

RESOLUTION NO. 2018-149

A RESOLUTION AUTHORIZING THE WATER TAP-IN FOR KELLY DP, LLC OF OHIO AT 5819 RHODES ROAD, OUTSIDE THE CITY OF KENT, AND DECLARING AN EMERGENCY.

WHEREAS, Kelly DP, LLC requests water service outside the City of Kent at 5819 Rhodes Road (Parcel #12-015-10-00-009-000) in Franklin Township (the "Property"); and

WHEREAS, the Property is within the Kent-Franklin JEDD Contract area and the previous owner has not signed the contract, therefore, per KCO 913.09, the Property is subject to a 50% water surcharge; and

WHEREAS, the City Division of Engineering recommends approving the water tap-in.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring that:

SECTION 1: Council does hereby authorize the water tap-in to the Property subject to KCO 913.09 and the City water rules and regulations.

SECTION 2: All formal actions of Council relating to the adoption of this Resolution, and all deliberations of Council and any of its committees leading to such action, were in meetings open to the public as required by law.

SECTION 3: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Resolution is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: December 19, 2018
Date

Jerry T. Fiala
Jerry T. Fiala
Mayor and President of Council

EFFECTIVE: December 19, 2018
Date

ATTEST: Tara Grimm
Tara Grimm, MMC
Clerk of Council

I, TARA GRIMM, CLERK OF COUNCIL FOR THE CITY OF KENT, COUNTY OF PORTAGE, AND STATE OF OHIO, AND IN WHOSE CUSTODY THE ORIGINAL FILES AND RECORDS OF SAID COUNCIL ARE REQUIRED TO BE KEPT BY THE LAWS OF THE STATE OF OHIO, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF RESOLUTION No. _____, ADOPTED BY THE COUNCIL OF THE CITY OF KENT ON _____, 20_____.

(SEAL)

TARA GRIMM, MMC
CLERK OF COUNCIL

EXHIBIT "A"

WATER SERVICE AGREEMENT

This Water Service Agreement is made on _____, 2018, by the CITY OF KENT, Portage County, Ohio, a municipality corporation (the "City"), and KELLY DP, LLC, an Ohio limited liability company, (the "Owner").

WHEREAS, the Owner has requested that the City permit it to tap into a City waterline located in Franklin Township (outside the City) for its residence, to be located at 5819 Rhodes Road, as more fully described in attached **Exhibit A** (the "Property"); and

WHEREAS, by the adoption of Resolution _____, the City has determined that providing City water to the Property will be in the best interest of the City, even though the Owner has elected not to petition for inclusion in the Kent-Franklin JEDD Contract; and

WHEREAS, the parties desire to enter into this Water Service Agreement for the tap-in and service of City water to the Property.

NOW, THEREFORE, in consideration of the following mutual covenants, the parties agree:

(1) On the condition that the Owner complies with this Water Service Agreement, the City will permit the Owner to tap into the City waterline at the Property per Resolution _____ and in accordance with City Codified Ordinance 913.09 and its water rules and regulations, now in force or that shall later become in force, and further as follows:

- (a) The permit fees, utilization fees, front footage fees, and any other applicable fees required by the City shall be paid by the Owner before tap-in; and
- (b) The Owner understands and agrees that the water rate shall be at the City resident rate plus a 50% surcharge; and
- (c) The Owner shall be responsible for and make prompt payment of the water used at the Property; the water charge incurred shall be made a lien on the Property and, if such charge is not paid after it shall become due and payable, the amount owed shall be certified by the City to the Portage County Auditor at which time the lien shall vest, per City Codified Ordinance 913.09 and Ohio R.C. 743.04.

(2) This Water Service Agreement is binding on, and shall inure to the benefit of, the successors and assigns of the parties.

IN WITNESS WHEREOF, we have set our hands on the date first above written.

CITY OF KENT:

KELLY DP, LLC:

By _____
Dave Ruller, City Manager

By _____

Approved as to form: _____
Hope L. Jones, Law Director