

North Canton City Council  
Finance and Property Committee

Ordinance No. 73 - 2019

An ordinance authorizing the Mayor, on behalf of the City of North Canton, to accept a sidewalk performance bond in the amount of \$39,431.00, between the City and McKinley-Applegrove Development Ltd., and accept the accompanying mortgage deed for City Lot Number 6874, thereby securing the bond, for all necessary work required to complete sidewalks in The Sanctuary Phase 4 construction project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH CANTON, COUNTY OF STARK, AND STATE OF OHIO:

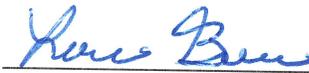
- Section 1. That McKinley-Applegrove Development Ltd. Has provided a performance bond in the amount of \$39,431.00, and a mortgage deed City Lot Number 6874, thereby guaranteeing to undertake and complete at its own expense all necessary work required to complete the sidewalks in The Sanctuary Phase 4 construction project, copies of which are attached hereto and incorporated herein as Exhibits "A" and "B".
- Section 2. That the Mayor be, and is hereby authorized, on behalf of the City, to accept the above-described sidewalk performance bond and a mortgage deed.
- Section 3. That if a provision of this ordinance is or becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision of this ordinance.
- Section 4. This ordinance shall take effect and be in full force immediately upon its adoption by Council and approval by the Mayor.

Passed in Council this 28 day of October, 2019

  
David Held, Mayor

Signed: 10/28, 2019

ATTEST:

  
\_\_\_\_\_  
Laura Brown, Director of Finance

**SIDEWALK PERFORMANCE BOND**

(The Sanctuary – Phase 4)

This Sidewalk Performance Bond is entered into on the date set forth herein by and between **McKINLEY-APPLEGROVE, LTD.**, an Ohio limited liability company, (hereinafter known as the “Developer”), and the **CITY OF NORTH CANTON, OHIO**, a municipal corporation of the State of Ohio, (hereinafter known as “North Canton”):

WHEREAS, the Developer is the owner and developer of an allotment located within the City of North Canton, which allotment is known as The Sanctuary Phase 4 (the “Development”), as shown on the Plat recorded in Instrument Number \_\_\_\_\_ of the Stark County Records; and

WHEREAS, has requested Developer to provide this Sidewalk Performance Bond to secure the installation of the sidewalks within the Development; and

WHEREAS, the said Developer agrees to hold and firmly bind itself unto North Canton in the sum of THIRTY-NINE THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS and NO/100 (\$39,431.00), for which payment Developer binds itself by this instrument to perform the conditions and obligations set forth herein:

NOW, THEREFORE, the Developer agrees to undertake and complete as a condition of this obligation at its own expense all the necessary work required to complete the sidewalks in the Development.

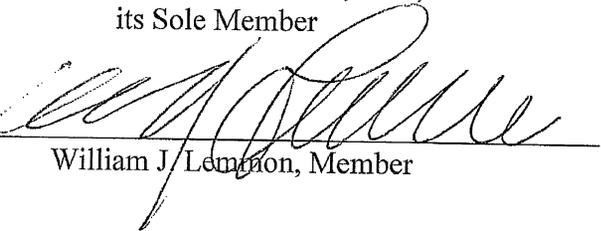
The Developer further agrees that a Mortgage Deed issued in accordance with Chapter 5301 of the Revised Code of the State of Ohio will be executed and delivered to North Canton, as security for the performance of the conditions of this agreement which Mortgage Deed will be enforceable in accordance with the terms and conditions therein stated.

Now, if said Developer as a party to this instrument shall well and truly perform the obligations stated above, then this Agreement and obligations shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the 24th day of August, 2019.

**MCKINLEY-APPLEGROVE, LTD.**, an  
Ohio limited liability company

By: MCKINLEY HOLDINGS, LLC,  
its Sole Member

By:   
William J. Lemmon, Member

**CITY OF NORTH CANTON, OHIO**, a  
municipal corporation of the State of Ohio

By \_\_\_\_\_  
Print Name \_\_\_\_\_  
Its \_\_\_\_\_

**APPROVED AS TO FORM BY:**

\_\_\_\_\_  
City of North Canton Law Director

This instrument prepared by:

Jamie R. Minor, Esq.  
Winkhart & Minor, LLC  
825 South Main Street  
North Canton, Ohio 44720  
Phone: (330) 433-6700  
Fax: (330) 433-6701

**MORTGAGE DEED**

*Statutory Form Section 5302.12*

**McKINLEY-APPLEGROVE, LTD.**, an Ohio limited liability company, (“Mortgagor”), for THIRTY-NINE THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS and NO/100 (\$39,431.00) paid, grants, with mortgage covenants, to the **CITY OF NORTH CANTON**, a municipal corporation of the State of Ohio, (“Mortgagee”), the following real property:

Situated in the City of North Canton, County of Stark and State of Ohio:

Known as and being Lot Number 6874 in said City.

Also known as and being Lot Number 30 in The Sanctuary Phase 1, as the same is set forth in Instrument Number 200511290079996 of the Stark County Official Records.

This Mortgage is given, upon the statutory condition, to secure the payment of THIRTY-NINE THOUSAND FOUR HUNDRED THIRTY-ONE DOLLARS and NO/100 (\$39,431.00), as provided in the Sidewalk Performance Bond of even date.

Statutory condition is defined in Section 5302.14 of the Revised Code and provides generally that if the Mortgagor performs the obligations secured hereby, pays all the taxes and assessments, and does not commit or suffer waste, then this Mortgage shall be void.

NOW, THEREFORE, if Mortgagor shall honestly, faithfully, and as expeditiously as possible, complete the improvements set forth in the Sidewalk Performance Bond executed herewith, then this obligation shall be void; otherwise to remain in full force and effect.

And Mortgagor does hereby pledge itself that, during the life of this Mortgage Deed, it will not dispose of, sell, nor convey its interest(s) in said property without the written consent of Mortgagee, which shall not be arbitrarily withheld.

Mortgagee can release separate lots as set forth above upon the request of the Mortgagor, from the operation of this Mortgage Deed. To properly release any of the lots, a separate partial Mortgage Release must be signed, witnessed, and executed by the Mayor, duly authorized.

IN WITNESS WHEREOF, the Mortgagor hereunto set its hand this 29th day of August, 2019.

**McKINLEY-APPLEGROVE, LTD.**, an  
Ohio limited liability company

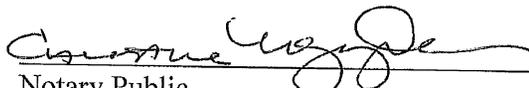
By: McKinley Holdings, LLC, its  
Sole Member

By   
William J. Lemmon, Manager

STATE OF OHIO, STARK COUNTY, SS:

Before me, a Notary Public in and for said County and State, personally appeared the above-named William J. Lemmon, one of the Managers of McKinley Holdings, LLC, the Sole Member of **McKINLEY-APPLEGROVE, LTD.**, an Ohio limited liability company, who acknowledged that he did sign the foregoing instrument, and that the same is the free act and deed of said limited liability company, and the free act and deed of him personally and on behalf of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at North Canton, Ohio, this 29th day of August, 2019.

  
Notary Public



**CHRISTINE M. SNYDER**  
Notary Public, State of Ohio  
My Commission Expires 11-06-2023

This instrument prepared by:

Jamie R. Minor, Esq.  
Winkhart & Minor, LLC  
825 South Main Street  
North Canton, Ohio 44720  
Phone: (330) 433-6700  
Fax: (330) 433-6701