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3 **2021 RES-336**

4 AUTHORIZING THE OFFICE OF CORPORATION COUNSEL TO SELECT AND  
5 ENGAGE OUTSIDE COUNSEL TO INITIATE LEGAL ACTION AGAINST  
6 COMPANIES THAT PARTICIPATED IN THE DESIGN, MANUFACTURE,  
7 DISTRIBUTION OR SALE OF PER- AND POLYFLUOROALKYL SUBSTANCES  
8 (PFAS)

9 In recent years the Environmental Protection Agency and Wisconsin Department  
10 of Natural Resources have identified per- and polyfluoroalkyl substances (PFAS)  
11 as emerging contaminants and are currently undertaking PFAS rulemaking and  
12 other regulatory action to protect and remediate the environment;

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14 For decades, Dane County Regional Airport (DCRA) has been legally mandated  
15 by the Federal Aviation Administration (FAA) to have in place fire and crash  
16 protection services that use a firefighting agent containing PFAS known as  
17 Aqueous-Film-Forming Foam, (AFFF), for training and emergencies;

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19 AFFF has been discharged on DCRA property as a result of and in compliance  
20 with the FAA mandates;

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22 There is currently a federal multi-jurisdictional litigation process (MDL Litigation)  
23 underway to hold liable and recover from companies involved in the design,  
24 manufacture, distribution and/or sale of AFFF, PFAS and its constituent  
25 substances (PFAS Manufacturers);

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27 Numerous Airports and other public entities have filed suit against PFAS  
28 Manufacturers to recover their existing and future costs to investigate and  
29 remediate PFAS contamination resulting from AFFF use;

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31 There are a group of national law firms informed about the complex history of the  
32 manufacture and sale of AFFF and constituent PFAS substances as well as the  
33 developing science about the nature and impacts of PFAS substances. Those law  
34 firms represent Airports and public entities in the MDL Litigation process;

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36 DCRA has incurred and will continue to incur substantial costs to investigate and  
37 remediate PFAS impacts at DCRA resulting from the products of the PFAS  
38 Manufacturers.

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40 It is prudent for Dane County to explore every option available to address the PFAS  
41 contamination of county property, including litigation against PFAS Manufacturers;

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43 NOW, THEREFORE, BE IT RESOLVED, that the Dane County Board of  
44 Supervisors hereby authorizes the Office of Corporation Counsel, at its discretion,  
45 to select outside counsel and to enter into contingency fee agreement(s) with  
46 outside counsel, whereby outside counsel will not be compensated unless the  
47 County receives a financial benefit as a result of the proposed claims, to  
48 commence a lawsuit on behalf of the County, against any PFAS Manufacturer.