

January 25, 2023

To: Mayor and Members of City Council 202300392

From: Sheryl M. M. Long, City Manager

Subject: **Emergency Ordinance – FY 2023 Mid-Year Budget Adjustment for Judgments Against the City Account**

Attached is an Emergency Ordinance captioned:

AUTHORIZING the transfer of \$1,480,602.25 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050; **AUTHORIZING** the transfer and appropriation of \$3,280,602.25 from the unappropriated surplus of General Fund 050 to the non-departmental Judgments Against the City General Fund non-personnel operating budget account no. 050x951x7400 for the purpose of satisfying a legal judgment against the City as well as associated legal fees in *White v. The City of Cincinnati*.

This Emergency Ordinance authorizes the transfer of \$1,480,602.25 from the General Fund balance sheet reserve account no. 050x2580, “Reserve for Weather Related Events, Other Emergency and One-Time Needs,” to the unappropriated surplus of General Fund 050. This Emergency Ordinance further authorizes the transfer and appropriation of \$3,280,602.25 from the unappropriated surplus of General Fund 050 to the non-departmental Judgments Against the City General Fund non-personnel operating budget account no. 050x951x7400 for the purpose of satisfying a legal judgment against the City as well as associated legal fees in *White v. The City of Cincinnati*.

City Council passed Ordinance No. 0448-1986 on December 17, 1986 enacting Chapter 807 of the Cincinnati Municipal Code (CMC), which authorized assessment of registration fees and penalties on alarm system users arising from issuance of false alarms. The City was a defendant in a lawsuit captioned *White v. The City of Cincinnati*, 2021-Ohio-4003, which challenged the fees and penalties contained in CMC Chapter 807.

The First Appellate District of Ohio reversed the trial court’s ruling and held that the residential and nonresidential alarm user fees imposed by CMC Chapter 807 were an unconstitutional tax. Therefore, the City has been ordered to pay an estimated judgment of \$2,559,486.25 to the plaintiffs in the litigation, as well as attorney fees of \$721,116.00.

The Finance Department has increased FY 2023 revenue estimates due to FY 2023 State Shared Revenues from the Local Government Fund exceeding estimates by \$1,800,000, which has increased the unappropriated surplus of the General Fund and will serve as a source for a portion of the settlement of the judgment. The General Fund balance sheet reserve account no. 050x2580, "Reserve for Weather Related Events, Other Emergency and One-Time Needs," is the source of funds for the remaining \$759,486.25 needed for the settlement payment to the plaintiffs and the \$721,116.00 for legal fees.

The reason for the emergency is the immediate need to meet a legally required deadline for payment of the judgment.

The Administration recommends passage of this Emergency Ordinance.

cc: Andrew M. Dudas, Budget Director
Karen Alder, Finance Director

Attachment