

**TOWN OF DANIEL, UTAH**  
**Municipal Resolution No. 2009-07-10**

**RESOLUTION APPROVING TOWN'S TAKING LAND BY  
EMINENT DOMAIN FOR A MUNICIPAL WATERWORKS SYSTEM**

WHEREAS, as of December 1, 2008, the Town of Daniel (hereinafter the "Town") accepted the water system of Daniel Domestic Water Company as the municipal water system for the Town;

WHEREAS, as of December 1, 2008, the Town has taken on the duties and responsibilities of municipal water service for the residents of the Town;

WHEREAS, the Town is required to upgrade and improve the municipal public drinking water system for the Town in order to protect the health and safety of the citizens of the Town;

WHEREAS, the Town is required to acquire approximately 7.71 acres of land (hereinafter the "Required Land"), as described in the attached property description and as depicted on the attached map, for the purpose of constructing a permanent water storage facility for a municipal public drinking water system and county fire protection, with a secured protection zone, enlarged and redesigned access roads and pipeline routes, and a spring protection zone, for the protection of the health and safety of the residents of the Town;

WHEREAS, the Town's proposed acquisition of the Required Land accommodates an existing right-of-way in favor of Kyuzo, LLC, and access to the land owned by the Kent L. Cooper Trust, as well as access for a remainder parcel owned by West Daniels Land Association;

WHEREAS, the Town's proposed acquisition of the Required Land allows West Daniels Land Association continued use of the roadway and pathway for its historic cattle access;

WHEREAS, West Daniels Land Association, the owner of the Required Land, was invited by letter dated May 13, 2009, to accompany J. Philip Cook, MAI, CRE, the appraiser for the Town, during his inspection of the Required Land, and Julian Jensen, the attorney and representative for West Daniels Land Association, did accompany Mr. Cook on his inspection of the Required Land;

WHEREAS, J. Philip Cook, the appraiser for the Town, has appraised the Required Land for a total amount of just compensation of \$13,500;

WHEREAS, the Town, by letter dated June 25, 2009, offered West Daniels Land Association, the owner of the Required Land, the sum of \$13,500 for the Town's purchase of the Required Land;

WHEREAS, West Daniels Land Association has not accepted the offer of the Town to purchase the Required Land from West Daniels Land Association for the sum of \$13,500, which is the just compensation for the Required Land as appraised by J. Philip Cook, the Town's appraiser;

WHEREAS, every reasonable effort has been made by the Town to acquire expeditiously the Required Land by negotiation;

WHEREAS, time is of the essence because the Town must begin construction of the municipal public drinking water system during the construction season;

WHEREAS, by letter dated June 25, 2009, the Town has advised West Daniels Land Association, the owner of the Required Land, of the owner's rights to mediation and arbitration under Utah Code Ann. § 78B-6-522, provided West Daniels Land Association with a written statement explaining that oral representations or promises made during the negotiation process are not binding upon the entity seeking to acquire the property by eminent domain, and provided West Daniels Land Association with a booklet dealing with property owner's rights;

NOW, THEREFORE, be it hereby

RESOLVED, that the Town approves the filing of an eminent domain action in order to acquire the Required Land for the Town's immediate construction on, and use of, the Required Land for the municipal public drinking water system for residents of the Town; and

RESOLVED FURTHER, that an eminent domain action be filed as quickly as possible and that a motion be filed with the court requesting an order permitting the Town's immediate occupancy of the Required Land for the construction of the municipal public drinking water system for the protection of the health and safety of the residents of the Town.

THIS RESOLUTION IS HEREBY PASSED AND ADOPTED by the Mayor and Town Council of Daniel, Utah, this 10<sup>th</sup> day of July, 2009, by the following vote:

Mayor Michael Duggin *YEA*

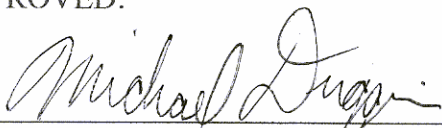
Council member Heather Bateman *Yea*

Council member Jonathan Blotter *Excused*

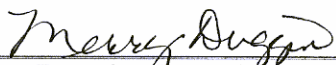
Council member Eric Bunker *Yea*

Council member Gary Walton *YEA*

APPROVED:

  
Michael Duggin, Mayor of Daniel Town

ATTEST:

  
Merry Duggin, Recorder