

South Dakota Ellsworth Development Authority

Resolution 16-02

**RESOLUTION CONCERNING ENFORCEMENT OF REGIONAL
WASTEWATER TREATMENT FACILITY UTILITY SERVICE CONTRACT**

WHEREAS, in 2012 the South Dakota Ellsworth Development Authority (“Authority”) and City of Box Elder (“City”) entered into a Regional Wastewater Treatment Facility Utility Service Contract (“Contract”);

WHEREAS, the Authority has complied with the terms of the Contract in all respects;

WHEREAS, the City, despite repeated requests, has failed to comply with numerous material provisions of the Contract;

WHEREAS, the Authority has suffered economic damage as a result of the City’s numerous breaches of the Contract;

WHEREAS, the Authority’s attempts to reach an amicable resolution have been rejected by City;

WHEREAS, City’s continued failure to comply with the Contract poses unacceptable risks and burdens on the Authority;

THEREFORE, the Authority hereby authorizes the following:

1. The Chairman and Executive Director shall have the discretion to exercise any options they deem reasonable and necessary, including but not limited to continued negotiations, mediation, and litigation, in order to resolve the City’s non-compliance with the Contract; and
2. The Chairman and Executive Director shall have the discretion to enter into an agreement for the purchase or lease the real property upon which the treatment facility is located upon such terms and conditions they deem reasonable under the circumstances.

By: 
Patrick Burchill Chairman

Adopted: February 25, 2016