



10. In the performance of work under this contract, CTCL agrees not to discriminate against any employee or applicant for employment because of race, religion, marital status, age, color, sex, handicap, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs or student status. CTCL further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

Your acceptance of these agreements should be indicated below. Please have an authorized representative of The City of Madison sign below, and return a scanned copy of this letter to us by email at [grants@techandcivicliflife.org](mailto:grants@techandcivicliflife.org)

On behalf of CTCL, I extend my best wishes in your work.

Sincerely,

Tiana Epps Johnson  
Executive Director  
Center for Tech and Civic Life

Accepted on behalf of the City of Madison:

By: 

Title: SATYA FLOODS-COWMAN, Mayor



Date: 7-27-2020

**APPENDIX:** Wisconsin Safe Voting Plan 2020 Submitted to the Center for Tech & Civic Life  
June 15, 2020



CENTER FOR TECH & CIVIC LIFE

[HELLO@TECHANDCIVICLIFE.ORG](mailto:HELLO@TECHANDCIVICLIFE.ORG)

PAGE 4





**Wisconsin Safe Voting Plan 2020  
Submitted to the Center for Tech & Civic Life  
June 15, 2020**

The State of Wisconsin found itself in the midst of an historic election in April of 2020 when statewide elections occurred in the midst of the COVID-19 pandemic. These elections included not only the presidential preference vote, but also local races for city councils, county boards, school board, and mayors, a statewide election for a seat on the Wisconsin Supreme Court, and numerous district-wide school referenda.

Municipalities were required to make rapid and frequent adjustments to ensure compliance with the rapidly changing Supreme Court, Wisconsin Supreme Court, and Wisconsin Election Commission (WEC) rulings about the election. (The April 2020 Election may go down in history as the only election in which the Wisconsin Supreme Court and the US Supreme Court weighed in on the same day on how the election would be conducted.)

The shifting legal landscape was also complicated by the extraordinary lengths municipal clerks went to to ensure that both voting and election administration were done in accordance with prevailing public health requirements.

As mayors in Wisconsin's five biggest cities - Milwaukee, Madison, Green Bay, Kenosha, and Racine - we seek to work collaboratively on the two remaining 2020 elections (August 11th and November 3rd) to: safely administer elections to reduce the risk of exposure to coronavirus for our residents as well as our election officials and poll workers; identify best practices; innovate to efficiently and effectively educate our residents about how to exercise their right to vote; be intentional and strategic in reaching our historically disenfranchised residents and communities; and, above all, ensure the right to vote in our dense and diverse communities.

**Table 1: Summary of Municipalities' Electorate Data, June 2020**

	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>
<b>Estimated Eligible Voters</b>	71,661	73,000	213,725	430,000	56,000
<b>Registered Voters</b>	52,064	47,433	178,346	294,459	34,734
<b>2020 Election Budget</b>	\$329,820	\$205,690	\$2,080,283	\$2,986,810	\$409,529

All five jurisdictions share concerns about how to best facilitate voter participation and limit exposure to coronavirus. All five jurisdictions spent all or most of the budgeted resources for all of 2020 on the extraordinary circumstances this Spring. If no plan is approved, it will leave communities like ours with no choice but to make tough decisions between health and the right to vote; between budget constraints and access to fundamental rights. The time that remains between now and the November Election provides an opportunity to plan for the highest possible voter turnouts in the safest possible ways.

We are collectively requesting a total of \$6,324,527 as summarized in Table 3 below and detailed extensively in the plan.

### **Review of the April 2020 Election**

The April 2020 election placed two sacred duties of cities in conflict: keeping our residents safe and administering free and fair elections. Since Wisconsin's elections are administered at the municipal level, each municipality was on its own to deal with these dynamics. Our Municipal Clerks and their staff are all remarkable public servants, who responded nimbly and effectively to marshal the resources needed to run these elections under exceedingly challenging circumstances. In this election, all five of our municipalities faced:

- Precipitous drop-offs of experienced poll workers;
- A scramble to procure enough PPE to keep polling locations clean and disinfected and to mitigate COVID-19 risk for election officials, poll workers, and voters;
- A never-before-seen increase in absentee ballot requests;
- High numbers of voters who struggled to properly submit required photo ID and/or provided insufficient certification of absentee ballot envelopes; and
- Voters who, understandably, were completely confused about the timeline and rules for voting in the midst of a pandemic and required considerable public outreach and individual hand-holding to ensure their right to vote.

See Table 2, below, for detailed data on all five municipalities' April 2020 absentee mail and in-person early voting experiences.

**Table 2: Summary of Municipalities' Experiences in April 2020 Election**

	Green Bay	Kenosha	Madison	Milwaukee	Racine
# of voters who requested absentee ballots for April election	15,509	16,017	89,730	96,712	11,615
# of absentee ballots successfully cast in April	11,928	13,144	77,677	76,362	9,570
# of absentee ballot requests unfulfilled due to insufficient photo ID	Unknown	Unknown	1,840	2.5%	Estimated hundreds
# of absentee ballots rejected due to incomplete certification	312	196	618	1,671	368
# of secure drop-boxes for absentee ballot return	1	2	3	5	1
# of days of early voting	12	10	19	14	13
Use curbside voting for early voting?	✓	✗	✓	✓	✓
# of voters who voted in-person early absentee	778	85	4,930	11,612	1,543
# of additional staff enlisted for election-related efforts	86	60	225	95	20
\$ spent on PPE	\$2,122	\$13,000	\$6,305	Unknown	Unknown
# of polling locations	2	10	66	5	14
Use drive-thru or curbside voting on Election Day?	✓	✗	✓	✓	✓

## **Comprehensive Election Administration Needs for 2020**

In early June 2020, all five municipal clerks and their staff, with review and support from all five cities' Mayors and Mayoral staff, completed a detailed, multi-page template (attached) providing both data and information about the municipalities' election plans and needs. This Wisconsin Safe Voting Plan 2020 is based on that comprehensive information. All five of our municipalities recommend the following four strategies to ensure safe, fair, inclusive, secure, and professional elections in our communities for the remaining 2020 elections:

### **Recommendation I: Encourage and Increase Absentee Voting (By Mail and Early, In-Person)**

1. Provide assistance to help voters comply with absentee ballot requests & certification requirements
2. Utilize secure drop-boxes to facilitate return of absentee ballots
3. Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing
4. Expand In-Person Early Voting (Including Curbside Voting)

### **Recommendation II: Dramatically Expand Strategic Voter Education & Outreach Efforts, Particularly to Historically Disenfranchised Residents**

### **Recommendation III: Launch Poll Worker Recruitment, Training & Safety Efforts**

### **Recommendation IV: Ensure Safe & Efficient Election Day Administration**

As detailed in this plan, our municipalities are requesting **a total of \$6,324,567** to robustly, swiftly, comprehensively, and creatively implement these four strategic recommendations in each of our communities. That request is summarized as follows in Table 3, below, and detailed extensively in the remainder of this plan.

**Table 3: Summary of Resources Needed to Robustly Implement All Four Recommendations**

<b>Recommendation</b>	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>	<b>Totals</b>
<b>Encourage and Increase Absentee Voting By Mail and Early, In-Person</b>	\$277,000	\$455,239	\$548,500	\$998,500	\$293,600	\$2,572,839
<b>Dramatically Expand Strategic Voter Education &amp; Outreach Efforts</b>	\$215,000	\$58,000	\$175,000	\$280,000	\$337,000	\$1,065,000
<b>Launch Poll Worker Recruitment, Training &amp; Safety Efforts</b>	\$174,900	\$145,840	\$507,788	\$800,000	\$181,500	\$1,810,028
<b>Ensure Safe &amp; Efficient Election Day Administration</b>	\$426,500	\$203,700	\$40,500	\$76,000	\$130,000	\$876,700
<b>Totals:</b>	<b>\$1,093,400</b>	<b>\$862,779</b>	<b>\$1,271,788</b>	<b>\$2,154,500</b>	<b>\$942,100</b>	<b>\$6,324,567</b>

## **Recommendation I: Encourage & Increase Absentee Voting By Mail and Early, In-Person**

Of all the things that need to be done to ensure access and safety at the polls, this is perhaps the most important and timely. It is time, resource, and labor intensive but results in the voter being able to vote by mail or from the relative safety of their car or at a socially distanced and carefully planned early voting site.

### **Overview of Absentee Voting in Wisconsin**

Before discussing our strategies and plans to encourage and increase absentee voting, both by mail and in-person, early voting, it's important to first understand the absentee voting context in Wisconsin.

There are two ways to vote early in Wisconsin: in-person and through the mail. Both are technically called "absentee voting," a phrase held over from a time when absentee voting required you to affirm that you were over 80, ill, or going to be out of the municipality on Election Day. Those requirements no longer exist in the statutes, and people can vote early, or absentee, for any reason. The April 2020 election saw dramatic increases in the number of absentee ballot requests over previous elections.

While for many regular voters, absentee voting - whether completed by mail or early, in-person - is a relatively easy process, our five cities understand that absentee voting does not work easily for all voters. Our communities of color, senior voters, low-income voters without reliable access to the internet, people with disabilities, and students all have legitimate concerns about the absentee voting process.

Voting absentee by mail has been complicated by the fairly recent imposition of state law requiring voters to provide an image of their valid photo ID prior to first requesting an absentee ballot. While this works relatively easily for voters who have valid photo IDs and the technology necessary to upload an image file of that valid ID into the state's myvote.wi.gov website, it does not work well or easily for other voters who do not have valid photo ID (complicated by closure of DMVs due to the pandemic), lack access to reliable internet (also complicated by coronavirus-related closures or reduced hours at libraries and community centers, leaving those residents without regular public internet access that our municipalities normally provide), those who don't have smart phones to take and upload photos, and those who need additional education about what constitutes a valid photo ID. (For example, countless voters in our municipalities attempted to submit "selfies" as valid photo ID. Explaining to them that this was not a valid form of photo ID and instructing them on how to properly submit valid ID took considerable staff time and resources.)

Once the absentee ballot is received, it must be completed correctly to be successfully cast, and there are numerous certification requirements on the absentee ballot envelope; if not correctly completed, the ballot could be rejected. Prior to this April's

election, very small numbers of voters had traditionally chosen to cast ballots by mail. Municipal clerks' offices simply were not prepared and do not have the staffing or technological resources needed to quickly process dramatically higher numbers of absentee ballot requests, troubleshoot problems, answer voter questions, provide information and to expedite the processing of thousands of received absentee ballots on Election Day.

In-person early absentee voting also poses challenges for voters and election administrators. While all of our communities had previously offered early voting locations and hours, April's election required election officials to creatively and quickly expand in-person early voting opportunities, including curbside voting, all while prioritizing necessary COVID-19 precautions.

As indicated by Table 4, below, all five of our municipalities are already experiencing dramatic increases in the number of voters requesting to vote absentee, compared to pre-pandemic, and must procure resources to enable voters in our communities to meaningfully access absentee voting.

**Table 4: Absentee Ballots in All Municipalities as of June 2020**

	<b>Green Bay</b>	<b>Kenosha</b>	<b>Madison</b>	<b>Milwaukee</b>	<b>Racine</b>
<b># of voters on permanent absentee list prior to 2/18/20</b>	1,628	1,856	2,062	6,252	613
<b># of voters on permanent absentee list as of 4/7/20</b>	4,306	3,469	8,665	23,374	2,684
<b># of voters who have already requested absentee ballots for August 2020</b>	5,162	9,450	36,092	53,438	3,389
<b># of voters who have already requested absentee ballots for November 2020</b>	4,859	9,123	34,164	50,446	3,204

We are committed to making voting accessible via mail, in-person prior to Election Day, and at the polls on Election Day. Particularly in the midst of a global pandemic when many voters are rightfully apprehensive about in-person voting, we want to ensure that voters in our communities know they have options and we are committed to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.

Increasing the number of voters who cast votes prior to Election Day minimizes the risk of spreading COVID-19 on Election Day from in-person contacts at our polling locations, and it reduces the chance for lines and delays in voting on Election Day.

The Wisconsin Election Commission (WEC) has approved a proposal to mail all registered voters absentee ballot request forms, which allows our five communities to focus on helping voters overcome the barriers to successfully returning those forms so they can obtain, and then successfully submit, their completed absentee ballots. This measure will provide absentee request information directly to voters, alleviating the need for municipalities to expend the cost to send the mailing. However, it is unclear how this measure will affect the workload of municipal clerks. Although the WEC has directed that the forms be returned to the WEC for entry, municipal clerks must still review each record, process, mail, record receipt and canvass each absentee ballot.

All of our municipalities anticipate continued large increases in absentee voting based on the April 2020 trends. Milwaukee, for example, anticipates that 80% of residents will vote absentee by mail for both the August primary and the November general election.

All five cities have identified numerous barriers to successful absentee voting, including: voters facing numerous challenges to successfully submitting valid photo ID; voters needing assistance complying with absentee ballot certification requirements, including obtaining the required witness signature on the absentee ballot return envelope; the labor-intensive process faced by all of our clerks' offices of processing absentee ballot requests; and U.S. Postal Service errors and mail delays. All of these are challenges for our municipalities in normal elections, but they are all compounded by the coronavirus pandemic, and made exponentially more difficult by the unprecedented volume of absentee voting requests. This puts tremendous strain on municipal election clerks and their staff.

Our five cities share the desire to assist as many residents as possible with casting ballots before Election Day, serving as the greatest opportunity we have to mitigate the spread of COVID-19 in our communities. We have identified several strategies to help voters in each of our communities overcome these barriers to successful absentee voting, both by mail and in-person early voting.

Overall, our five communities are requesting **\$2,572,839** in resources related to enabling our municipalities to overcome these particular barriers and ensure that our voters can meaningfully access absentee voting, both by mail and in-person early voting. These strategies and resource needs are broken down into four distinct component recommendations, within the overall umbrella of increasing and encouraging absentee voting:



**1. Provide assistance to help voters comply with absentee ballot requests & certification requirements**

- **Green Bay:** The City would like to employ bilingual LTE “voter navigators” (\$45,000) to help residents properly upload valid photo ID, complete their ballots and comply with certification requirements, and offer witness signatures. These voter navigators can assist voters prior to the elections and then also be trained and utilized as election inspectors. They would also like to utilize paid social media and local print and radio advertising to educate and direct voters in how to upload photo ID and how to request and complete absentee ballots. (\$2,000)  
**Total: \$47,000**
- **Kenosha:** The City would like to have Clerk’s staff train library staff on how to help residents request and complete absentee ballots, would like to produce (\$3,000) and mail (\$26,200) a bilingual absentee ballot instruction sheet with all absentee ballots to increase correctly completed and submitted ballots. The City would like to hire a trainer for seasonal election workers, volunteers and poll workers. This employee would also coordinate assignments to polling locations, the early driver up voting site, the Clerk’s office for assistance in processing, data entry and filing of absentee requests and the Absentee Board of Canvassers (approximately \$50,000). The increase in absentee ballots due to COVID-19 has tremendously increased the workload of the department. In order to properly serve the citizens and voters additional LTE employees are needed (approximately \$175,000). **Total: \$254,200**
- **Madison:** Plans to hold curbside “Get your ID on File” events with the Clerk this summer utilizing volunteers or paid poll workers (\$15,000) equipped with PPE (estimated \$5,000) and digital cameras (\$4,500) to capture voter ID images for voters who are unable to electronically submit their IDs to the Clerk’s office. They also need large flags to draw attention to these curbside sites (\$4,000). Would also like mobile wifi hotspots and tablets for all of these sites (\$100,000) so voters could complete their voter registration and absentee requests all at once, without having to wait for staff in the Clerk’s office to follow up on paper forms. (These mobile wifi hotspots, tablets, and flags, could all then be repurposed for early in-person voting closer to the election.) **Total: \$128,500**
- **Milwaukee:** The City notes that the biggest obstacle to Milwaukee residents, particularly those in poverty, to applying for an absentee ballot in April was access to the internet and securing an image of their photo ID. To address this, the City will be promoting and utilizing Milwaukee Public Library branch staff (\$90,000 for both elections) for 3 weeks prior to each election to assist any potential absentee voters with applying, securing, and uploading images of their valid photo ID. **Total: \$90,000**
- **Racine:** The City will recruit and promote (\$1,000), train (\$3,000), and employ paid Voter Ambassadors (\$8,000) who will be provided with both PPE and

supplies (\$4,000) and set up at the City's community centers to assist voters with all aspects of absentee ballot request, including photo ID compliance. Due to the increase of absentee mailed requests the City of Racine will need an additional 2 full time staff members in the Clerk's Office in order to have a reasonable turn-around time for absentee requests (\$100,000). Total: **\$116,000**.

**Total: \$635,700**

## **2. Utilize Secure Drop-Boxes to Facilitate Return of Absentee Ballots**

Our five communities all share a desire to expand voters' ability to easily return absentee ballots to the municipality without having to rely on the postal service, since, after April's election, many voters are (rightfully) apprehensive that putting their completed ballot in the mail does not guarantee it will be received and counted by the municipality by statutory deadlines. Voters also need to have confidence that they are returning their completed absentee ballots into secure containers that are not at risk of tampering. All five cities need resources to purchase additional secure drop-boxes and place them at key locations throughout their cities, including libraries, community centers, and other well-known places, to ensure that returning completed ballots is as secure and accessible to voters throughout our cities as possible.

- **Green Bay:** The City would like to add secure (security cameras \$15,000) ballot drop-boxes (approximately \$900 each) at a minimum of the transit center and two fire stations, but if funding were available would also install secure drop boxes at Green Bay's libraries, police community buildings, and potentially several other sites including major grocery stores, gas stations, University of Wisconsin Green Bay, and Northern Wisconsin Technical College, in addition to the one already in use at City Hall. **Total: \$50,000**
- **Kenosha:** The City currently has two drop-boxes that are checked throughout the day, and would like to install 4 additional internal security boxes at Kenosha libraries and the Kenosha Water Utility so that each side of town has easy access to ballot drop-boxes. **Total: \$40,000**
- **Madison:** The City would like to have one secure drop box for every 15,000 voters, or 12 drop boxes total (\$36,000). The City would also like to provide a potential absentee ballot witness at each drop box, utilizing social distancing and equipped with PPE (staff costs unknown): **Total: \$50,000**
- **Milwaukee:** The City would like to install secure 24-hour drop boxes at all 13 Milwaukee Public library branches, staffed with socially distanced volunteers to serve as witnesses. **Total: \$58,500**

- **Racine:** The City currently has one secured drop box for absentee ballots, and would like to have 3 additional drop boxes, each equipped with security cameras, to install at key locations around the City. **Total: \$18,000.**

**Total: \$216,500**

### **3. Deploy Additional Staff and/or Technology Improvements to Expedite & Improve Accuracy of Absentee Ballot Processing**

The process of assembling and mailing absentee ballots is labor-intensive, slow, and subject to human error. Absentee ballot requests must be approved and entered into the statewide system, labels must be printed and applied to envelopes, ballots must be initialed, folded, and inserted into the envelope along with instructions. Ballots must be logged when received back from the voter. Undeliverable ballots must be reviewed, reissued or canceled. When voters make mistakes on ballots the requests to reissue must be completed. These tasks are time-consuming and utilizing existing clerk's office staff pulls them away from all of the other service requests, phone answering, and tasks handled by busy municipal clerks' offices.

The tremendous increase in absentee ballot requests in April was unprecedented, and municipal clerks and their staff were unprepared for the volume. They responded remarkably well - particularly since many of their staff were, by late March and early April, working remotely or, at a minimum, all needing to adhere to social distancing and masking precautions when working together in the same room - but all five municipalities need additional resources to accurately and swiftly process absentee ballot requests.

- **Green Bay:** The City needs 45 additional staff to process absentee ballot requests before the election, to open and verify envelopes on Election Day, and insert them into the tabulators. After the election, staff are needed to enter new voter registrations and assist with all election certification tasks (\$140,000 for staffing) The City would also like to purchase a ballot opener and ballot folder to expedite processing (\$5,000). **Total: \$145,000.**
- **Kenosha:** The City needs resources for absentee ballot processing, to staff and process early, in-person absentee requests, and to answer voters' questions (approximately \$100,000). Additional workers are also needed to canvass absentee ballots (approximately \$11,000) **Total: \$111,000**
- **Madison:** Based on data from April, the City estimates it will need additional staffing (\$110,000) for hourly election clerks for the fall elections, and will incur

additional overtime costs (\$100,000) for staff processing of absentee ballots and other election-related tasks. **Total: \$210,000**

- **Milwaukee:** Given its tremendous volume of absentee ballot requests and processing tasks which far exceeds that of the other municipalities, Milwaukee would like to completely automate and expedite the assembly and mailing of requested absentee ballots. The City would like to purchase a high-speed, duplex printer, a top-of-the-line folding machine, and a high quality folding and inserting machine. This would reduce staff costs and eliminate the use of absentee labels, by enabling the City to print directly onto inner and outer envelopes. This would also allow the City to have a small 2D barcode that the inserter machine would be able to scan to ensure that the outer envelope is for the same voter; increasing quality controls. This automation would enable the City to eliminate the assembly delay no matter the volume of daily absentee requests, allowing experienced election workers and previously trained election temporary employees to be re-deployed to early voting sites as supervisors and lead workers. **Total: \$145,000**
- **Racine:** To process absentee ballot requests in April, the City estimates that it will need seven additional full-time employees to process fall election requests. These employees will be needed full-time for one month prior to the August Election (approximately \$17,000) and seven weeks prior to the November election (approximately \$30,000). **Total: \$47,000**

**Total: \$658,000**

#### **4. Expand In-Person Early Voting (Including Curbside Voting)**

For a variety of reasons, many voters in our municipalities do not want to vote by mail and prefer to vote in-person. As a result of the coronavirus, far more voters are interested in early, in-person absentee voting (EIPAV) than we've seen in previous elections, wishing to avoid lines or crowds on Election Day. All five municipalities would like to have resources to accommodate these early, in-person voters. Expanding access to early, in-person voting also will lessen lines at polling places on Election Day and allow for proper social distancing and other pandemic precautions to be uniformly implemented.

Curbside and drive-thru voting have been very popular with residents of our municipalities, particularly for those with health concerns who can remain in the cars and have a virtually contact-less voting process. For example, Milwaukee previously operated in-person early voting for one week leading up to the April election at three sites and then transitioned to one site of drive-thru voting. 11,612 cast ballots through these options: 5,571 via in-person and 6,041 at drive-thru, and these numbers represent a 46% increase over April 2016 "early voting" totals. However, it is slow-moving and

labor-intensive. Additionally, particularly in the larger cities among us, it requires law enforcement and traffic control assistance to help manage traffic.

- **Green Bay:** The City would like to expand and establish at least three EIPAV sites in trusted locations, ideally on the east (potentially UWGB) and west sides (potentially NWTC or an Oneida Nation facility) of the City, as well as at City Hall. The City is planning to offer early voting starting two weeks before each election, with several weekdays available until 6:30pm and Saturdays 10am-4pm. They would like to staff these early voting sites with election inspectors who are bilingual and would like to increase the salary rate for these bilingual election inspectors to assist with recruitment and retention, as well as in recognition of their important role at these sites. The City also will need to print additional ballots, signage, and materials to have available at these early voting sites. **Total: \$35,000.**
- **Kenosha:** The City plans to have one early voting location, at City Hall, and plans to hold early voting two weeks before the August election, with no weekend or evening hours planned, and 4 weeks before the November election, with access until 7pm two days/week and Saturday voting availability the week before the election. If City Hall is still closed to the public, they will explore offering early drive thru voting on City Hall property. Resources are needed for staffing (approximately \$40,000), PPE (\$1,050), signage (\$200), laptops, printers, and purchase of a large tent (\$8,789) to utilize for drive thru early voting. Staff could see voters' ID, print their label, hand them their ballot, and then collect the completed envelope. This would also allow staff to help voters properly do certification and provide witness signatures if necessary. The City could do this for one full week before elections. **Total \$50,039.**
- **Madison:** The City would like to provide 18 in-person absentee voting locations for the two weeks leading up to the August election, and for the four weeks leading up to the November election. Their original plan was to offer in-person absentee voting at all nine library locations, the City Clerk's Office, a city garage, Edgewood College, two Madison College locations, and four UW-Madison locations. Due to weather uncertainties, they will need to purchase and utilize tents (\$100,000) for the curbside voting locations in order to protect the ballots, staff, and equipment from getting wet and will also need large feather flags to identify the curbside voting sites. (Additional staff costs covered by the earlier question re. Absentee ballot processing.) The City would also like to get carts (\$60,000) for our ExpressVote accessible ballot marking devices so we can use the ExpressVote for curbside voting to normalize the use of ExpressVote to help voters with disabilities feel less segregated during the voting process. **Total: \$160,000.**
- **Milwaukee:** The City would like to set up 3 in-person early voting locations for two weeks prior to the August election (\$150,000) and 15 in-person early voting

locations and 1 drive-thru location, potentially at a central location like Miller Park, for four weeks prior to the November election (\$450,000). (Establishing this many EIPAV sites requires a significant investment in IT equipment, an additional ballot printer, tents, signage, and traffic control assistance. Milwaukee would also like to offer evening and weekend early voting hours which would add additional costs for both August (\$30,000) and November (\$75,000). **Total: \$705,000.**

- **Racine:** The City would like to offer a total of 3 EIPAV satellite locations for one week prior to the August election, as well as offering in-person early voting - curbside, if City Hall is still closed to the public - at the Clerk's office for 2 weeks prior to the August election. For the November election, Racine would like to offer EIPAV at 4 satellite locations two weeks prior to the election and at the Clerk's office (again, potentially curbside) 6 weeks prior. The City would need to obtain PPE, tents, supplies and cover staff time and training (\$40,000). Racine would also like to have all satellite locations available for half-day voting the two Saturdays (\$17,000) and Sundays (\$17,000) prior to the November election, and the library and mall locations would be open until 8pm the week prior to the Election. Additional resources needed include one-time set-up fee per location (\$7,500), laptops and dymo printers (\$10,000), training (\$1,100), and signage (\$12,000.) As well, the City would like to host at least one drive-thru Voter Registration Day, where City Hall would be set up for residents to come get registered, curbside, and get their voting questions answered by Clerk's staff. Newly registered voters could also get assistance requesting absentee ballots for upcoming elections while they're there. (\$8,000) **Total: \$112,600**

**Total: \$1,062,639.00**

**Recommendation I Total for All Strategies to Encourage and Increase Absentee Voting by Mail and Early, In-Person: \$2,572,839.00**

## Recommendation II: Dramatically Expand Voter & Community Education & Outreach, Particularly to Historically Disenfranchised Residents

All five municipalities expressed strong and clear needs for resources to conduct voter outreach and education to their communities, with a particular emphasis on reaching voters of color, low-income voters without reliable access to internet, voters with disabilities, and voters whose primary language is not English. This outreach is particularly necessary given the voter confusion that ensued in the lead-up to the April election, and voters' concerns and questions about voting during the COVID-19 pandemic. We understand that our communities of color do not necessarily trust the voting process, and that we need to work to earn that trust. We want to be transparent and open about what happens behind the scenes in elections, and what options are available for casting a ballot. We also want to make sure we are listening to groups that have historically been disenfranchised and groups that are facing obstacles with voting during this pandemic, and working with them to effectively respond to their concerns.

Voter outreach and education is also needed to encourage and explain new voter registration, and to encourage voters to verify and update their address or other voter registration information to do so prior to the Election. None of our communities have sufficient resources budgeted or available for the strategic, intentional, and creative outreach and education efforts that are needed in our communities over the summer and into the fall.

We all want our communities to have certainty about how the voting process works, trust in our election administration's accuracy, and current, accurate information on what options are available to vote safely in the midst of the pandemic. Significant resources are needed for all five municipalities to engage in robust and intentional voter education efforts to reduce confusion; encourage and facilitate new voter registration and registration updates; provide clear, accessible, and accurate information; address voters' understandable pandemic-related safety concerns; reassure voters of the security of our election administration; and, ultimately, reduce ballot errors and lost votes and enhance our residents' trust and confidence in our electoral process.

- **Green Bay:** Would like to reach voters and potential voters through a multi-prong strategy utilizing "every door direct mail," targeted mail, geo-fencing, billboards, radio, television, and streaming-service PSAs, digital advertising, and automated calls and texts (\$100,000 total). The City would also like to ensure that these efforts can be done in English, Spanish, Hmong, and Somali, since roughly 11% of households in the Green Bay area speak a language other than English. Ideally, the City would employ limited term communications staff or engage communications consultants (\$50,000) from August through the November election to design these communications and design and launch paid advertising on Facebook, Twitter, and Instagram, also in multiple languages. The City would also like to directly mail to residents who are believed to be eligible but not registered voters, approximately 20,000 residents. It would require both

considerable staff time to construct that list of residents and directly mail a professionally-designed piece (in multiple languages) to those voters. (\$50,000 total for staffing, design, printing, and postage). To assist new voters, the City would also like resources to help residents obtain required documents (i.e. birth certificates) which are needed to get a valid state ID needed for voting. These grant funds (\$15,000) would be distributed in partnership with key community organizations including churches, educational institutions, and organizations serving African immigrants, LatinX residents, and African Americans.

**Total: \$215,000**

- **Kenosha:** Would like to directly communicate to all Kenosha residents via professionally-designed targeted mail postcards that include information about the voter's polling location, how to register to vote, how to request an absentee ballot, and how to obtain additional information. The City would have these designed by a graphic designer, printed, and mailed (\$34,000). The City would also like resources for social media advertising, including on online media like Hulu, Spotify, and Pandora (\$10,000) and for targeted radio and print advertising (\$6,000) and large graphic posters (\$3,000) to display in low-income neighborhoods, on City buses, and at bus stations, and at libraries (\$5,000).  
**Total: \$58,000**
- **Madison:** Would like to engage the City's media team to produce videos to introduce voters to the election process, voting options, and to explain the safety precautions taken at polls and early voting sites. These videos would then be shared in numerous ways, including through partner organizations and on the City's social media platforms. The City would also like to partner with community organizations and run ads on local Spanish-language radio, in the Spanish-language newspapers, on local hip hop radio stations, in African American-focused printed publications, and in online publications run by and for our communities of color (advertising total \$100,000). Additionally, the City has many poll workers who are from historically disenfranchised communities. The City would like to pay those poll workers (\$75,000) to conduct voter outreach and additional poll worker recruitment activities. **Total: \$175,000.**
- **Milwaukee:** Would like to partner with other City divisions to develop mailings and door hangers (\$10,000) that could accompany water bills, be distributed by the Department of Neighborhood Services, or hung on trash receptacles by sanitation staff. The City would also like to revamp current absentee voting instructions to be more visual, address issues specific to the pandemic such as securing a witness signature, prepare it in English and Spanish, and print 150,000 color copies (estimated total \$15,000). The Election Commission would also like to produce a short video (\$5,000) with visuals showing voters how to apply for an absentee ballot and how to correctly complete and return the ballot. Additionally, the Election Commission would like to hire a communications firm to prepare and implement a comprehensive voter outreach communications plan



(\$250,000). This communications effort would include numerous voter education ads and PSAs on radio, billboards, buses, with some using local celebrities like Milwaukee Bucks players. This communications effort would focus on appealing to a variety of communities within Milwaukee, including historically underrepresented communities such as LatinX and African Americans, and would include a specific focus on the re-enfranchisement of voters who are no longer on probation or parole for a felony. Additionally, this campaign would include an edgy but nonpartisan and tasteful communications campaign to harness the current protests' emphasis on inequity and ties that message to voting. The video, the ads, and the PSAs could all also be placed on social media, the Election Commission and City websites, and GOTV partner websites and social media. **Total: \$280,000**

- **Racine:** The City would like to retain a communications firm to design and implement a comprehensive voter outreach communications plan (\$80,000). This would include ads on Facebook, Instagram, and Snapchat. The City would also like to rent billboards in key parts of the City (\$5,000) to place messages in Spanish to reach Spanish-speaking voters. The City would also like to do targeted outreach aimed at City residents with criminal records to encourage them to see if they are not eligible to vote; this outreach will be accomplished with the production, editing, and sharing of a YouTube video (\$2,000) specifically on this topic shared on the City's website, social media channels, and through community partners. Racine would also like to purchase a Mobile Voting Precinct so the City can travel around the City to community centers and strategically chosen partner locations and enable people to vote in this accessible (ADA-compliant), secure, and completely portable polling booth on wheels, an investment that the City will be able to use for years to come. (Estimated cost \$250,000). **Total: \$337,000**

**Recommendation II Total For All Strategies to Dramatically Expand Strategic Voter Education and Outreach Efforts, Particularly to Historically Disenfranchised Residents: \$1,065,000.00**

### Recommendation III: Launch Poll Worker Recruitment, Training, and Safety Efforts

The pandemic made conducting Election Day activities extremely challenging. Most poll workers in Wisconsin are retirees doing their civic duty to help facilitate the election. Given the increased risk for the elderly if exposed to COVID-19, many experienced poll workers opted out. Milwaukee had so many poll workers decline to serve that the City went from 180 polling locations to five polling locations. Green Bay, facing a similar exodus of poll workers, went down to two polling locations. Racine usually relies on nearly 190 poll workers for a spring election; only 25 of those experienced poll workers were under the age of 60.

As fears about the coronavirus increased in mid-late March and early April, poll workers in all five municipalities declined to work the election, leaving cities scrambling to quickly recruit enough bodies to keep polling locations open. All cities were appreciative of the last minute assignment of hundreds of Wisconsin National Guard members to assist with Election Day activities, and all of our cities re-assigned City staff from other departments to serve as poll workers and election officials and to assist with the myriad of tasks related to Election Day administration. The remainder of positions were staffed by high school students, college students, and members of the National Guard. Many of our poll workers had never worked an election before.

- **Green Bay:** The City needs to hire a total of 380 workers per election (total \$112,660). The City would like to pay poll workers more than they have previously received, to signify their importance in the process and to acknowledge the extra challenge it represents to serve as an election official during a pandemic. The City would like to increase poll worker salaries by 50% (additional \$56,330). All poll workers will be trained through the Wisconsin Elections Commission website and the City's own training manual (\$6,000). **Total: \$174,900**
- **Kenosha:** The City needs to hire 350 poll workers per election (\$100,000). They would like to offer hazard pay to increase pay to \$160/worker and \$220/chief inspectors (\$10,840). To aid in recruitment efforts, the City would like to hire a recruiter and liaison position for poll workers (\$35,000). **Total: \$145,840.**
- **Madison:** The City utilizes the election toolkit available through the MIT Technology Project to determine the staffing levels needed to ensure that voters will not have to wait in line for more than 15 minutes. In addition to the one Chief Inspector per polling location, Madison also has additional election officials who are certified as the Absentee Lead at each polling location. Madison estimates that if 75% of votes cast are absentee, the City will need 1,559 election officials at the polls in August. The City envisions a robust and strategic poll worker recruitment effort, focusing on people of color, high school students, and college students. The City would like to have resources for hazard pay for poll workers this fall at a rate comparable to what the U.S. Census is paying in the area

(\$369,788). The City has also found it challenging to convince facilities to host a polling location in the midst of a pandemic, and would like to provide each facility with a small amount of funds to compensate for their increased cleaning and sanitization costs (\$750/location, \$138,000 total). **Total: \$507,788**

- **Milwaukee:** The City plans to have 45 voting locations in August and to keep open as many of the normal 180 polling places as possible in November. August will require 3 chief inspectors per site and 20 election workers per site, for a total of 1200 election workers minimum and 150 chief inspectors. The City has a goal of recruiting 1,000 new election workers. The City would like to add an additional \$100 per worker in hazard pay to the poll workers' stipends of \$130 (\$460,000 additional for both elections) and \$100 hazard pay to chief inspector stipends of \$225 (\$87,750 additional for both elections). Additionally, the City of Milwaukee utilizes a Central Count of absentee ballots, which necessitates 15 chiefs and 200 election workers per election at Central Count (\$50,000/day for 2- days each election for a total of \$200,000). Total payroll for both elections will reach \$750,000 based upon these calculations. The City will launch a recruitment campaign for a new generation of election workers to sign up and be involved in their democracy, and hopes this effort can be included in the above request for resources for a marketing firm. Recruiting new and younger poll workers means that the Election Commission will need to innovate in election training. The Commission would like to produce polling place training videos (\$50,000) with live small-group, socially distanced discussions and Q&A sessions. These videos will augment existing training manuals. **Total: \$800,000**
- **Racine:** The City needs approximately 150 poll workers for August and 300 for November, in addition to 36 Chief Inspectors, and would like to pay all workers a \$100/election hazard pay (\$118,000 total payroll for both elections). City notes that its desire to have more early voting locations and hours is directly impacted by its ability to hire and train election officials. To that end, the City would like to launch a recruitment campaign that includes radio ads (\$1,000), ads on social media platforms (\$10,000), billboards in strategic City locations (\$5,000), and film videos for high school students in history/government classes (\$500). The City would also like to enlist a communication firm to: create a training video for election officials, develop an online quiz, detailed packets for election officials, and a PPE video filmed by a health professional about necessary COVID-19 precautions during all voting operations (\$22,000 total). Racine would also like to hire a liaison position to schedule, training and facilitate poll workers. (\$35,000) **Total: \$181,500.**

**Recommendation III Total for All Strategies to Launch Poll Worker Recruitment, Training and Safety Efforts: \$1,810,028.00**

#### Recommendation IV: Ensure Safe & Efficient Election Day Administration

It is no small task to mitigate risk of a lethal pandemic at all polling locations and throughout all required Election Day processing. Municipal clerks must ensure they have done everything possible to comply with public health guidelines and mitigate the risk of COVID-19 for all of the election officials, poll workers, observers, and voters. Our five municipalities are in need of numerous resources to both ensure seamless processing of voters on the upcoming Election Days, procure Personal Protective Equipment (PPE), disinfectant, and cleaning supplies to protect election officials and voters from the coronavirus, and to aid in processing of an expected high volume of absentee ballots. Additionally, as several of our municipalities move to add or expand drive-thru voting on Election Days, those expansions come with additional unbudgeted expenses for signage, tents, traffic control, publicity, and safety measures. All of our municipalities need resources to ensure that the remaining 2020 Election Days are administered seamlessly and safely.

- **Green Bay:** Green Bay would like to purchase 135 electronic poll books (\$2,100/each for a total of \$283,500) to reduce voter lines, facilitate Election Day Registrations and verification of photo ID. The City would also like a high speed tabulator (\$62,000) to count absentee ballots on Election Day, a ballot opener and ballot folder (\$5,000), and additional staff to process absentee ballots on Election Day (\$5,000). The City also needs masks, gloves, gowns, hair nets, face shields (\$15,000), cough/sneeze guards (\$43,000), and disinfectant supplies (\$3,000). **Total: \$426,500**
- **Kenosha:** The City would like to purchase automatic hand sanitizer dispensers for all polling locations (\$14,500) as well as PPE (gloves, masks, disinfectant, etc.) for all poll workers and voters (\$15,200). Kenosha would also like to be able to offer elderly residents and people with disabilities who wish to vote in person on Election Day two-way transportation, utilizing a local organization such as Care-A-Van (\$2,000). The City also needs resources for technology improvements to include a ballot opener, a ballot folder, 12 additional laptops and dymo printers, and high-speed scanner tabulators (\$172,000 total) to expedite election day processing and administration. **Total: \$203,700**
- **Madison:** The City needs hand sanitizer for all poll workers and voters, disinfectant spray, plexi-glass shields to allow poll workers to split the poll books, face shields for curbside election officials, and face masks for all poll workers and observers (\$20,000) as well as renting additional space to safely and accurately prepare all supplies and practice social distancing at the public test of election equipment (\$20,000) If the new voter registration form is not translated by the state into both Spanish and Hmong, Madison plans to translate the form (\$500). **Total: \$40,500**

- **Milwaukee:** The City will be purchasing 400 plexiglass barriers (\$55,000) for election workers at all polling location receiving and registration tables. Additionally, the Milwaukee Election Commission will need to acquire 400 face shields for workers not staffed behind plexiglass (\$4,000), gloves for all poll workers (\$3,000), masks on hand for election workers and members of the public (\$5,000), hand sanitizer (\$2,000) and disinfectant (\$2,000). Additionally, since Milwaukee also plans to offer curbside voting as an option at all polling places, updated, larger, more visible signage is necessary (\$5,000). **Total: \$76,000**
- **Racine:** Racine plans to issue all 36 wards its own PPE supply box which will each include masks, cleaning supplies, pens for each voter, gloves, hand sanitizer, safety vests, goggles, etc. (\$16,000). The City also needs large signs to direct and inform voters printed in English and Spanish (\$3,000). Additionally, the City would like to deploy a team of paid trained EDR Specialists for each polling location (\$10,000, including hourly pay, training expenses, and office supplies). As well, Racine would like iPads with cellular signal for each polling location to be able to easily verify voters' registration status and ward (\$16,000). The City would like to equip all wards with Badger Books (\$85,000); Racine began using electronic poll books in the February 2020 election and has found they dramatically increase and facilitate EDR, verification of voters' photo ID, expedite election processes, and reduce human error. **Total: \$130,000**

**Recommendation IV Total for All Strategies to Ensure Safe & Efficient Election Day Administration: \$876,700.00**

## Conclusion

As Mayors in Wisconsin's five largest cities, we are committed to working collaboratively and innovatively to ensure that all of our residents can safely exercise their right to vote in 2020's remaining elections in the midst of the COVID-19 pandemic. The April 2020 election placed two of our most sacred duties in conflict: keeping our residents safe and administering free, fair, and inclusive elections. This Wisconsin Safe Voting Plan 2020 represents a remarkable and creative comprehensive plan, submitted collaboratively by all five of our cities. With sufficient resources, all five municipalities will swiftly, efficiently, and effectively implement the recommended strategies described in this plan, to ensure safe, fair, inclusive, secure, and professional elections in all of our communities this year.

13. [61060](#) Amending the 2020 Adopted Capital Budget to appropriate \$500,000 for the Downtown Recovery Program by appropriating \$105,000 from the Capital Revolving Loan Fund and transferring \$395,000 in GO Borrowing from various capital projects.
- Sponsors:** Satya V. Rhodes-Conway and Michael E. Verveer
- Legislative History:**
- |         |                   |  |
|---------|-------------------|--|
| 6/19/20 | Mayor's Office    | RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.05, 2.24, & 2.25 - MISC. ITEMS |
|         | 15 Votes Required |  |
14. [61124](#) Amending the 2020 Adopted Operating Budget for the Clerk's Office, and authorizing the City Clerk to apply for and accept a \$10,000 grant from the Center for Tech & Civic Life distributed by the City of Racine, Wisconsin for planning safe and secure election administration.
- Sponsors:** Satya V. Rhodes-Conway, Sheri Carter, Lindsay Lemmer, Syed Abbas, Grant Foster, Rebecca Kemble, Michael E. Verveer, Arvina Martin, Donna V. Moreland, Patrick W. Heck, Keith Furman, Shiva Bidar and Max Prestigiacomo
- Legislative History:**
- |         |                |  |
|---------|----------------|--|
| 6/23/20 | Clerk's Office | RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.24, & 2.25 - (15 VOTES REQUIRED) - REPORT OF OFFICER |
|---------|----------------|--|
15. [61255](#) Authorizing the City Clerk to apply for and accept a \$1,271,788 grant from the Center for Tech & Civic Life for the implementation of a safe voting plan for the remainder of 2020, and amending the 2020 Adopted Operating Budget to increase the Clerk's Office budget by \$1,271,788, including increasing the Salaries budget by \$683,788, Supplies budget by \$279,500, Purchased Services by \$308,000, and Interdepartmental Charges by \$500.
- Sponsors:** Satya V. Rhodes-Conway, Sheri Carter, Keith Furman, Syed Abbas, Shiva Bidar, Michael E. Verveer, Tag Evers, Michael J. Tierney, Rebecca Kemble, Lindsay Lemmer, Grant Foster, Marsha A. Rummel, Patrick W. Heck, Paul E. Skidmore, Barbara Harrington-McKinney and Max Prestigiacomo
- Attachments:** [Approved Wisconsin Safe Voting Plan 2020](#)
- Legislative History:**
- |        |                |  |
|--------|----------------|--|
| 7/7/20 | Clerk's Office | RECOMMEND TO COUNCIL TO ADOPT UNDER SUSPENSION OF RULES 2.04, 2.05, 2.24, & 2.25 - REPORT OF OFFICER |
|--------|----------------|--|
16. [61268](#) Report of the Mayor submitting resident committee appointments (introduction 7/14/2020; action 7/21/2020).
- Legislative History:**
- |        |                |                           |
|--------|----------------|---------------------------|
| 7/7/20 | Mayor's Office | Referred for Introduction |
|--------|----------------|---------------------------|