

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF DENTON, TEXAS (“CITY”) AUTHORIZING THE EXECUTION OF A RETAIL WASTEWATER TREATMENT SERVICES AGREEMENT WITH TCCI PONDER FARMS 2021 LLC (“OWNER”) AND PONDER FARMS MUNICIPAL UTILITY DISTRICT OF DENTON COUNTY (“DISTRICT”) CONCERNING RETAIL WASTEWATER SERVICE BY THE CITY TO FUTURE CUSTOMERS WITHIN APPROXIMATELY 154.425 ACRES OF LAND KNOWN AS PONDER FARMS AND GENERALLY LOCATED SOUTH OF FM 2449, EAST OF ROBINSON ROAD, NORTH OF SEABORN ROAD, AND WEST OF FLORANCE ROAD (“PROPERTY”), OWNERSHIP OF WASTEWATER FLOWS, AND OTHER RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Property encompasses approximately 154.425 acres of land and is more particularly described and shown in Exhibit “A” of the Retail Wastewater Treatment Services Agreement; and

WHEREAS, the Owner proposes to develop the Property with 559 residential lots; and

WHEREAS, Owner expects that full development of the Property will require service to a maximum of 650 equivalent single-family connections; and

WHEREAS, Denton is a retail public utility that possesses certificated service areas for Water and Wastewater services under CCN Nos. 10195 and 20072, respectively; and

WHEREAS, the Owner, the District and the City have entered into that certain Utility Service Agreement (Ordinance 24-2338), dated November 19, 2024, regarding, in part, the City’s provision of retail water and retail wastewater service to the Property and the Owner’s sale of its Groundwater rights; and

WHEREAS, the Utility Service Agreement contemplates entering into this Retail Wastewater Treatment Services Agreement for the City’s provision of retail wastewater service to customers within the Property; and

WHEREAS, Owner and District desire the City to provide retail wastewater service pursuant to the terms of the Utility Service Agreement and the Retail Wastewater Treatment Services Agreement; and

WHEREAS, water and wastewater infrastructure necessary to serve customers within the Property will be dedicated to the City pursuant to the terms of the Utility Service Agreement and the Retail Wastewater Treatment Services Agreement; and

WHEREAS, portions of the water and wastewater infrastructure may be oversized to serve future growth pursuant to a separate Oversize Participation Agreement; and

WHEREAS, Owner and District want the City to possess title and ownership of all wastewater flows originating from the Property and discharged into Denton’s System; and

WHEREAS, the City has determined that full development of the Property as provided herein will promote local economic development within the City and will stimulate business and commercial activity within the City, which will drive infrastructure investment and job creation, and have a multiplier effect that increases both the City's tax base and utility revenues.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The findings and recitations contained in the preamble of this Ordinance are true and correct and incorporated herein by reference.

SECTION 2. The City Manager or their designee is hereby authorized to execute the Retail Wastewater Treatment Services Agreement attached hereto as Exhibit "A" and incorporated herein for all purposes with TCCI Ponder Farms 2021 LLC and Ponder Farms Municipal Utility District of Denton County concerning retail wastewater service, ownership of wastewater flows, and other related matters.

SECTION 3. Minor adjustments to the attached Retail Wastewater Treatment Services Agreement by the City Manager or their designee are authorized, such as filling in blanks and minor clarifications or corrections, and any modifications made by City Council in the approval of this ordinance.

SECTION 4. The City Manager, or their designee, is authorized to carry out all duties and obligations to be performed by the City under the Retail Wastewater Treatment Services Agreement, unless otherwise reserved in the Retail Wastewater Treatment Services Agreement for City Council approval.

SECTION 5. This Ordinance shall take effect immediately on its passage and approval.

The motion to approve this ordinance was made by \_\_\_\_\_ and seconded by \_\_\_\_\_, the ordinance was passed and approved by the following vote [ \_\_\_ - \_\_\_ ]:

	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Paul Meltzer, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
GERARD HUDSPETH, MAYOR

ATTEST:  
LAUREN THODEN, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
MACK REINWAND, CITY ATTORNEY

BY: Christopher Mullins

**EXHIBIT "A"**

**RETAIL WASTEWATER TREATMENT SERVICES AGREEMENT**

**RETAIL WASTEWATER TREATMENT SERVICES AGREEMENT  
BY AND BETWEEN  
THE CITY OF DENTON  
AND  
PONDER FARMS MUNICIPAL UTILITY DISTRICT OF DENTON COUNTY  
AND  
TCCI PONDER FARMS 2021 LLC  
(Ponder Farms)**

This Retail Wastewater Treatment Services Agreement (“Agreement”) is made and entered into by and between the City of Denton, Texas, a home rule municipality (“Denton” or the “City”), Ponder Farms Municipal Utility District of Denton County, a conservation and reclamation district operating under the authority of Chapters 49 and 54 of the Texas Water Code (“District”), and TCCI Ponder Farms 2021 LLC, a Texas limited liability company (“Owner”), each collectively referred to as the “Parties”. This Agreement is effective as of January 7, 2025, being the date by which this Agreement is executed by the Parties (the “Effective Date”).

**RECITALS**

**WHEREAS**, Denton is a municipality, a duly incorporated political subdivision of the State of Texas operating under the Constitution and laws of the State of Texas, that provides retail and wholesale Water and Wastewater service to customers; and

**WHEREAS**, Denton is a retail public utility that possesses certificated service areas for Water and Wastewater services under CCN Nos. 10195 and 20072, respectively; and

**WHEREAS** District is a conservation and reclamation district operating under the authority of Chapters 49 and 54 of the Texas Water Code, as amended; and

**WHEREAS** Owner is the sole owner of the Property, possesses record title, and intends to develop the Property for single family residential purposes; and

**WHEREAS**, Owner expects that full development of the Property will require service to a maximum of 650 ESFCs; and

**WHEREAS**, the Property is not located within an area subject to a CCN issued by the Public Utility Commission of Texas; and

**WHEREAS**, Owner, the District and the City have entered into that certain Utility Service Agreement, dated November 19, 2024, regarding, in part, the City’s provision of retail Water and Retail wastewater service to the Property and the Owner’s sale of its Groundwater rights (the “Water Agreement”); and

**WHEREAS**, the Water Agreement contemplates the Parties entering into this Agreement for the City’s provision of retail Wastewater service to customers within the Property; and

**WHEREAS**, Owner and District desire the City to provide retail Wastewater service to Wastewater Customers within the Property; and

**WHEREAS**, the City is willing and able to make retail Wastewater service available pursuant to the terms of this Agreement; and

**WHEREAS**, Denton wishes to reuse Wastewater originating from the Property.

**WHEREAS**, District and the City agree that reclaimed Water provided by the City, when available, should be used for irrigation in, at a minimum, commercial and public property within the District; and

**WHEREAS**, Owner and District want the City to possess title and ownership of all Wastewater flows originating from the Property and discharged into Denton’s System; and

**WHEREAS**, The Parties acknowledge and agree each is required to comply with applicable federal, state, and local laws, regulations, and permits, as amended; and

**WHEREAS**, the Parties desire, and have independently determined, that it is in their best interest to enter into this Agreement; and

**WHEREAS**, Denton, by Council Ordinance No. \_\_\_\_\_, on \_\_\_\_\_, approved and authorized its City Manager to execute this Agreement; and

**WHEREAS**, the District, at a meeting of its Board of Directors on December 30, 2024, has approved and authorized the President or Vice President of the Board of Directors to execute and the Secretary or Assistant Secretary of the Board of Directors to attest this Agreement; and

**WHEREAS**, Denton and the District are authorized to enter into this Agreement pursuant to Texas Government Code Chapter 791, and other applicable laws; and

**WHEREAS**, Denton and District individually have the authority to perform as set forth in this Agreement in accordance with Texas Government Code § 791.011(c); and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and undertaking of the Parties hereto and the mutual consideration herein stated, the sufficiency of which is hereby acknowledged and agreed upon, the Parties hereby agree as follows:

## **AGREEMENT OF THE PARTIES**

### **ARTICLE I** **DEFINITIONS**

Some terms used herein are defined by the Texas Water Code or under the City ordinance. To the extent a defined term or phrase is used and not defined herein, each shall mean and refer to the definition prescribed by the Texas Water Code or under the City ordinance. If no such definitions are established by those laws, then common usage shall control. Accordingly, the following terms and expressions in this Agreement, unless the context clearly shows otherwise, shall have the following meanings:

“**CCN**” shall refer to and mean a Certificate of Convenience and Necessity issued by the Public Utility Commission of Texas (“**PUC**”) or its predecessor or successor agency, as prescribed by the Texas Water Code.

“**Denton**” or “**City**” shall refer to and mean the City of Denton, Texas, a Texas home-rule municipality.

“**Cost of Construction**” shall refer to and mean the actual costs of design, engineering, construction, acquisition, inspection, testing, surveying, staking, and other associated costs relating to the construction of the Wastewater Facilities, as applicable. The estimated Cost of Construction of the Wastewater Facilities attributable to the Property is included in **Exhibit “B”** attached hereto and incorporated herein.

“**Day**” means a 24-hour period from 12:00 a.m. to 11:59 p.m. of each calendar day.

“**Denton’s System**” or “**Denton System**” means all existing and future facilities utilized to provide Water or Wastewater services to Denton’s retail and wholesale customers including, but not limited to, Denton’s Water treatment and transmission systems, Water storage facilities, Wastewater collection systems, publicly owned treatment works, and administrative and personnel buildings.

“**District**” shall refer to and mean Ponder Farms Municipal Utility District of Denton County, a conservation and reclamation district operating under the authority of Chapters 49 and 54 of the Texas Water Code, as amended.

“**ESFC**” shall refer to and mean an equivalent single-family connection.

“**MGD**” means million gallons per day measured as a twenty-four-hour period and is not intended as an annual average unless expressly provided to the contrary.

“**Month**” means a calendar month.

“**Offsite**” means not located within the Property.

“**Offsite Wastewater Facilities**” means Wastewater Facilities to be constructed by Owner outside the boundaries of the Property for the purpose of providing retail wastewater service to Wastewater Customers located within the Property, particularly including those offsite facilities shown on **Exhibit “B”** attached hereto.

“**Outside Customers**” shall refer to and mean retail Wastewater customers who are connected to Denton’s System and are billed as customers located outside the City’s corporate limits.

“**Points of Delivery**” means the locations where, and the Wastewater Facilities through which, Wastewater will enter the Wastewater Facilities within the Property, pursuant to this Agreement. As of the Effective Date of this Agreement, the Points of Delivery are located as identified in **Exhibit “B”** attached hereto and incorporated herein.

“**Property**” shall refer to and mean the parcel of approximately 154.425 acres, more particularly described and shown in **Exhibit “A”**. The Property shall be developed into a single-family residential development.

“**Wastewater**” or “**Effluent**” means all liquid or water-carried waste products from whatever source derived, whether treated or untreated, which are discharged into, or permitted to enter into, Denton’s System.

“**Wastewater Customers**” shall mean and refer to Water and/or Wastewater customers that are located within the Property.

“**Wastewater Facilities**” shall refer to and mean all wastewater facilities to be constructed by Owner inside or outside the boundaries of the Property for the purpose of providing retail Wastewater service to Wastewater customers located within the Property, particularly including those facilities shown on **Exhibit “B”** attached hereto.

“**Water**” means raw water treated by Denton so that it is potable water meeting the minimum quality requirements for human consumption as prescribed by the Texas Commission on Environmental Quality or other appropriate regulatory agency.

“**Water Facilities**” shall mean all Water conveyance facilities to be constructed by Owner inside or outside the boundaries of the Property, as further detailed in the Water Agreement.

## **ARTICLE II** **ADOPTIONS AND INTERPRETATIONS**

**Section 2.1. Adoption of Recitals.** All of the matters stated in the recitals of this Agreement are true and correct and are hereby incorporated into the body of this Agreement as though fully set forth in their entirety herein.

**Section 2.2. Adoption of Exhibits.** The following Exhibits and their attachments referenced in this Agreement are hereby incorporated into the body of this Agreement as though fully set forth in their entirety herein:

- Exhibit “A” Property
- Exhibit “B” Wastewater Facilities and Estimated Cost of Construction
- Exhibit “C” Form of Easement
- Exhibit “D” Development Schedule

**Section 2.3. Interpretations.** The following principles control the interpretation of this Agreement.

2.3.1. Unless otherwise stated, reference to any statute, agency rule, ordinance, policy, City requirement, or document means the statute, agency rule, ordinance, policy, City requirement, or document, as amended or supplemented from time to time.

2.3.2. Reference to any party to this Agreement or to a governmental regulatory agency means that entity and its successors and assigns, unless expressly provided to the contrary in this Agreement.

2.3.3. Misspelling of one or more words in this Agreement shall not void the Agreement. Misspelled words shall be read to have the meaning apparently intended by the Parties.

2.3.4. Words in the singular number include the plural, unless the context otherwise requires.

2.3.5. References to “Article”, “Section”, Subsection”, and “Exhibit” are to the articles, sections, subsections and exhibits of this Agreement unless expressly stated to the contrary.

2.3.6. Article and section headings are for convenience and reference and are not intended to define, limit, or expand the scope of any provision of this Agreement.

### **ARTICLE III** **WASTEWATER FACILITIES**

**Section 3.1. Construction.** Owner, on behalf of the District, shall finance and construct the Wastewater Facilities necessary to connect to Denton’s System at agreed upon Points of Delivery. The Parties hereby agree that the Wastewater Facilities shown on **Exhibit “B”** attached hereto shall be the only facilities required to provide retail Wastewater service to the Property pursuant to this Agreement, and that no other wastewater facilities shall be constructed other than those shown on **Exhibit “B”** attached hereto.

**Section 3.2. Design.** The Wastewater Facilities shall be engineered and designed by a Texas Licensed Professional Engineer chosen by Owner, who shall design such facilities in accordance with the applicable standards and specifications of the City and all governmental agencies having jurisdiction, consulting with the City to ensure conformance with the City specifications. Owner shall design and construct the Wastewater Facilities in a good and workmanlike manner so they are fit for the intended purposes. Said design and construction shall be at Owner’s sole cost, except as set forth to the contrary in Section 3.3 “Sizing” below.

Unless otherwise mutually agreed to in writing, Owner, on behalf of the District, shall be responsible for the design, construction, and financing of Wastewater Facilities, and compliance with any applicable state and federal requirements, including, but not limited to, for manholes, cleanouts, and for acquisition of any rights-of-way for additional or future Points of Delivery to which Denton may consent.

**Section 3.3. Sizing.** The Wastewater Facilities shall be sized to provide retail Wastewater service to a maximum of 650 ESFCs on the Property. In the event the City requires any of the Wastewater Facilities to be oversized to serve customers located outside the boundaries of the Property, terms and conditions related to oversizing shall be governed by an oversize participation agreement executed by the City and Owner based on the City’s standard oversize participation agreement form.

**Section 3.4. Construction of Wastewater Facilities.** The Wastewater Facilities shall be constructed in accordance with the construction plans and specifications approved by the City pursuant to Section 3.5 and in compliance with:

- a. City’s applicable ordinances, rules, and regulations, as amended; and
- b. The rules and regulations of any governmental agencies having jurisdiction, as amended.

**Section 3.5 Approval by the City’s Designated Engineer.** The Wastewater Facilities are subject to approval by the City’s designated engineer in accordance with the City’s standard review schedule, as



amended. Construction shall not commence unless and until said plans and specifications have been approved by the City's designated engineer. To the extent there is a conflict between any portion(s) of an applicable ordinance, rule, regulation, or law related to the construction of the Wastewater Facilities, the more restrictive and/or stringent of the conflicting portion(s) shall apply.

**Section 3.6. Conformity.** Owner agrees that Denton's engineers or other representatives may inspect and test the construction of the Wastewater Facilities at any time to determine compliance with the approved designs, plans, and specifications. Owner must notify the City in writing of the date upon which construction is scheduled to commence on each phase so the City may assign an inspector. The City will charge reasonable fees related to inspecting the construction of the Wastewater Facilities in accordance with applicable law.

**Section 3.7. Stoppage for Non-Conformance.** The City may stop work on any portion of the Wastewater Facilities which are not being constructed in conformance with the City's regulations and standards and the approved plans and specifications until such time as Owner and Owner's contractor(s) agree to construct that portion of the Wastewater Facilities in conformance and demonstrate future conformance as requested by the City.

**Section 3.8. Acceptance, Dedication, Maintenance, and Repair.** Upon proper completion of construction of a phase of the Wastewater Facilities, final inspection by the City, and the City's written approval of the Wastewater Facilities, such portion of the Wastewater Facilities shall be dedicated to the City without compensation by an appropriate legal instrument approved by the City Attorney. Thereafter, the Wastewater Facilities shall be owned and solely operated, maintained, and repaired by the City and shall be part of Denton's System. The City shall maintain the Wastewater Facilities in good repair and working condition at all times.

**Section 3.9. Acquisition and Dedication of Easements for Wastewater Facilities.**

3.9.1. Owner shall be responsible for acquiring and dedicating to the District, at Owner's sole expense, any easement encompassing areas across privately or publicly owned land or sites which the City determines are necessary for the construction, operation, and maintenance of the Wastewater Facilities. After such easements are dedicated to the District, the District hereby agrees to assign such easements to the City.

3.9.2. Owner shall use its good faith efforts to acquire non-exclusive easements which allow for the City to install future water lines and other municipal utilities; provided, however, that such future facilities shall not interfere with the operation, maintenance, or use of the Wastewater Facilities. If, however, Owner is unable to obtain such easements by private negotiation, District shall secure the non-exclusive easements after a finding of public necessity, through the use of the District's power of eminent domain.

3.9.3. The Parties agree that any easements acquired shall be on the form attached hereto as **Exhibit "C"** and incorporated herein for all purposes. Unless otherwise set forth in this Agreement to the contrary, the District shall be responsible for funding all reasonable and necessary legal proceeding/litigation costs, attorney's fees, and related expenses; property acquisition costs; and appraiser and expert witness fees paid or incurred in the exercise of its eminent domain powers. The District will use all reasonable efforts to expedite such condemnation procedures so that the Wastewater Facilities can be constructed as soon as reasonably practicable.

3.9.4. Owner shall obtain all governmental approvals necessary to construct the Wastewater Facilities in public land or rights-of-way.

**Section 3.10. Easement Form.** All easements acquired by Owner or District for the Wastewater Facilities shall:

- a. Be the widths shown in **Exhibit "B"** attached hereto;
- b. Be adequate to allow the City to install Wastewater lines and other municipal utilities; and

c. Be situated in the public right-of-way or in existing easements specifically dedicated for the Wastewater Facilities.

**Section 3.11. Development Contracts for Public Improvements and Bonds.** For all Wastewater Facilities, Owner and any contractor performing construction shall execute a Development Contract for Public Improvements with the City using a contract form approved by the City Attorney. Additionally, for all Wastewater Facilities, Owner or Contractor shall obtain and tender payment bonds and performance bonds in the full amount of the construction cost. The performance bonds shall be for a term of two years from the date of final acceptance of the Wastewater Facilities by the City and shall name the City as an obligee with a surety acceptable to the City guaranteeing the work and materials of the Wastewater Facilities to be free from defects or need for repair. The bond forms and the sureties are subject to the City Attorney's approval.

**Section 3.12. Copies of Plans.** Owner shall furnish the City with one reproduction and two copies of the as-built or record drawings in an appropriate AutoCAD format for the Wastewater Facilities promptly upon completion of construction and acceptance by the City. The drawings must be GIS compatible.

**Section 3.13. No Grant of Equity or Ownership.** No provision of this Agreement may be interpreted or construed to create any type of joint or equity ownership of any property or to create any partnership or joint venture. Neither this Agreement, nor any acts of the Parties hereunder, nor any payments, may be interpreted or construed as granting or otherwise vesting in District or Owner any right, title, interest, or equity in the Denton System, or any element thereof.

#### **ARTICLE IV** **RETAIL WASTEWATER SERVICE**

**Section 4.1. Sole Provider and Timing.** Denton shall be the sole provider of retail Wastewater service to all Wastewater Customers. Denton hereby agrees that it shall have sufficient capacity to provide retail Wastewater service to meet the needs of Owner's pace of development, as provided in **Exhibit "D"** attached hereto.

**Section 4.2. Billing and Rates.**

4.2.1. The City shall bill the Wastewater Customers for the City's provision of retail Wastewater service when such service is available.

4.2.2. Wastewater Customers shall pay the City's rate for retail Wastewater service to Outside Corporate Limits Customers, as the rate may be amended from time to time in the City's sole discretion.

4.2.3. All of the standard rates, fees, and charges adopted by the City, and as amended from time to time in the City's sole discretion, shall apply to retail Wastewater service provided pursuant to this Agreement.

**Section 4.3. Conditions Precedent.** It is understood and agreed by the Parties that the obligation of the City to provide retail Wastewater service in the manner contemplated by this Agreement is subject to (i) the issuance of all permits, certificates, or approvals required to lawfully provide retail Wastewater service by the PUC, Texas Commission on Environmental Quality, and all other governmental agencies having jurisdiction, which Owner, District, and City shall use its good faith efforts to timely acquire, if necessary and (ii) Owner and District's performance of the applicable terms and conditions of the Water Agreement, including, without limitation, those related to retail Water Service and the Owner's transfer of its Groundwater rights.

**Section 4.4. Service Limitations.** Notwithstanding any other provisions of this Agreement, Denton's obligation under this Agreement to supply retail Wastewater service is subject to and limited by the capabilities of Denton's System, as determined by Denton in its sole discretion. Denton will use reasonable efforts consistent with prudent operation of the Denton's System and with the terms of this Agreement, to furnish and remain in position to provide service to Wastewater Customers.

**Section 4.5. No Conveyance of Water Rights.** The Parties acknowledge that nothing in this Agreement is intended to sell, encumber, transfer, or convey any water rights from Denton to District, Owner, or any other entity and no such rights are sold, encumbered, transferred, or conveyed. No entitlement to Water supply is created other than as expressly provided in this Agreement. If this Agreement is ever construed to effect an entitlement in, or sale, encumbrance, transfer, or conveyance of, Water rights from Denton to District or Owner, then the entirety of the Agreement shall be null and void.

**Section 4.6. No Continuation of Services.** District and Owner acknowledge there is no right to continuation of retail Wastewater service by Denton in the event this Agreement is terminated and that no such right(s) may be implied.

**Section 4.7. Temporary Discontinuance.** Denton expressly reserves the right to temporarily discontinue the retail Wastewater service provided for in this Agreement, in the same manner as the City would temporarily discontinue retail Wastewater service provided to any of its other retail Wastewater customers, whenever it is necessary to do so to ensure proper operation of Denton's System or to protect the health and safety of the public as determined by the City in its sole discretion.

**Section 4.8. Wastewater Impact Fees.**

4.8.1. Impact fees for connection to any Wastewater Facilities shall be charged for each ESFC located within the Property (the "Impact Fees"), subject to the conditions in Sections 4.8 and 4.9 and in accordance with Chapter 395 of the Texas Local Government Code.

4.8.2. The Impact Fees shall refer to the fees due under this Agreement per ESFC from any builder within the Property who connects to the Wastewater Facilities, in an amount equal to the City's existing Wastewater impact fee stated on the City's impact fee schedule in effect at the time of said connection to the Wastewater Facilities. The Impact Fee shall be charged once per ESFC subject to Sections 4.8 and 4.9.

4.8.3. The Impact Fees shall be due for each connection made for each ESFC located within the Property at the time such connection is made. No connection to the Wastewater Facilities may occur until the Impact Fees have been paid to the City for such connection.

4.8.4. The Parties hereby agree that the amount of the Impact Fee shall be based on an impact fee study completed by the City, as amended. Any change to the amount of the Impact Fee shall be effective upon passage of the new Impact Fee amount by the Denton City Council and shall apply to any connections made after the new Impact Fee amount becomes effective.

**Section 4.9. Impact Fee Credits for Offsite Wastewater Facilities.**

4.9.1. This section shall be limited to Offsite Wastewater Facilities included in the City's impact fee study in effect at the time the City accepts the Offsite Wastewater Facilities.

4.9.2. Upon the City's acceptance of any Offsite Wastewater Facilities, Owner shall provide the City with evidence of the Cost of Construction for the Offsite Wastewater Facilities.

4.9.3. Owner will be eligible to receive an impact fee credit amount equal to the Cost of Construction for the Offsite Wastewater Facilities in accordance with the City's Impact Fee ordinances and regulations, as amended. However, the amount credited shall not be greater than the amount included in the City impact fee study in effect at the time of the City's acceptance of the Offsite Wastewater Facilities. The estimated Cost of Construction of the Wastewater Facilities attributable to the Property that are included in the City's most recent impact fee study in effect as of the Effective Date of this Agreement is attached hereto as **Exhibit "B"**. Owner and City agree that the most recent impact fee study is subject to change and may be amended by the Denton City Council in its sole discretion.

4.9.4. Owner and the City agree that once Owner is credited in accordance with Section 4.9.3, the City shall collect the Impact Fees per ESFC pursuant to Section 4.8.

4.9.5. Nothing in this Agreement shall limit the ability of the Denton City Council to amend the City's

impact fee study or schedule.

4.9.6. Nothing in this Agreement binds the Denton City Council to include any Offsite Wastewater Facilities in its impact fee study or capital improvement plan.

**Section 4.10. Effluent Title and Ownership.** All title to and ownership of Wastewater discharged by Wastewater Customers into the Denton System shall belong to Denton. Denton may, after treatment of Wastewater, reclaim, use, or sell the water, sludge, or any other product for reuse. Wastewater entering the Denton System becomes the property of Denton. Title to water from Wastewater that is treated and returns to a natural watercourse remains with Denton.

**Section 4.11. Pump and Haul.** In the event the City does not have sufficient capacity in the Denton System to provide Wastewater service to the Property to meet the needs of Owner's pace of development in accordance with Section 4.1 herein and the schedule attached hereto as **Exhibit "D"**, the City agrees to provide retail Wastewater service to the Property by any other means available to the City, including, but not limited to, providing pump and haul services for the Property at the City's sole cost and expense, until such time that the Denton System has sufficient capacity to provide Wastewater service to the Property in amounts sufficient to meet Owner's pace of development included in **Exhibit "D"** attached hereto.

**Section 4.12 Pretreatment.** Owner and District agree wastewater customers within the property are subject to the City of Denton Approved Pretreatment Program, approved by TCEQ in accordance with 40 C.F.R. Section 403.8, and all applicable portions of the Code of the City of Denton, Texas, Ch. 26, as amended.

## **ARTICLE V OPERATION AND REGULATORY APPROVALS**

**Section 5.1. Operation and Maintenance of Denton's System.** Denton recognizes its right and duty to operate Denton's System under this Agreement in a prudent and economical manner for the benefit of its retail customers. Denton will use due diligence to comply with appropriate retail wastewater service standards.

**Section 5.2. State or Federal Laws, Rules, Orders or Regulations.** This Agreement is subject to all applicable federal and state laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having or asserting jurisdiction; but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction.

**Section 5.3. City Permits and Regulatory Authorizations.** District and Owner will support and coordinate with the City in all its efforts to obtain permits and/or regulatory authorizations related to this Agreement from state and federal agencies having jurisdiction including, without limitation, efforts by the City involving water reuse and bed and banks permitting. Owner and District agree to provide the City with documents and information requested by the City for such purposes. District and Owner hereby waive any objection or right of protest to the City's permitting and/or authorization applications for such purposes.

### **Section 5.4. Certificates of Convenience and Necessity and Extraterritorial Jurisdiction.**

5.4.1. District agrees that it will not provide any Water or Wastewater services to any customer within an area included within Denton's single, dual, or multiple certificated areas, unless expressly approved in writing by Denton.

5.4.2. With the exception of Denton's respective Water and Wastewater CCNs, the Property shall not be located within an area subject to a CCN issued by the Public Utility Commission of Texas or its successor agency.

5.4.3. To the extent the Property, or any portion thereof, is not subject to any CCN, Denton has the option to extend its water and/or wastewater CCN to cover the property at the City's sole cost and expense.

5.4.4. The Owner agrees that it will not take any steps to include the Property in the extraterritorial jurisdiction of any political subdivision other than Denton.

**Section 5.5. Compliance with Applicable Laws.**

5.5.1. This Agreement is entered subject to and controlled by the Charter and Ordinances of the City of Denton, Texas and all applicable laws, rules, and regulations of the State of Texas and the United States of America (collectively, "Applicable Laws"), as amended. The Parties shall, during the performance of this Agreement, comply with all applicable City codes, ordinances, and regulations, as amended, and all applicable State and Federal laws, rules, and regulations, as amended.

5.5.2. Notwithstanding any provision of this Agreement, to the extent there is a conflict between any portion(s) of an applicable City ordinance, rule, or regulation related to service to Outside Customers and this Agreement, the provisions of this Agreement shall apply.

5.5.3. The Owner or District shall file this Agreement with the appropriate State or Federal agency, if required under State or Federal law.

**ARTICLE VI  
MISCELLANEOUS PROVISIONS**

**Section 6.1. INDEMNIFICATION.**

**6.1.1. TO THE EXTENT ALLOWED BY LAW, DISTRICT AGREES TO DEFEND, INDEMNIFY, AND HOLD DENTON, ITS OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM ANY LIABILITY IN CLAIMS, ADMINISTRATIVE PROCEEDINGS OR LAWSUITS FOR JUDGMENTS, PENALTIES, FINES, COSTS, EXPENSES AND ATTORNEY'S FEES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, OR FOR VIOLATIONS OF STATE OR FEDERAL LAWS OR REGULATIONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY: (A) A BREACH OF THIS AGREEMENT BY DISTRICT; (B) THE NEGLIGENT ACT OR OMISSION OF DISTRICT IN THE PERFORMANCE OF THIS AGREEMENT OR IN DISTRICT'S OPERATIONS; OR (C) THE CONDUCT OF DISTRICT THAT CONSTITUTES A VIOLATION OF STATE OR FEDERAL LAWS OR REGULATIONS OR OF PERMIT PROVISIONS. HOWEVER, THE INDEMNITY STATED ABOVE SHALL NOT APPLY TO ANY LIABILITY RESULTING EXCLUSIVELY FROM THE SOLE NEGLIGENCE OF DENTON, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS.**

**6.1.2. IN THE EVENT OF JOINT AND CONCURRING RESPONSIBILITY OF THE DISTRICT AND DENTON, RESPONSIBILITY, IF ANY, SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING GOVERNMENTAL IMMUNITY OR ANY OTHER DEFENSES OF THE PARTIES UNDER APPLICABLE TEXAS LAW.**

**6.1.3. NOTHING IN THIS SECTION 6.1 REQUIRES DENTON OR DISTRICT TO ASSESS OR COLLECT FUNDS OR TO CREATE A SINKING FUND.**

**6.1.4. OWNER AGREES TO DEFEND, INDEMNIFY, AND HOLD DENTON, ITS OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM ANY LIABILITY IN CLAIMS, ADMINISTRATIVE PROCEEDINGS OR LAWSUITS FOR JUDGMENTS, PENALTIES, FINES, COSTS, EXPENSES AND ATTORNEY'S FEES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS**

**SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, OR FOR VIOLATIONS OF STATE OR FEDERAL LAWS OR REGULATIONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY: (A) A BREACH OF THIS AGREEMENT BY OWNER; (B) THE NEGLIGENT ACT OR OMISSION OF OWNER, ITS DIRECTORS, AGENTS, EMPLOYEES, OR SEPARATE CONTRACTORS IN THE PERFORMANCE OF THIS AGREEMENT OR IN OWNER'S OPERATIONS; OR (C) THE CONDUCT OF OWNER, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS THAT CONSTITUTES A VIOLATION OF STATE OR FEDERAL LAWS OR REGULATIONS OR OF PERMIT PROVISIONS. HOWEVER, THE INDEMNITY STATED ABOVE SHALL NOT APPLY TO ANY LIABILITY RESULTING EXCLUSIVELY FROM THE SOLE NEGLIGENCE OF DENTON, ITS OFFICERS, AGENTS, EMPLOYEES, OR SEPARATE CONTRACTORS.**

**Section 6.2. Force Majeure.** In the event any Party is rendered unable by force majeure to carry out any of its obligations under this Agreement, in whole or in part, then the obligations of that Party, to the extent affected by the force majeure shall be suspended during the continuance of the inability, provided however, that due diligence is exercised to resume performance at the earliest practical time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the Party whose contractual obligations are affected thereby shall give written notice and full particulars of the force majeure to the other Party, shall provide weekly written updates describing its efforts to mitigate or cure the force majeure condition(s), and shall provide written notice at the time that the force majeure conditions have ceased.

The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, restraints of government and civil disturbances, explosions, breakage or accidents to equipment, pipelines or canals, partial or complete failure of water supply, epidemic, pandemic, and any other inability of either Party to be able to perform, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming the inability and that could not have been avoided by the exercise of due diligence and care.

**Section 6.3. Term of Agreement.** This Agreement shall commence on the Effective Date and shall end, unless terminated, when the actions necessary to effectuate the purposes and intent of this Agreement are completed.

**Section 6.4. Termination.** The City, at the City's option and without prejudice to any other remedy City may be entitled to at law, in equity, or elsewhere under this Agreement, may terminate this Agreement in whole or in part for breach that is not cured in compliance with Section 6.6, for non-appropriation under Section 6.24, or if the Water Agreement is terminated pursuant to its terms. If this Agreement is terminated, there shall be no express or implied obligation for the City to provide retail Wastewater Service to the Owner, the District, or the Wastewater Customers within the Property.

**Section 6.5. Addresses and Notice.** Unless otherwise provided herein, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by any party to any other party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested. Notice deposited in the mail in the manner described above shall be conclusively deemed to be effective upon receipt, unless otherwise stated herein. For the purposes of notice, the addressed of the parties shall, until changed as hereinafter provided, be as follows:

If to Denton, to:

City Manager

City of Denton  
215 E McKinney St  
Denton, Texas 76201

If to the District, to:

Ponder Farms Municipal Utility District of Denton County  
c/o Coats Rose, P.C.  
16000 North Dallas Parkway, Suite 350  
Dallas, Texas 75248  
Attn: Mindy L. Koehne

If to the Owner, to:

TCCI Ponder Farms 2021 LLC  
14675 Dallas Parkway, Suite 575  
Dallas, Texas 75254  
Attn: Tommy Cansler

The parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' prior written notice to the other parties hereto.

**Section 6.6. Breach.** If a Party breaches any term or condition of this Agreement, the non-breaching Party shall provide the breaching Party with notice of the breach. Upon its receipt of a notice of breach, the breaching Party shall have sixty (60) days to cure the breach. If the breaching Party does not cure the breach within the sixty (60) days, the non-breaching Party shall have all rights and remedies at law and in equity including, without limitation, the right to enforce specific performance of this Agreement by the breaching Party and the right to perform the obligation in question and to seek restitution for all damages incurred in connection therewith. However, this Agreement may only be terminated due to breach as stated in Section 6.4.

**Section 6.7. Survival of Certain Rights and Obligations.**

Notwithstanding any provision of this Agreement to the contrary and without limitation of any other provisions of this Agreement that specify survival of rights and obligations, all rights and obligations of the Parties under this Agreement which by their nature are intended to survive including, but not limited to, those listed below shall survive:

- a. Section 3.11. Development Contracts for Public Improvements and Bonds;
- b. Section 3.13. No Grant of Equity or Ownership;
- c. Section 4.5. No Conveyance of Water Rights;
- d. Section 4.6. No Continuation of Services;
- e. Section 4.12 Pretreatment;
- f. Section 5.3. City Permits and Regulatory Authorizations;
- g. Section 5.4. Certificates of Convenience and Necessity and Extraterritorial Jurisdiction;
- h. Section 6.1. Indemnification;
- i. Section 6.9. No Third-Party Beneficiaries;
- j. Section 6.12. Nonwaiver and Remedies; and
- k. Section 6.16. Venue; and

1. Section 6.20. Necessary Documents and Actions.

**Section 6.8. Severability; Interpretation.** The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other Party of this Agreement to other persons or circumstances shall not be affected thereby and this Agreement shall be construed as if such invalid or unconstitutional portion had never been contained therein. The Parties agree that they have equally participated in the drafting of this Agreement with the assistance of legal counsel, and that neither Party shall receive any benefit of interpretation of its terms on the basis of relative contribution to the drafting process.

**Section 6.9. No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto, and no other person or entity has any right, interest or claim under this Agreement nor shall be considered to be a third-party beneficiary.

**Section 6.10. Captions.** The captions of the various sections and paragraphs herein are intended for convenience or reference only and shall not define or limit any of the terms or provisions hereof.

**Section 6.11. Governmental Immunity Not Waived.** Neither Denton or the District waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available against claims made or arising from any act or omission resulting from the Agreement.

**Section 6.12. Nonwaiver and Remedies.**

6.12.1. A Party's right in the future to demand strict compliance and performance under this Agreement is not diminished because, whether through decision or oversight, that Party has not enforced a provision of this Agreement or has not enforced breach or nonperformance in the past, whether periodically or for long duration. Also, a Party's right in the future to demand strict compliance and performance with this Agreement is not diminished because, whether through decision or oversight, the other Party has not enforced the same or a similar provision of this Agreement or does not enforce the same or a similar breach or nonperformance, whether periodically or for long duration. To the extent a right or benefit in this Agreement is expressly waived by a Party such waiver will not be applied other than strictly in accordance with the conditions expressed in such express waiver and will not be implied to be continuing in nature.

6.12.2. Except to the extent expressly provided otherwise, all remedies existing at law or in equity may be availed of by the City and shall be cumulative including, without limitation, specific performance, and the City shall be entitled to any reasonable attorney's fees, costs, or other expenses incurred in bringing or defending any action, as may be awarded by a tribunal of competent jurisdiction.

**Section 6.13. Entire Agreement.** This Agreement, including any exhibits and/or addendums attached hereto and made a part hereof, and the Water Agreement and its exhibits and/or addendums constitutes the entire agreement between the Parties relative to the subject matter of this Agreement. All prior agreements, covenants, representations, or warranties, whether oral or in writing, between the Parties are merged herein.

**Section 6.14. Amendment.** No amendment of this Agreement shall be effective unless and until it is duly approved by each Party and reduced to a writing signed by the authorized representatives of the City, District, and Owner respectively, which amendment shall incorporate this Agreement in every particular not otherwise changed by the amendment.

**Section 6.15. Governing Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the Parties are expressly deemed performable in Denton County, Texas.

**Section 6.16. Venue.** Any action at law or in equity brought to enforce or interpret any provision of this Agreement shall be brought in a state court of competent jurisdiction with venue in Denton County, Texas.



**Section 6.17. Successors and Assigns.** This Agreement shall be binding on and shall inure to the benefit of the Parties and their successors and assigns.

**Section 6.18. Assignment.** The rights and obligations of the Owner and/or District hereunder may not be assigned without the prior written consent of Denton's City Manager. Any assignment of, or attempt to assign, rights, or delegation of duties under this Agreement without the consent of Denton's City Manager is void. No assignment by Owner or District shall release Owner or District from any obligations, rights, title, or interests under this Agreement or from any liability that resulted from any act or omission by Owner or District, unless the City Manager approves such a release in the written consent provided by the City Manager.

**Section 6.19. Counterparts.** This Agreement may be executed in multiple counterparts, which, when taken together, shall be deemed one original.

**Section 6.20. Necessary Documents and Actions.** Each Party agrees to execute and deliver all other and further instruments and undertake actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

**Section 6.21. Authority.** By execution of this Agreement on its behalf, each Party represents that it has full capacity and authority to grant all rights and assume all obligations that it has granted and assumed under this Agreement, and that this Agreement has been authorized by its governing body. The Parties represent and warrant that their respective signatories to this Agreement have corporate or organizational authority to execute this Agreement.

**Section 6.22. Form 1295.** Submitted herewith, if required by applicable law, is a completed Form 1295 generated by the Texas Ethics Commission's ("TEC") electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (the "Form 1295"). The City hereby confirms receipt of the Form 1295 from Owner, and the City agrees to acknowledge such form with the TEC through its electronic filing application not later than the 30th day after the receipt of such form. The Parties understand and agree that, with the exception of information identifying the City and the contract identification number, neither the City nor its consultants are responsible for the information contained in the Form 1295; that the information contained in the Form 1295 has been provided solely by Owner; and, neither the City nor its consultants have verified such information.

**Section 6.23. Certifications.**

6.23.1. Pursuant to Texas Government Code Chapter 2271, as amended, Owner verifies that at the time of execution and delivery of this Agreement and for the term of this Agreement, neither Owner, its parent companies, nor its common-control affiliates currently boycott or will boycott Israel. The term "boycott Israel" as used in this paragraph has the meaning assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

6.23.2. Pursuant to Texas Government Code, Chapter 2252, as amended, Owner represents and verifies that at the time of execution and delivery of this Agreement and for the term of this Agreement, neither Owner, its parent companies, nor its common-control affiliates (i) engage in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

6.23.3. Pursuant to Chapter 2276 of the Texas Government Code (as added by Senate Bill 13, 87<sup>th</sup> Texas Legislature, Regular Session and redesignated by House Bill 4595, 88<sup>th</sup> Texas Legislature, Regular Session), Owner certifies that it is not a Company that boycotts energy companies and agrees it will not boycott energy companies during the term of this Agreement. The terms "boycotts energy companies" and

“boycott energy companies” have the meaning assigned to the term “boycott energy company” in Section 809.001, Texas Government Code. For purposes of this paragraph, “Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit, but does not include a sole proprietorship.

6.23.4. Pursuant to Chapter 2274 of the Texas Government Code (as added by Senate Bill 19, 87<sup>th</sup> Texas Legislature, Regular Session, “SB 19”), Owner certifies that it is not a Company that has a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and agrees it will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The terms “discriminates against a firearm entity or firearm trade association” and “discriminate against a firearm entity or firearm trade association” have the meaning assigned to the term “discriminate against a firearm entity or firearm trade association” in Section 2274.001(3), Texas Government Code (as added by SB 19). For purposes of this paragraph, “Company” means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations, that exists to make a profit, but does not mean a sole proprietorship.

6.23.5. Owner further certifies that, notwithstanding anything contained in this Agreement, the representations and covenants contained in this Section 6.23 shall survive termination of the Agreement until the statute of limitations has run. The liability for breach of the representations and covenants contained in this Section 6.23 during the term of the Agreement shall survive until barred by the statute of limitations, and shall not be liquidated or otherwise limited by any provision of the Agreement, notwithstanding anything in the Agreement to the contrary.

**Section 6.24 Non-Appropriation.** Notwithstanding any provisions contained herein, the obligations of the City under this Agreement are expressly contingent upon the availability of funding for each item and obligation contained herein. Neither the Owner or the District shall have a right of action against the City in the event the City is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years. If the City is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, or if funds become unavailable, the City, at its sole discretion, may provide funds from a separate source or may terminate this Agreement by written notice at the earliest possible time prior to the end of its fiscal year.

**Section 6.25 Reservations of Capacity.** Any reservation of Water and/or Wastewater capacity by the City stated or implied by this Agreement shall not be construed to extend beyond the Deadline provided in the Water Agreement, unless the Deadline is extended pursuant to the Water Agreement, in which case any stated or implied reservation shall only extend for the period consented to by Denton’s City Manager.

**IN WITNESS WHEREOF**, the Parties hereto acting under authority of their respective governing bodies have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the Effective Date.

**[SIGNATURE PAGES FOLLOW]**

**CITY OF DENTON**

By: \_\_\_\_\_

Sara Hensley, City Manager

**ATTEST:**

\_\_\_\_\_

Lauren Thoden, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_

Mack Reinwand, City Attorney

**DISTRICT**

By:   
vice President, Board of Directors

**ATTEST:**

  
Secretary, Board of Directors


**APPROVED AS TO FORM AND LEGALITY:**

  
Mindy L. Koehne, Attorney for the District

**OWNER**

**TCCI PONDER FARMS 2021 LLC,**  
a Texas limited liability company

By: **TCCI Management Corp.,**  
a Texas corporation  
its Manager

By:   
Name: Tommy Cansler  
Title: Director

**EXHIBIT "A"**

**THE PROPERTY**

**TRACT 1**

**BEING** a tract of land situated in the Fields Davis Survey, Abstract No. 371, Denton County, Texas, and being the remainder of a called 154.219 acre tract of land described in a deed to TCCI Ponder Farms 2021 LLC, as recorded in Instrument No. 2023-2430 of the Official Records of Denton County, Texas, and being more particularly described as follows:

**BEGINNING** at a mag nail set for the southwest corner of said 154.219 acre tract, being on the northerly line of a called 4.537 acre tract of land described in a deed to Haley Ann Wallace and Nathan Haugen, as recorded in Instrument No. 2022-133154 of the Official Records of Denton County, Texas, and in Robinson Road, a variable width right of way, no record found;

**THENCE** North 00°12'30" West, departing the northerly line of said 4.537 acre tract, along the westerly line of said 154.219 acre tract and said Robinson Road, a distance of 1,010.74 feet to a mag nail set for the southwest corner of a called 1.264 acre tract of land described in a deed to Joshua A. Bethke, as recorded in Instrument No. 2023-10773 of the Official Records of Denton County, Texas, in a deed to Donald Lane, as recorded in Instrument No. 2023-40898 of the Official Records of Denton County, Texas, in a deed to Ryan Hughes, as recorded in Instrument No. 2023-40899 of the Official Records of Denton County, Texas, and in a deed to George Campbell, as recorded in Instrument No. 2023-40900 of the Official Records of Denton County, Texas;

**THENCE** North 89°47'20" East, departing the westerly line of said 154.219 acre tract and said Robinson Road, along the southerly line of said 1.264 acre tract and crossing said 154.219 acre tract, a distance of 208.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said 1.264 acre tract;

**THENCE** North 00°12'30" West, along the easterly line of said 1.264 acre tract and continuing across said 154.219 acre tract, a distance of 263.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 1.264 acre tract;

**THENCE** South 89°47'20" West, along the northerly line of said 1.264 acre tract and continuing across said 154.219 acre tract, a distance of 208.71 feet to a mag nail set for the northwest corner of said 1.264 acre tract, being on the westerly line of said 154.219 acre tract and in said Robinson Road;

**THENCE** North 00°12'30" West, along the westerly line of said 154.219 acre tract and said Robinson Road, a distance of 661.74 feet to a mag nail set for the westerly northwest corner of said 154.219 acre tract, common to the southwest corner of J.B. Place, according to the plat thereof recorded in Cabinet E, Page 58 of the Plat Records of Denton County, Texas;

**THENCE** North 89°49'56" East, departing said Robinson Road, along the northerly line of said 154.219 acre tract and the southerly line of said J.B. Place, a distance of 588.19 feet to a 1/2 inch iron rod with plastic cap (illegible) found for the southeast corner of said J.B. Place, common to an ell corner of said 154.219 acre tract;

**THENCE** North 00°10'05" West, along the westerly line of said 154.219 acre tract and the easterly line of said J.B. Place, a distance of 280.19 feet to a 1/2 inch iron rod with plastic cap (illegible) found for the northerly northwest corner of said 154.219 acre tract, common to the northeast corner of said J.B. Place, being on the southerly line of a tract of land described as Tract 8 in a deed to J. Young Land & Cattle, Ltd., as recorded in Instrument No. 2003-203076 of the Official Records of Denton County, Texas;

• **THENCE** North 89°17'16" East, along the northerly line of said 154.219 acre tract and the southerly line of said Tract 8, a distance of 2,470.04 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northerly northeast corner of said 154.219 acre tract, common to the northwest corner of Block A of Bella Vista, according to the plat thereof recorded in Cabinet H, Page 25 of the Plat Records of Denton County, Texas;

**THENCE** South 00°08'39" East, departing the southerly line of said Tract 8, along the easterly line of said 154.219 acre tract and the westerly line of said Block A, a distance of 554.20 feet to a 1/2 inch iron rod with plastic cap (illegible) found for the southwest corner of said Block A, common to an ell corner of said 154.219 acre tract;

**THENCE** North 89°51'21" East, along the northerly line of said 154.219 acre tract and the southerly line of said Block A, passing at a distance of 430.60 feet the southeast corner of said Block A, common to the southwest corner of a right of way dedicated in said Bella Vista, and continuing along the same course and along the southerly line of said right of way dedication, for a total distance of 453.66 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a northeast corner of said 154.219 acre tract, common to the southeast corner of said right of way dedication, same being in Florence Road, a variable width right of way, no record found;

**THENCE** South 00°08'39" East, along the easterly line of said 154.219 acre tract and said Florence Road, a distance of 60.00 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a southeast corner of said 154.219 acre tract, common to the northeast corner of a right of way dedicated in said Bella Vista;

**THENCE** South 89°51'21" West, departing said Florence Road, along the southerly line of said 154.219 acre tract and the northerly line of said right of way dedication, passing at a distance of 23.06 feet the northwest corner of said right of way dedication, common to the northeast corner of Block B of said Bella Vista, and continuing along the same course and along the northerly line of said Block B, for a total distance of 453.66 feet to a 1/2 inch iron rod found for the northwest corner of said Block B, common to an ell corner of said 154.219 acre tract;

**THENCE** South 00°08'39" East, along the easterly line of said 154.219 acre tract and the westerly line of said Block B, a distance of 1,056.00 feet to a 1/2 inch iron rod with plastic cap (illegible) found for an ell corner of said 154.219 acre tract, common to the southwest corner of said Block B;

**THENCE** North 89°51'21" East, along the northerly line of said 154.219 acre tract and the southerly line of said Block B, passing at a distance of 430.60 feet a 1/2 inch iron rod with plastic cap (illegible) found for the southeast corner of said Block B, common to the southwest corner of right of way dedication, and continuing along the same course and along the southerly line of said right of way dedication, for a total distance of 453.66 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for a northeast corner of said 154.219 acre tract, common to the southeast corner of said right of way dedication, same being in said Florence Road;

**THENCE** South 00°08'39" East, along the easterly line of said 154.219 acre tract and said Florence Road, a distance of 60.00 feet to a 5/8 inch iron rod with plastic cap (illegible) found for a southeast corner of said 154.219 acre tract, common to the northeast corner of a right of way dedicated in said Bella Vista;

**THENCE** South 89°51'21" West, departing said Bella Vista, along the southerly line of said 154.219 acre tract and the northerly line of said right of way dedication, passing at a distance of 23.06 feet a 1/2 inch iron rod with plastic cap (illegible) found for the northwest corner of said right of way dedication, common to the northeast corner of Block C of said Bella Vista, and continuing along the same course, for a total distance of 453.66 feet to a 1/2 inch iron rod with plastic cap (illegible) found for an ell corner of said 154.219 acre tract, common to the northwest corner of said Block C;

**THENCE** South 00°08'39" East, along the easterly line of said 154.219 acre tract and the westerly line of said Block C, a distance of 530.93 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southerly southeast corner of said 154.219 acre tract, common to the southwest corner of said Block C, same being on the northerly line of a called 3.710 acre tract of land described in a deed to Melissa Chavez and Jose Olvera and Antonio Chavez and Luz Chaves, as recorded in Instrument No. 2021-230020 of the Official Records of Denton County, Texas;



**THENCE** North 89°46'08" West (North 89°38'58" West), along the southerly line of said 154.219 acre tract, the northerly line of said 3.710 acre tract, the northerly line of a called 1.566 acre tract of land described as Tract 1 to C&C Residential Properties, Inc., as recorded in Instrument No. 2023-57200 of the Official Records of Denton County, Texas, the northerly line of a called 1.00 acre tract of land described in a deed to Jeronimo Silva and Rhonda S. Silva, as recorded in Instrument No. 2007-24770 of the Official Records of Denton County, Texas, the northerly line of a called 10.090 acre tract of land described in a deed to Leslie A. Gustafson and Deborah S. Gustafson, as recorded in Instrument No. 95-0041077 of the Official Records of Denton County, Texas, the northerly line of a called 20.13 acre tract of land described in a deed to James Wallis and Debra Wallis, as recorded in Instrument No. 2017-93327 of the Official Records of Denton County, Texas, the northerly line of a called 24.522 acre tract of land described in a deed to Alva Glendon Montya and Joann Montya, as recorded in Volume 2507, Page 293 of the Deed Records of Denton County, Texas, the northerly line of a called 10.098 acre tract of land described in a deed to Ricky W. Perry and Sherry E. Perry, as recorded in Volume 2820, Page 35 of the Deed Records of Denton County, Texas, and the northerly line of aforesaid 4.537 acre tract, a distance of 3,055.89 feet (3,055.94 feet) to the **POINT OF BEGINNING** and containing 153.161 acres (6,671,699 square feet) of land, more or less.

## **TRACT 2**

**BEING** a tract of land situated in the Fields Davis Survey, Abstract No. 371, Denton County, Texas, and being all of a called 1.264 acre tract of land described in a deed to Joshua A. Bethke, as recorded in Instrument No. 2023-10773 of the Official Records of Denton County, Texas, in a deed to Donald Lane, as recorded in Instrument No. 2023-40898 of the Official Records of Denton County, Texas, in a deed to Ryan Hughes, as recorded in Instrument No. 2023-40899 of the Official Records of Denton County, Texas, and in a deed to George Campbell, as recorded in Instrument No. 2023-40900 of the Official Records of Denton County, Texas, and being more particularly described as follows:

**BEGINNING** at a mag nail set for the southwest corner of said 1.264 acre tract, same being in Robinson Road, a variable width right of way, no record found;

**THENCE** North 00°12'30" West, along the westerly line of said 1.264 acre tract and said Robinson Road, a distance of 263.71 feet to a mag nail set for the northwest corner of said 1.264 acre tract;

**THENCE** North 89°47'20" East, departing said Robinson Road and along the northerly line of said 1.264 acre tract, a distance of 208.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the northeast corner of said 1.264 acre tract;

**THENCE** South 00°12'30" East, along the easterly line of said 1.264 acre tract, a distance of 263.71 feet to a 5/8 inch iron rod with plastic cap stamped "KHA" set for the southeast corner of said 1.264 acre tract;

**THENCE** South 89°47'20" West, along the southerly line of said 1.264 acre tract, a distance of 208.71 feet to the **POINT OF BEGINNING** and containing 1.264 acres (55,039 square feet) of land, more or less.



**EXHIBIT "C"**

**FORM OF EASEMENT**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: [YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.]**

**WASTEWATER EASEMENT**

**THE STATE OF TEXAS  
COUNTY OF DENTON**

**§  
§  
§**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT \_\_\_\_\_, (Grantor) whose mailing address is \_\_\_\_\_, in consideration of the sum of ONE DOLLAR and NO CENTS (\$1.00) and other good and valuable consideration in hand paid by PONDER FARMS MUNICIPAL UTILITY DISTRICT OF DENTON COUNTY (Grantee), the receipt of which is hereby acknowledged, does by these presents grant, bargain, sell and convey unto Grantee the free and uninterrupted use, liberty and privilege of the passage in, along, upon and across the following described property, owned by Grantor and situated in Denton County, Texas, in the \_\_\_\_\_ Abstract No. \_\_\_\_\_.

**PROPERTY AREA DESCRIBED IN EXHIBIT "A"**

**AND ILLUSTRATED IN EXHIBIT "B"**

**ALL ATTACHED HERETO AND MADE A PART HEREOF**

And it is further agreed that Grantee, in consideration of the benefits above set out, will remove from the property above described, such fences, buildings and other obstructions as may now be found upon said property.

For the purpose of constructing, reconstructing, installing, repairing, and perpetually maintaining wastewater facilities and related appurtenances in, along, upon and across said premises, with the right and privilege at all times of the Grantee herein, his or its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises for the purpose of making additions to, improvements on and repairs to the said wastewater facilities or any part thereof.

This instrument shall be binding on, and inure to the benefit of, Grantee and Grantor and their respective successors and assigns. Grantee may assign this easement to any entity maintaining any portion of the said wastewater facilities, including the City of Denton, Texas, without the consent of Grantor, so long as doing so does not interfere with Grantor’s rights hereunder.

TO HAVE AND TO HOLD unto the said Grantee as aforesaid for the purposes aforesaid the premises above described.

Witness its hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By: \_\_\_\_\_,

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

ACKNOWLEDGMENT

THE STATE OF \_\_\_\_\_ §  
COUNTY OF \_\_\_\_\_ §

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_  
\_\_\_\_\_

of \_\_\_\_\_, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed, in the capacity therein state and as the act and deed of said \_\_\_\_\_.

Given under my hand and seal of office on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, in and for the State of \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ for the City of Denton, Texas (Resolution No. 91-073).

BY: \_\_\_\_\_

AFTER RECORDING RETURN TO:

Development Services – Real Estate Division  
401 N. Elm Street  
Denton, Texas 76201  
Attention: Mark Laird

## EXHIBIT "D"

### DEVELOPMENT SCHEDULE

Ponder Farms MUD Tracts - Single Family																	
Proposed Project	Served Pressure Plane	Planning Year (Number of ESFCs Online)												Buildout	Buildout Year		
		2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035			2036	2037
Webster Meadows (Single Family)	SWPP	0	0	200	350	396	396	396	396	396	396	396	396	396	396	396	2028
Ponder Farms (Single Family)	SWPP	0	0	200	350	500	567	567	567	567	567	567	567	567	567	567	2029
Churchill (Single Family)	SWPP	0	0	0	200	350	500	650	800	950	1100	1250	1400	1550	1630	1630	2037
<i>Total ESFCs:</i>														2593			

Ponder Farms MUD Tracts - Multi Family											
Proposed Project	Served Pressure Plane	Planning Year (Number of ESFCs Online)							Buildout	Buildout Year	
		2024	2025	2026	2027	2028	2029	2030			2031
Churchill Multi-Family Phase 1	SWPP	0	0	0	0	225	0	0	0	225	2029
Churchill Multi-Family Phase 2	SWPP	0	0	0	0	0	0	0	225	225	2031
<i>Total ESFCs:</i>										450	

Ponder Farms MUD Tracts - Retail											
Proposed Project	Served Pressure Plane	Planning Year (Number of ESFCs Online)							Buildout	Buildout Year	
		2024	2025	2026	2027	2028	2029	2030			2031
Churchill Retail	SWPP	0	0	0	50	50	100	50	0	250	2031
<i>Total ESFCs:</i>										250	