## **SUB 1 TO 2023 RES-168**

## AUTHORIZING EXECUTION OF AIRPORT JOINT USE AGREEMENT WITH THE UNITED STATES AND THE STATE OF WISCONSIN

In common with other users of the Dane County Regional Airport, the United States National Guard Bureau and the State of Wisconsin Department of Military Affairs use runways, taxiways and related Airport facilities for operations involving the Air National Guard, the Army National Guard and transient government aircraft. Federal law requires that the Airport allow this use, but provides for compensation to the Airport when use is substantial. In consideration for the substantial use of facilities at the Dane County Regional Airport by state and federal aircraft, the National Guard Bureau and the Department of Military Affairs have agreed to enter into an Airport Joint Use Agreement under which the United States and the State of Wisconsin will maintain Airport facilities used exclusively by state and federal aircraft and will provide full time fire protection and crash rescue services for both civil and government aircraft emergencies, federally required services Dane County would otherwise have to fund itself. The Airport Joint Use Agreement is for a ten year term and does not require Dane County funding.

With respect to Paragraph 8b of the proposed Airport Joint Use Agreement, in an e-mail dated January 18, 2024, Randall Chambers, Deputy General Counsel, Environmental and Real Property Law, Office of National Guard Bureau General Counsel, stated "As the ANG maintains a fire fighting and crash rescue organization in support of military operations, it has the capacity to also provide fire protection and crash rescue services to the Airport as in-kind assistance if the Airport would like the ANG to provide that service (which would then alleviate the airport from having to secure its own firefighting resources). The indemnification clause is designed only for those situations where the ANG is providing fire protection and crash rescue services on behalf of the Airport. If the ANG responds to a military aircraft fire then the ANG would take responsibility for remediation, i.e. no indemnification from the airport would be expected. If the ANG responds to a civilian aircraft fire then it is the expectation of the ANG that the airport or the airline, who received the benefit of that service, would take responsibility, i.e. indemnification clause would apply."

Furthermore, the Air National Guard has represented to the County that it intends to transition from firefighting foam with PFAS to Fluorine-Free Foam (F3) as soon as feasible and in compliance with the FAA transition plan for Part 139 airports to PFAS-free firefighting foam.

NOW, THEREFORE, BE IT RESOLVED that the Dane County Board relies upon the representation of Randall Chambers in his e-mail dated January 18, 2024, quoted above, in its approval of the Airport Joint Use Agreement; and

BE IT FURTHER RESOLVED that the County Board requests that the Airport Director provide quarterly status updates to the County Board on Air National Guard's transition to Fluorine-Free Foam (F3).

BE IT FINALLY RESOLVED the Dane County Executive and the Dane County Clerk are authorized to execute on behalf of Dane County an Airport Joint Use Agreement, as set forth above.