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Request to Authorize Litigation Against Certain Manufacturers of Per- and Polyfluoroalkyl Substances (“PFAS”) Discovered at Milwaukee Mitchell International Airport (“MKE”), by recommending adoption of the following:

A RESOLUTION

WHEREAS, since around 1970 the fire department at Milwaukee Mitchell International Airport (MKE) has employed Federal Aviation Administration-mandated Aqueous Film Forming Foam (AFFF) substances for emergency response and fire suppression; and

WHEREAS, AFFFs are a significant potential source of Per-and Polyfluoroalkyl Substances (PFAS); and

WHEREAS, a recent study commissioned by the environmental team at MKE has revealed the presence of PFAS at the airport; and

WHEREAS, over the last two decades, scientific studies have revealed that PFAS are toxic, bio-persistent, bio-accumulative in human tissue, and generally present a potentially significant hazard to human health and the environment; and

WHEREAS, numerous lawsuits have been filed against manufacturers of AFFF and other PFAS-containing substances, leading in part to a \$670 million settlement in 2017 of approximately 3,500 consolidated cases, and additional cases since then; and

WHEREAS, evidence uncovered in the litigation to date at least strongly suggests that the manufacturers of these PFAS-containing substances knew of the toxic and hazardous nature of PFAS long before the risks were revealed to the general public; and

WHEREAS, in recognition of the risks to human health and the environment posed by PFAS, and in light of ever-increasing studies and evidence showing that PFAS has accumulated in soil and groundwater all over the country, including at many municipal airports like MKE, dozens of municipalities have joined in litigation against the manufacturers of PFAS-containing substances, such as AFFF; and

WHEREAS, although the environmental team at MKE has provided the PFAS report to the State of Wisconsin Department of Natural Resources, and has moved as expeditiously as possible to develop and execute remediation measures for any PFAS contamination at MKE, remediation is likely to be very expensive, and it is fair and reasonable for MKE to join the effort to hold the manufacturers of PFAS accountable; and

46 WHEREAS, in light of the foregoing, MKE and Corporation Counsel, Office of
47 Corporation Counsel (OCC), recommend that Milwaukee County (the County) pursue
48 legal action against these manufacturers of PFAS; and
49

50 WHEREAS, working together, MKE and OCC have identified a consortium of law
51 firms (the Counsel Team) that have been engaged in PFAS-related litigation against
52 these manufacturers for years, and the Counsel Team is ready, willing, and able to
53 represent the County on a contingency-fee basis to pursue any and all damages to
54 which the County may be entitled; and
55

56 WHEREAS, the Committee on Judiciary, Law Enforcement and General
57 Services, at its meeting of July 15, 2022, recommended adoption of File No. 22-789
58 (vote 5-0); and
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60 WHEREAS, the Committee on Finance, at its meeting of July 21, 2022,
61 recommended adoption of File No. 22-789 (vote 7-0); now, therefore,
62

63 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)
64 hereby authorizes Corporation Counsel, Office of Corporation Counsel (OCC), at its
65 discretion, to direct the consortium of law firms (the Counsel Team) on behalf of
66 Milwaukee County (the County), to file one or more lawsuits on a contingency-fee basis,
67 whereby the Counsel Team will not be compensated unless the County receives a
68 financial benefit as a result of the proposed claims against any manufacturer and/or
69 other entity that may be held responsible for liability associated with Per-and
70 Polyfluoroalkyl Substances contamination within the County; and
71

72 BE IT FURTHER RESOLVED, the County Board hereby authorizes the County
73 Executive, Office of the Comptroller, County Clerk, the OCC, the Airport Director, and
74 any other County official deemed necessary to prepare and execute all documents,
75 instruments, agreements, or otherwise, and to perform all actions necessary to
76 commence and pursue the above-referenced litigation against the responsible parties.
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81 S:\Committees\2022\July\FINANCE\Resolutions\22-789 litigation against PFAS manufacturers.docx