STATE OF MINNESOTA

IN SUPREME COURT

File No. A22-1081

Bill Kieffer, et al.,

        Petitioners,

    vs.

                                     DECLARATION OF DAVID MAEDA

The Governing Body of the Municipality
Rosemount, MN,

        Respondents.

David Maeda, being first duly sworn, deposes and says the following:

1.   I am Director of Elections for the State of Minnesota in the Elections Division of the Office of the Secretary of State. I have held this position since February 2019. I also have extensive prior experience in election administration, having served as the supervisor responsible for elections in Washington County from 1996 to 1998, as the supervisor responsible for elections in Hennepin County from 2004 to 2007, and as the clerk of the City of Minnetonka from 2007 to 2018, before assuming my current position.

2.   My current duties include supervising all election administration duties of the Office of the Secretary of State. In my past positions, my duties included overseeing elections in Washington County, Hennepin County, and the city of Minnetonka.

3.   Each county in Minnesota contracts with a private vendor to provide ballot-printing services and the hardware and software that are used in recording and tallying votes in the county's elections.

4.   One such vendor is Dominion Voting Systems ("Dominion"), which prints ballots and manufactures, markets, and maintains computer hardware and software products that permit local governments to conduct elections. Dominion is the current contracted ballot vendor for Aitkin, Crow Wing, Dakota, Mahnomen, Scott, and Sherburne counties.

5.   Big Stone, Chisago, and Ramsey counties get their balloting services from Hart InterCivic Inc. The remaining 78 counties in the state contract for such services with Election Systems & Software (ES&S).

6.   Prior to the 1980s, election jurisdictions in Minnesota used systems involving punch cards and levers to administer elections. That changed in the mid-1980s, when counties and municipalities began to retiring punch-card and lever-based election machinery and replacing it with modern optical-scan ballot tabulators. Legislation passed in 1984 authorized jurisdictions to use electronic voting systems, and further legislation passed in 1986 added a requirement that jurisdictions adopting the new electronic technology provide notice and instruction to voters on its use.

7.   The voter-instruction process required by the 1986 statute does not involve any inspection of computer code or other determination of an election system's accuracy, durability, or efficiency. No part of the process involves voters or anyone else testing whether the voting system tallies votes correctly. Instead, the entire function of the

process is to allow voters to educate themselves about how they will go about submitting their ballots going forward. In other words, the process exists solely to familiarize voters with a balloting process that is different than the one by which they have voted in previous cycles.

8.   The Office of Secretary of State has repeatedly examined and reported on Dominion's election hardware and software products, detailing the products' compliance with the state law and its accuracy, durability, efficiency, and capacity to register the will of voters. On this basis, the Secretary approved the Dominion hardware and software that are currently in use in the City of Rosemount.

9.   Every voting system used in the state is subjected to public accuracy testing by the local election jurisdiction no more than 14 days before each election. The testing ensures that the system correctly marks and counts the ballots used in the jurisdiction's elections. Under state law, the testing is open to representatives of the political parties, candidates, the press, and the public. Upon information and belief, Rosemount conducted such testing on its Dominion equipment, including the Democracy Suite version 5.5-C software powering it, on July 26, 2022.

10.   The operating-system upgrade that has been conducted since 2020 on the Dominion equipment that is in use in Rosemount has no effect on a voter's balloting experience, including the steps a Rosemount voter must carry out to submit a ballot. As a result, there is no practical need to instruct voters on the use of the Dominion equipment; no part of voters' use of the equipment is new.

11.   I am unaware of any election jurisdiction in Minnesota that has ever conducted a notice-and-voter-instruction process to familiarize voters with a software update that had no effect on their experience in the balloting process. Because such software upgrades have no effect on voters' balloting experience, there is no practical need to familiarize voters with them. Under the interpretation of state law the Office of Secretary of State and all jurisdictions I am familiar with have applied since the 1986 legislation was passed, there is also no legal requirement to familiarize voters with software upgrades that they do not directly encounter and that have no effect on voters' balloting experience.

12.   On August 9, under my understanding of the city's current plan, Rosemount voters will receive a paper ballot and then use a pen to fill in a bubble next to their preferred candidate in each race. They will then either return the ballot to election officials (if voting absentee) or insert the ballot into an optical-scanning machine for tabulation (if voting in person). Like voters in most election jurisdictions in Minnesota, Rosemount voters have been following these same steps for many years.

13.   I am not aware whether it is possible to downgrade the operating system software running on Rosemount's Dominion hardware products from the current version 5.5-C to an older version. Even if it is possible under some circumstances, it is not within a municipal election office's capacity to perform such a downgrade on all of its election hardware within the last four days before a primary election.

14.   I declare under penalty of perjury that everything I have stated in this declaration is true and correct.

Dated: August 5, 2022

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/s/ **David Maeda**
DAVID MAEDA

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