

**BYLAWS OF
PONDER ECONOMIC DEVELOPMENT CORPORATION**

As Adopted on _____

Article I

GENERAL

Section 1.1. Name.

The Ponder Economic Development Corporation is hereby known as (the "Corporation"). The Corporation is incorporated under the laws of the State of Texas. The principal office of the Corporation shall be located initially in Ponder, Texas, and subsequently at such other place or places as the Board of Directors shall determine.

Section 1.2. Purposes; Powers.

The purposes for which the Corporation is organized are set forth in the Corporation's Articles of Incorporation. These purposes shall be accomplished on behalf of the Town of Ponder, Texas (the "City") as a duly constituted authority and instrumentality in accordance with the Development Corporation Act of 1979, Art. 5190.6, Vernon's Texas Civil Statutes, as amended (the "Act"), the Texas Non-Profit Corporation Act, Art. 1396-1.01, *et seq.*, Vernon's Texas Civil Statutes, as amended (the "Non-Profit Act"), and other applicable laws. In the fulfillment of its corporate purposes, the Corporation shall be governed by Section 4B of the Act and the Non-Profit Act, and shall have all of the powers set forth and conferred to it in its Articles of Incorporation, the Act, the Non-Profit Act, and other applicable laws.

Section 1.3. Limitations.

The Corporation shall observe all local, state and federal laws which apply to a non-profit organization as defined in Section 501(c) (3) of the Internal Revenue Code of 1986, as amended. The Corporation shall not engage in any action of a purely political nature or take part in or lend its influence or facilities, either directly or indirectly, to the nomination, election or appointment of any persons for office in city, county, state or national elections. This shall not be construed as preventing the Corporation from encouraging the consideration by the citizenship of such matters as are primarily of civic or commercial interest or upon which the citizenship may subsequently be called upon to vote, such as bond elections or referenda for schools, roads, airports or subdivisions, the object of which is deemed to be beneficial to civic or commercial interests or betterment.

Article II

BOARD OF DIRECTORS

Section 2.1. Duties.

The government and policy-making responsibilities of the Corporation shall be vested in the Board of Directors, which shall control its property, be responsible for its finances, and direct its affairs.

Section 2.2. Directors.

(a) **Regular Directors.** The number of directors constituting the Board of Directors shall be seven (7). Each member of the Board of Directors shall either be a resident of the City or Denton County. Each member of the Board of Directors shall be appointed by the City Council of the City and shall serve a two (2) year term of office, except as provided in this Section 2.2(a) and Section 2.4. The Board of Directors shall be classified with respect to the time for which they shall severally hold office by dividing the Board into two (2) classes, with the directors of the first class being composed of three (3) members and the directors of the second class being composed of four (4) members. The first class shall be seats 2, 4, and 6 and their term of office shall expire on even years. The second class shall be seats 1, 3, 5, and 7 and their term of office shall expire on odd years. The term of office of the directors of the first class shall expire at the first Annual Meeting of the Board of Directors after their appointment. The term of office of the directors of the second class shall expire at the second Annual Meeting of the Board of Directors after their appointment. Prior to each annual meeting of the Board of Directors after such classification, the City Council shall appoint the number of directors of the class whose term expires at the time of such meeting to hold office until the second succeeding Annual Meeting of the Board of Directors, so that the term of office of one class of directors shall expire each year. In the absence of a provision in the Articles of Incorporation or these Bylaws fixing the term of office, a director shall hold office until his successor shall have been duly elected, appointed or designated and qualified. As used in these Bylaws, the term "director" shall mean the directors of this Corporation other than advisory directors or *ex-officio* directors. Each member of the Board of Directors shall serve at the pleasure of the City Council.

(b) **Advisory Directors.** The City Council may appoint one or more persons to serve as advisory directors of the Corporation. Any persons so elected as advisory directors of the Corporation shall be designated as such. Each person so elected as an advisory director of the Corporation shall serve at the pleasure of the City Council. Any advisory director so appointed shall receive notice of each meeting of the Board of Directors of the Corporation and shall be entitled to participate in the discussion with respect to each matter brought before such meeting, but shall have no voting rights.

Section 2.3. Change in Number.

The number of directors of the Corporation may not be increased or decreased.

Section 2.4. Vacancies.

Any vacancies occurring in the Board of Directors resulting from the death, resignation, retirement, disqualification or removal from office of any director shall be filled by the City Council appointing a successor to serve the remainder of such director's unexpired term.

Section 2.5. Removal.

Any director may be removed, with or without cause, at any time by the City Council.

Section 2.6. Ex-Officio Directors.

The Executive Director of the Corporation, if any, shall serve as an *ex-officio* member of the Board of Directors. The Board of Directors shall have such other *ex-officio* members as the City Council shall, from time to time, designate. Each *ex-officio* director shall serve in a non-voting, advisory capacity at the pleasure of the City Council, and may be removed, with or without cause, at any time by the City Council.

Section 2.7. Meetings.

(a) **Annual Meetings.** The Annual Meeting of the Board of Directors shall be held annually during the month of March, at such time and place as the Board of Directors shall determine. At the Annual Meeting of the Board of Directors, the Board of Directors shall elect officers to serve for the ensuing year and until their successors are elected and qualified. At the Annual Meeting, the Board of Directors may also transact any and all other business as may properly come before the meeting.

(b) **Regular Meetings.** Regular meetings of the Board of Directors shall be held quarterly starting from September 2003, at such place or places and at such time or times as, from time to time, may be designated by the Board of Directors and communicated to all directors by written notice.

(c) **Special Meetings.** Special meetings of the Board of Directors may be called by the President of the Corporation on at least three (3) days' notice to each director. Special meetings may also be called by the President or Secretary in like manner and on like notice on the written request of a majority of the directors of the Corporation, by the Mayor of the City, or by a majority of the members of the City Council. Emergency meetings of the Board of Directors may be held without satisfying the notice requirement set forth above in this Section 2.7(c) if such meetings are called and held in compliance with Chapter 551 of the Texas Government Code.

(d) **Place of Meetings.** All meetings, unless otherwise designated by the person or persons calling the meeting, shall be held at the principal office of the Corporation. In any event, all meetings of the Board of Directors shall be held within the boundaries of the City.

(e) **Notices of Meetings.** Unless otherwise provided by statute, the Articles of Incorporation or these Bylaws, written or printed notice stating the place, time and hour of any meeting of the Board of Directors shall be delivered either personally or by mail, facsimile or other written means to each director not less than three (3) days before each meeting of the Board of Directors. If mailed, notice of the meeting shall be deemed to be delivered when deposited in the United States mail addressed to a director at his address as it appears on the records of the Corporation and, if by facsimile or other written means, notice shall be deemed to be delivered upon the receipt of written confirmation of delivery. All meetings shall be held in accordance with the provisions of Chapter 551 of the Texas Government Code.

Section 2.8. Quorum; Majority Vote.

At all meetings of the Board of Directors a minimum of four (4) directors then serving shall constitute a quorum for the transaction of business unless a greater number is required by statute or the Articles of Incorporation. Directors present by proxy shall not be counted toward a quorum. The act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except as otherwise specifically provided by statute or by the Articles of Incorporation or by these Bylaws. If a quorum is not present at a meeting of the Board of Directors, the meeting will be rescheduled. A director may vote in person or by written proxy executed by the director. No proxy shall be valid after three months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law.

Section 2.9. Term of Office.

There shall be no limitation on the number of consecutive years that members of the Board of Directors of the Corporation may serve on the Board of Directors.

Section 2.10. Limitation of Liability.

No director of this Corporation shall be personally liable to the Corporation for monetary damages for an act or omission in the director's capacity as a director, except that this Section 2.10 does not eliminate or limit the liability of a director to the extent the director is found liable for: (i) a breach of the director's duty of loyalty to the Corporation; (ii) an act or omission not in good faith that constitutes a breach of duty of the director to the Corporation or an act or omission that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which the director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or (iv) an act or omission for which the liability of a director is expressly provided for by statute. Neither the amendment nor repeal of this Section 2.10, nor the adoption of any provisions of the Articles of Incorporation of this Corporation inconsistent with this Section 2.10, shall eliminate or reduce the effect of this Section 2.10 in respect of any matter occurring, or any cause of action, suit or claim that, but for this Section 2.10, would accrue or arise, prior to such amendment, repeal or adoption of any inconsistent provision. If, after approval of this Section 2.10, the Act or the Texas Miscellaneous Corporation Laws Act (the "TMCLA") is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of this Corporation shall be eliminated or limited to the fullest extent permitted by the Act or the TMCLA, as so amended from time to time.

Section 2.11. Open Meetings Act.

All meetings and deliberations of the Board of Directors shall be called, convened, held and conducted, and notice shall be given to the public, in accordance with the provisions of Chapter 551 of the Texas Government Code.

Section 2.12. Conduct of Business.

At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the Board. At all meetings of the Board, the President shall preside and, in the absence of the President, the Vice President shall exercise the powers of the President. The Secretary of the Corporation shall act as secretary of all meetings of the Board but, in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 2.13. Compensation of Directors.

Directors shall not receive compensation for their services. However, they shall be reimbursed for their actual expenses incurred in the performance of their duties, including, but not limited to, the cost of travel, lodging and incidental expenses reasonably related to the corporate duties of the Board.

Article III

OFFICERS

Section 3.1. Elected Officers.

(a) The officers of the Corporation shall be a president, a vice president, a secretary and a treasurer. There may be such other officers, assistant officers and agents, including an Executive Director, as the Board of Directors may deem necessary. The president and each vice president shall be named from among the members of the Board of Directors of the Corporation.

(b) No agent or employee of the Corporation need be a director of the Corporation, a resident of the City or an employee of the City.

(c) Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 3.2. Election of Officers.

Except as provided by Section 3.5, all officers shall be elected by the Board of Directors at the Annual Meeting of the Board of Directors. Each newly-elected officer (other than any person who succeeds himself in office) shall take office immediately following his/her election. Any person elected as an officer of the Corporation by reason of the death, disability, retirement, disqualification or removal from office of an officer or by reason of the occurrence of a vacancy of the office of any officer for any other reason, shall take office immediately upon his/her election.

Section 3.3. Term of Office.

Except for the initial officers who shall hold office until the first annual board meeting, each officer of the Corporation shall hold office for a term of one year until the next annual meeting of the Board of Directors and until his successor is duly elected and qualified or until his death, resignation, retirement, disqualification or removal from office. There shall be no limitation on the number of consecutive years that a person may serve in the same office.

Section 3.4. Removal.

Any officer, employee or agent may be removed from the position held by them, with or without cause, at any time by the majority vote of the directors present at any meeting of the Board of Directors at which a quorum is present whenever in their judgment the best interests of the Corporation will be served thereby.

Section 3.5. Filling of Vacancies.

Any vacancy occurring in any office of the Corporation (by death, resignation, removal or otherwise) may be filled by the Board of Directors of the Corporation.

Section 3.6. President.

The President shall be the chief executive officer of the Corporation, and shall serve as chairman of the Executive Committee, if any. The President shall appoint standing and special committees and task groups as required, and as approved by the Board of Directors. In the absence or disability of the President, his duties shall be performed and his powers may be exercised by the First Vice President

designated in these Bylaws. The President shall be an *ex-officio* member of all committees appointed by the President or the Board of Directors.

Section 3.7. Vice Presidents.

(a) The Vice President shall generally assist the President and shall have such powers and perform such duties and services as, from time to time, shall be prescribed or delegated to him by the Board of Directors. The Vice President shall, during the absence of or in the event of the death, disability, retirement, disqualification, removal or the occurrence of the vacancy of the office of President for any other reason, perform the duties and exercise the power of the President.

(b) The Corporation may have additional vice presidents as the Board of Directors may from time to time determine and appoint. Such additional vice presidents shall have such powers and perform such duties and services as, from time to time, shall be prescribed or delegated to them by the Board of Directors.

Section 3.8. Secretary.

The Secretary shall see that notices are given of all meetings of the Board of Directors and shall keep and attest true records of all proceedings of all such meetings. He shall keep and account for all books, documents, papers and records of the Corporation, except those for which some other office or agency is properly accountable. He shall generally perform all duties and shall have authority to exercise all the powers usually appertaining to the office of secretary of a corporation. In the absence or disability of the Secretary, the duties shall be performed by such person as shall be appointed by the Board of Directors.

Section 3.9. Treasurer.

The Treasurer shall be the chief accounting and financial officer for the Corporation and shall have active control and shall be responsible for all matters pertaining to the accounts and finances of the Corporation. The Treasurer shall submit a detailed financial report at all annual and regular meetings of the Board of Directors consisting of at least a balance sheet and a statement of receipts and disbursements.

Section 3.10. Authority.

Officers and agents shall have such authority and perform such duties in the management of the Corporation as are provided in these Bylaws or as may be provided by resolution of the Board of Directors not inconsistent with these Bylaws.

Section 3.11. Compensation.

Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed for their actual expenses incurred in the performance of their official duties as officers.

Article IV

COMMITTEES

Section 4.1. General.

The Board of Directors, by resolution adopted by the Board of Directors, may designate and appoint one or more committees, including an Executive Committee, each committee of which to be comprised of at least three (3) members. Each committee shall have such duties and responsibilities as set forth in such resolutions as adopted by the Board of Directors. The Board of Directors may designate one or more persons as alternate members of any committee who may, subject to any limitations imposed by the Board of Directors, replace absent or disqualified members at any meeting of that committee. If the Board of Directors establishes an Executive Committee, a majority of the members of such committee shall be members of the Board of Directors of the Corporation. The remainder of the members of the Executive Committee may, but need not, be members of the Board of Directors of the Corporation. Membership on other committees may, but need not, be limited to members of the Board of Directors of the Corporation.

Section 4.2. Specific Committees.

In addition to other committees which may be designated by the Board of Directors, the Corporation may have an Executive Committee.

Section 4.3. Number; Qualifications; Term.

Any committee of the Board of Directors shall consist of such number of the Board of Directors as the Board of Directors shall designate. Each committee shall serve at the pleasure of the Board of Directors.

Section 4.4. Authority.

Except as limited by statute, the Articles of Incorporation or these Bylaws, any committee of the Board of Directors, to the extent provided in any resolution adopted by the Board of Directors, shall have and may exercise the authority of the Board of Directors granted to such committee in the management of the business and affairs of the Corporation.

Section 4.5. Change in Number.

The number of members of any committee of the Board of Directors may be increased or decreased by resolution adopted by the Board of Directors as long as the committee is still in compliance with Section 4.1.

Section 4.6. Removal.

Except as specifically provided by statute, the Articles of Incorporation of these Bylaws, any member of a committee of the Board of Directors may be removed, with or without cause, by the Board of Directors whenever, in its judgment, the best interests of the Corporation will be served thereby.

Section 4.7. Vacancies.

A vacancy occurring in any committee (by death, resignation, removal or otherwise) may be filled by the Board of Directors in the manner provided for original designation in Section 4.1.

Section 4.8. Meetings.

The time, place and notice (if any) of committee meetings shall be determined by the committee. All meetings and deliberations of any committee shall be called, convened, held and conducted, and notice shall be given to the public, in accordance with the provisions of Chapter 551 of the Texas Government Code.

Section 4.9. Quorum and Majority Vote.

At meetings of any committee of the Board of Directors, a majority of the members of such committee shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by statute, the Articles of Incorporation or these Bylaws. If a quorum is not present at a meeting of a committee, the members present there at may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum is present.

Section 4.10. Rules.

Each committee may adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors, including the formation of subcommittees.

Article V**INDEMNIFICATION; INSURANCE****Section 5.1. Indemnification.**

(1) As provided in the Act and in the Articles of Incorporation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions. The Corporation shall indemnify any director or officer, or former director or officer, of the Corporation, to the fullest extent and manner permissible under the Act, the Non-Profit Act, its Articles of Incorporation, or other applicable rules, regulations or laws.

(2) (a) The Corporation shall indemnify and advance expenses to persons who are not or were not officers, employees or agents of the Corporation, but who are or were serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, a partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, to the same extent it is authorized to indemnify and advance expenses to directors under the Act, the Non-Profit Act, its Articles of Incorporation and this Article Five.

(b) The Corporation shall indemnify and advance expenses to an officer, employee, agent or person indemnified in subparagraph (a) above and who is not a director to such further extent, consistent with law, as may be provided by the Articles of Incorporation, its Bylaws, general or specific action of its Board of Directors, or contract, or as permitted or required by common law.

Section 5.2. Insurance.

The Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation or who is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise against any liability asserted against him and incurred by him in such capacity or arising out of his status as such a person to the fullest extent under the Act, the Non-Profit Act, its Articles of Incorporation and this Article Five.

Section 5.3. Definitions.

As used in this Article V, the terms “director” and “expenses” shall have the meanings given such terms in Art. 1396-2.22A (A) of the Non-Profit Act.

Article VI

AMENDMENT OF BYLAWS

These Bylaws may be altered, amended or repealed or new Bylaws may be adopted at any meeting of the Board of Directors at which a quorum is present, by the affirmative vote of a majority of the entire Board of Directors, provided notice of the proposed alteration, amendment or repeal is contained in the notice of such meeting.

Article VII

GENERAL

Section 7.1. Interested Parties; General Policy.

(a) Members of the Board of Directors and officers of the Corporation, as well as members of any committee, shall be subject to and governed by the Code of Ethics and Code of Conduct of the City. Any new member of the Board of Directors or new officer of the Corporation, as well as each new member of any committee, shall be advised of the provisions of this Section 7.1 upon entering upon the duties of his office.

(b) **Voting; Quorum.** Common or interested members of the Board of Directors of the Corporation or a committee shall not vote or use their personal influence on the matter or matters in question, and shall not be counted in determining the presence of a quorum at any meeting of the Board of Directors of the Corporation or of such committee that authorizes the contract or transaction.

(c) **Non-Exclusive.** The provisions set forth in this Section 7.1 shall not be construed to invalidate any contract or transaction which would be valid in the absence of this provision.

Section 7.2. Notice.

(a) **Method.** Whenever by statute or the Articles of Incorporation or these Bylaws, notice is required to be given to any director, and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice but any such notice may be given (a) in writing, by mail, postage prepaid, addressed to the director at the address appearing on the books of the Corporation, or (b) in any other method permitted by law.

(b) **Waiver.** Whenever, by statute or the Articles of Incorporation or these Bylaws, notice is required to be given to any director, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

Section 7.3. Books and Records.

The Corporation shall keep books and records of account and shall keep minutes of the proceedings of its Board of Directors and each committee. All books and records of account of the Corporation shall be subject to the provisions of Chapter 552 of the Texas Government Code, relating to public information.

Section 7.4. Checks and Notes.

All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 7.5. Fiscal Year.

The fiscal year of the Corporation shall be the same as the fiscal year of the City.

Section 7.6. Contracts for Service.

The Corporation may, with approval of the City Council, contract with any qualified and appropriate person, association, corporation or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of its discretion and policy-making functions in discharging the duties.

Section 7.7. Annual Corporate Budget

At least ninety (90) days prior to the commencement of each fiscal year of the Corporation, the Board of Directors shall adopt a proposed budget of expected revenues and proposed expenditures for the next ensuing fiscal year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the City Council. The budget shall not be effective until it has been approved by the City Council.

Section 7.8 Deposit and Investment of Corporate Funds

(a) All proceeds from loans or from the issuance of bonds, notes or other debt instruments (“Obligations”) issued by the Corporation shall be deposited and invested as provided in the resolution, order, indenture or other documents authorizing or relating to their execution or issuance.

(b) Subject to the requirements of contracts, loan agreements, indentures or other agreements securing Obligations, all other monies of the Corporation, if any, shall be deposited, secured and/or invested in the manner provided for the deposit, security and/or investment of the public funds of the City. The Board shall designate the accounts and depositories to be created and designated for these purposes and the methods of withdrawal of funds for use by and for the purposes of the Corporation upon the signature of its treasurer and such other persons as the Board shall designate. The accounts, reconciliation and investment of funds and accounts shall be performed by the City.

Section 7.9 Expenditures of Corporate Money.

The monies of the Corporation, including sales and use taxes collected pursuant to Section 4B of the Act, monies derived from rents received from the lease or use of property, the proceeds from the investment of funds of the Corporation, the proceeds from the sale of property and the proceeds derived from the sale of Obligations may be expended by the Corporation for any of the purposes authorized by the Act, subject to the following limitations:

(1) Expenditures from the proceeds of Obligations shall be identified and described in the orders, resolutions, indentures or other agreements submitted to and approved by the City Council prior to the execution of loan or financing agreements or the sale and delivery of Obligations to the purchasers provided by Section 7.8 of these Bylaws.

(2) Expenditures that may be made from a fund created with the proceeds of Obligations and expenditures of monies derived from sources other than the proceeds of Obligations may be used for the purposes of financing or otherwise providing one or more “Projects,” as defined in Section 4B and other Sections of the Act. The specific expenditures shall be described in a resolution or order of the Board and shall be made only after approval by the City Council, in accordance with Article 5 of the Articles of Incorporation.

(3) All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by Section 7.7 of this Article or in contracts meeting the requirements of this Article, in accordance with Article Five of the Articles of Incorporation.

(4) The Corporation may not assume a debt or make any expenditures to any principal or interest on a debt if the debt existed before the date the City created the Corporation.

Section 7.10. Approval or Advice and Consent of the City Council.

To the extent that these Bylaws refer to any approval by the City or by the City Council, that approval shall be evidenced by a certified copy of an ordinance, resolution, order or motion duly adopted by the City Council.

Article VIII

EFFECTIVE DATE; AMENDMENTS

Section 8.01. Effective Date.

These Bylaws shall become effective upon the occurrence of the later of the following events:

- (1) the approval of these Bylaws by the City Council; and
- (2) the adoption of these Bylaws by the Board.

Section 8.02. Amendments.

These Bylaws may not be altered, amended or repealed and/or new Bylaws may not be adopted without **the prior** approval of the City Council of the Town of Ponder.