

Ordinance No. 27 2021

**ORDINANCE AUTHORIZING THE SETTLEMENT OF A CLAIM BY
CHRISTINE GIDEON AND DECLARING AN EMERGENCY**

WHEREAS, Christine Gideon has made a claim against the City of Norwood arising from the City of Norwood having sent her bills for pre-petition debt, after a bankruptcy petition had been filed on her behalf under Chapter 13 case number 1:20-bk-10303 and the United States Bankruptcy Court had issued an automatic stay of attempts to collect that pre-petition debt; and

WHEREAS, the Law Department has concluded that it is in the interest of the City of Norwood to settle and compromise the claim described above; now therefore,

BE IT ORDAINED by the Council of the City of Norwood, State of Ohio, that:

SECTION 1. The Safety-Service Director, the Law Director, and the Assistant Law Director are authorized to execute a Settlement Agreement and Release in the total amount of \$5,500.00, and any other documents necessary to memorialize the settlement and compromise of the claim described above.

SECTION 2. The City Auditor is hereby authorized to draw, and the City Treasurer is authorized to pay, warrants in the amounts and according to the terms described in Section 1, including \$1,000.00 to Christine Gideon and \$4,500.00 to the Minnillo Law Group Co. LPA, out of FUND 01-0400-57200 CONTRACTUAL EXPENSES, including the Settlement Agreement and Release.

SECTION 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, to resolve the claim pending in the United States Bankruptcy Court under case number 1:20-bk-10303, and to avoid further time and attorneys fees spent on this matter.

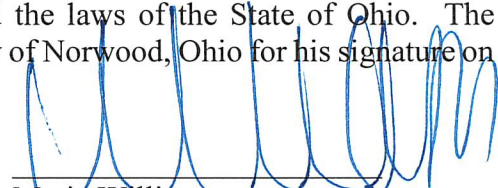
PASSED

6-22-21
Date


Ken Miracle
President of Council

ATTEST:

Maria Williams, the duly appointed Clerk of Council, attests that this ordinance was passed at a regular/special meeting of Norwood City Council on the 22nd day of June, 2021 in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing ordinance was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 22nd day of June, 2021.


Maria Williams
Clerk of Council

Ordinance Authorizing Settlement of a Claim by Christine Gideon

APPROVED 22 June 21
Date

Victor Schneider
Victor Schneider
Mayor

CERTIFICATION OF PUBLICATION:

Maria Williams, the duly appointed Clerk of Council, attests that this Ordinance was published in the Cincinnati Enquirer on 6/28/21 and 7/5/21.
(Name of Newspaper) (date) (date)

Maria Williams
Clerk of Council

ORDINANCE READINGS

1st Reading _____
Date

2nd Reading _____
Date

3rd Reading _____
Date

All 3 Readings 6-22-21
Date

Tabled _____
Date

Vetoed _____
Date

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into as of the last date in the signature page below between Christine Gideon (hereafter "Gideon") and the City of Norwood, Ohio, through its department Norwood Public Service (collectively, "NORWOOD"). Gideon and NORWOOD are collectively referred to as the "Parties."

WHEREAS, NORWOOD provides water and other utility services to Gideon; and

WHEREAS, Gideon has alleged that NORWOOD has violated the automatic stay provisions of 11 U.S.C. §362 for continuously seeking to collect a pre-bankruptcy debt from her; and

WHEREAS, NORWOOD disputes Gideon's allegations, but has represented to Gideon, through counsel, that any of its actions or inactions were limited solely to Gideon's NORWOOD account(s) and do not reflect a wider practice by NORWOOD of seeking to collect pre-petition debts from other utility customers;

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. Actions Required of Gideon.

1. Gideon will seek approval of the terms of this Agreement in the chapter 13 bankruptcy proceeding captioned *In re Gideon*, Case#: 1:20-bk-10303, United States Bankruptcy Court, Southern District of Ohio, Western Division (the "Bankruptcy Proceeding"),
2. Only after the entry of an order approving the terms of this settlement in the Bankruptcy Proceeding, Gideon will withdraw the motion for contempt that she filed (Pacer document number 52) with prejudice to refiling, and
3. Gideon will deliver to NORWOOD a signed copy of this Agreement to counsel for NORWOOD via email.

B. Actions Required of NORWOOD.

1. NORWOOD will deliver to Gideon, via electronic mail through counsel to pjm@mlg-lpa.com, a signed copy of this Agreement executed by the authorized representative of NORWOOD,
2. NORWOOD will not collect nor seek to collect any debt owed by Gideon to NORWOOD that was incurred on or before January 31, 2020,
3. NORWOOD will obtain approval of this agreement from its City Council.

4. NORWOOD will pay Gideon **\$1,000.00** and Minnillo Law Group Co., LPA the amount of **\$4,500.00** no later than July 1, 2021, provided its City Council is able to approve this Agreement by then. In the event that this Agreement cannot be approved by City Council by July 1, 2021, then by July 31, 2021, and
 5. NORWOOD will not object to Gideon's motion to approve this Agreement nor Gideon's attorney's motion to approve its attorney fees.
- C. Release of all Claims.** In consideration of the good and valuable consideration called for in this Agreement, Gideon hereby releases and forever discharges NORWOOD and its attorneys, Council members, insurers, partners, officers, shareholders, agents, heirs, successors, assigns, affiliates, and representatives (collectively, the "Released Parties") from any and all claims, demands, causes of action and other liabilities that were or could have been raised by Gideon against NORWOOD in the Bankruptcy Proceeding, Pacer document number 52, known or unknown, fixed or contingent, for all time periods up to the date of this agreement.
- D. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties, their successors, assigns, heirs, executors, fiduciaries, administrators, etc. as the case may be.
- E. Warranties.** The Parties to this Agreement represent and warrant that: (a) no other person or entity has or has had any interest in the claims, demands, obligations, or causes of action referred to in this Agreement; (b) the respective Parties have the sole right and exclusive authority to execute this Agreement and receive the consideration specified in it; (c) no other person is required to consent to or join in this Agreement; (d) and none of the Parties have sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Agreement.
- F. Counterparts.** The Parties agree that if this Agreement is executed in counterparts, each counterpart shall be deemed an original, and all counterparts so executed shall constitute one agreement binding on all of the Parties hereto, notwithstanding that all of the Parties are not signatories to the same counterpart.
- G. Governing Law.** This Agreement will be construed and interpreted in accordance with the laws of the State of Ohio.
- H. Severability.** If any paragraph, section, sentence, clause or phrase contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Agreement shall not be affected thereby to the extent that the intent of the Parties hereto can be carried out

absent such provision.

- I. **Final Agreement.** This Agreement contains the final and entire agreement and understanding of the Parties, and any terms and conditions not set forth in this Agreement are not part of this Agreement or the understanding of the Parties hereto, and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. No variation, modification, or changes to this Agreement shall be binding on either party hereto unless set forth in a document executed by the Parties.
- J. **Read and Understand.** The Parties state that they have read and understand this Agreement and that each intends to be legally bound hereby, that each have both actual and apparent authority to execute this Agreement and that neither has heretofore assigned or otherwise transferred to any person, firm, corporation, or other entity not a signatory hereto any Judgment, claim, or cause of action against any other party hereto, that each are entering into this Agreement voluntarily and of their own free will, and, furthermore, that each have consulted with independent legal counsel or have waived the opportunity to be represented by independent legal counsel.
- K. **Release Limitations:** This Agreement does not release: (1) claims arising out of the failure of either Party to perform in conformity with the terms of this Agreement; (2) any future disputes between Gideon and NORWOOD, including its successors and assigns.
- L. **Breach of this Agreement.** If any Party hereto commences any action arising out of this Agreement, including, without limitation, any action to enforce or interpret this Agreement, the prevailing party or parties in such action shall be entitled to recover its reasonable attorney's fees and other expenses incurred in such action. Any award of attorney's fees hereunder shall not be computed according to any court schedule, but, instead, shall be in such amount as to fully reimburse all attorney's fees actually incurred in good faith, regardless of the size of the judgment, since it is the intention of all Parties to compensate fully the prevailing party for all attorney's fees paid or incurred in good faith.
- M. **Bankruptcy Court approval.** If the Bankruptcy Court does not approve this Agreement, the parties shall collaborate to amend this Agreement to achieve Bankruptcy Court approval under terms that are equivalent to the terms of this Agreement, or as close to equivalent as the Bankruptcy Court will approve.

IN WITNESS HEREOF, and intending to be legally bound thereby, the Parties hereto have executed this Agreement on the dates written below their signatures.

AGREED:

CITY OF NORWOOD

X _____

By: _____
Its duly authorized representative

Date: _____

Christine Gideon

X *Christine Gideon*

Date: 6/17/21