

S/D No.: 85-30 Name: PENSTEMON 3RD ADDITION

Preliminary Approved: 4/11/85  
Scheduled S/D Meeting: 5/9/85

DESCRIPTION

General Location: On the north side of Greenbriar in an area east of Rock Road.  
Owner: Tallgrass Company, 8100 E. 22nd Street, Bldg. 1900, Wichita, KS 67226  
Surveyor/Engineer: Mid-Kansas Engineering Consultants, P.A.

1. Gross Acreage of Plat: 5.7 Acres ±
  2. Number of Lots:
    - Residential: 19
    - Office:
    - Commercial:
    - Industrial:
    - Total: 19
  3. Minimum Lot Area: 8,000Sq. Ft.
  4. Existing Zoning: "AA" under C.U.P.
  5. Proposed Zoning: "AA" under C.U.P.
- 

STAFF COMMENTS:

NOTE: This property is subject to the provisions of the Tallgrass Community Unit Plan (DP-96). The property is planned for development of single family or duplex uses.

- A. The applicant shall guarantee the extension of sanitary sewer to serve each lot.
- B. The applicant shall guarantee the extension of municipal water to serve each lot.
- C. The applicant shall guarantee the pavement of Greenbriar Court.
- D. The applicant shall guarantee any drainage improvements required by this plat.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted for recording with the plat.
- F. The applicant shall submit a restrictive covenant which provides for four (4) off-street parking spaces per dwelling unit constructed on those lots abutting a 58-foot wide street right-of-way. The covenant shall inventory, by lot number, the affected lots.
- G. The applicant shall submit the standard avigational easement and associated restrictive covenant for this property.
- H. As required by the Community Unit Plan, a Homeowners' Association needs to be provided for at the time of platting. The applicant shall submit a covenant which states when the Homeowners' Association will be formed.
- I. The final plat tracing shall reference "ROBERT C. BROWN," as Mayor.
- J. Closure computations shall be submitted with the final plat tracing.
- K. Recording of the plat within 30 days after approval by the Board of City Commissioners.
- L. The representative from the City Engineer's Office should be prepared to comment on the status of the applicant's drainage plan. Specifically, are any drainage guarantees required?

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Owner: Tallgrass Company, 8100 E. 22nd Street, Bldg. 1900, Wichita, KS 67226  
Surveyor/Engineer: Bill G. Yung Design

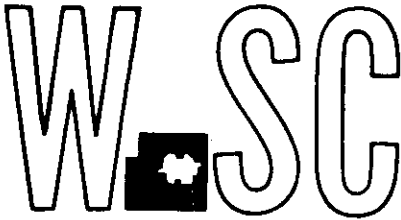
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  2. Number of Lots:
    - Residential: 19
    - Office:
    - Commercial:
    - Industrial:
    - Total: 19
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- D. The applicant shall guarantee any drainage improvements required by this plat.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted for recording with the plat.
- F. The applicant shall submit a restrictive covenant which provides for four (4) off-street parking spaces per dwelling unit constructed on those lots abutting a 58-foot wide street right-of-way. The covenant shall inventory, by lot number, the affected lots.
- G. The applicant shall submit the standard avigational easement and associated restrictive covenant for this property.
- H. As required by the Community Unit Plan, a Homeowners' Association needs to be provided for at the time of platting. The applicant shall submit a covenant which states when the Homeowners' Association will be formed.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- J. Requirements for a final plat (see pages 20-25, Part 4, Article 5 of the MAPC Subdivision Regulations).
- K. The representative from the City Engineer's Office should be prepared to comment on the status of the applicant's drainage concept for this property.

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
COMMISSION

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4561



April 12, 1985

Bill G. Yung Design  
8225 East 35th Street North  
Wichita, KS 67226

Re: S/D 85-30 - Preliminary Plat of Penstemon 3rd Addition

Dear Mr. Yung:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on Thursday, April 11, 1985, the above-captioned plat was considered. The action of the Committee was to approve the preliminary and authorize preparation of the final plat, subject to the following:

- A. The applicant shall guarantee the extension of sanitary sewer to serve each lot.
- B. The applicant shall guarantee the extension of municipal water to serve each lot.
- C. The applicant shall guarantee the pavement of Greenbriar Court.
- D. The applicant shall guarantee any drainage improvements required by this plat.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted for recording with the plat.
- F. The applicant shall submit a restrictive covenant which provides for four (4) off-street parking spaces per dwelling unit constructed on those lots abutting a 58-foot wide street right-of-way. The covenant shall inventory, by lot number, the affected lots.
- G. The applicant shall submit the standard avigational easement and associated restrictive covenant for this property.

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Bill G. Yung Design

Re: S/D 85-30 - Preliminary Plat of Penstemon 3rd Addition

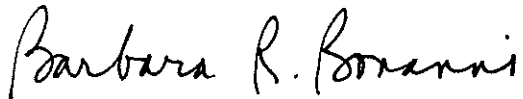
April 12, 1985

Page 2

- H. As required by the Community Unit Plan, a Homeowners' Association needs to be provided for at the time of platting. The applicant shall submit a covenant which states when the Homeowners' Association will be formed.
- I. Prior to or at the time of submitting a final plat, the applicant shall submit a drainage plan to the City Engineer's office for review and approval.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- K. Requirements for a final plat (see pages 20-25, Part 4, Article 5 of the MAPC Subdivision Regulations).

The enclosed "marked" copy of the plat is for your information and files. If you should have any questions, please call.

Sincerely,



Barbara R. Bonanni  
Junior Planner

BRB:mlh

Enclosure

cc: Mid-Kansas Engineering Consultants, P.A., 3500 N. Rock Road, #800,  
Wichita, KS 67226  
Tallgrass Company, 8100 East 22nd Street North, Bldg. 1900, Wichita,  
Kansas 67226  
✓ Mike Lindebak, City Engineer

Pre-Sub Apr. 11 Water

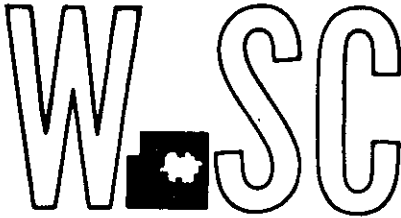
- 1 Krack's 2nd Addition. Water Line on E side of Gov. Wash. Blvd. ∴ No water problem
- 2 Ernie Alcorn Addition. The end of the existing 12" AC water main is located 1175' N of E Mac Arthur Road coming N. from Mac Arthur. Existing main also at Houghton from the north. Water to be extended as necessary (12"). Existing
- 3 Middletown 4th Addition. Water available all sides of property. No water in areas to be vacated. except highway E/W side.
- 4 Penstemon 3rd Addition. Existing water in Greenbriar may be tapped to extend water to Greenbriar Court. Item B.
- 5 Deer Run Addition (Formerly Deerwood, etc.). Item B. Existing 24" water main in Webb to be tapped.
- 6 Pawna Mesa Fourth Addition. Item G. Costs from existing water projects for the area to be transferred as necessary to this project.
- 7 Welch 2nd Addn. Existing 12" AC Water main on E side of Seneca. Water meter shown on sketch plot. No problem
- 8 Copeland Industrial Park. End of existing water main is located 1240' S of the N PL of 33rd St. N. on Hydraulic, coming from the north. 33rd St is the section road. Property should be served now.
- 9 Steve Graham Addition. Existing water available
- 10 Walnut Creek 2<sup>nd</sup> Addition. Item A. Contract underway for Walnut Creek. Water will be available for Walnut Creek 2nd.
- 11 Williamsburg. No Problem.

Pre-Sub-Division  
(Water)

5-7-85

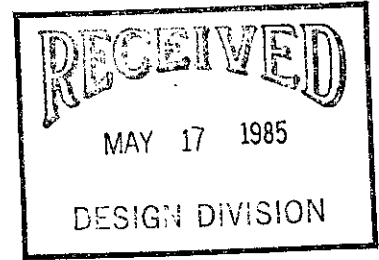
1. Ted R. Milligan utility easement vacation. Lot 1, Block 1, Cherry Creek Hills. 12" Water line on W. side of Rock Rd. No problem
2. Orville B. Brown utility easement vacation. Lots 1 & 2 on Duggs Addition. No W.L. in easement. No Problem.
3. Phillippi Addition. No water available, Item A.
4. Copeland Industrial Park. Exist. 12" W.L. on U-side of Hydraulic.
- ~~5. Daniels Second Addition. Item B, water to be extended. Nearest water at 43rd and Sunflower or at Alfalfa and Riverplace. Approx cost \$25<sup>00</sup> per foot and 1200<sup>00</sup> ft = \$30,000<sup>00</sup> to serve Lot 1 and an additional 550 ft (\$13,750<sup>00</sup>) to serve Lot 2 ⇒ \$45,000<sup>00</sup> ± from East. 2700' @ 25<sup>00</sup> = \$67,500<sup>00</sup> ± from North.~~
6. Penstemon 3rd Addition. Item B. Existing 8" water line in Granbriar on N. side.
7. Deer Run Addition. Item B. Existing 24" line in Webb.
8. Windemere Addition. Item B. Existing 8" water line in Oxford east of Rock. 8" to be extended as necessary.
9. Other Matters.
5. Daniel Second. Item B. Exist. 8" AC on 43rd St. to Alfalfa ±

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
COMMISSION

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4561



May 16, 1985

Mid-Kansas Engineering Consultants, P.A.  
3500 N. Rock Road, #800  
Wichita, KS 67226

Re: S/D 85-30 - Final Plat of Penstemon 3rd Addition

Gentlemen:

At the regular meeting of the Metropolitan Area Planning Commission on May 16, 1985, the above-captioned plat was considered. The action of the Planning Commission was to recommend that the plat be approved as recommended by the Subdivision Committee subject to the conditions stated in our letter of May 10, 1985.

In addition to complying with those conditions, it is necessary that you meet the following requirements before this plat can be forwarded to the Board of City Commissioners for consideration:

1. Submission of the fully completed and signed tracing of the subdivision to the Metropolitan Area Planning Department.
2. Submission of a title report by an abstract or title insurance company or an attorney's opinion that fee title is vested in the platfor.
3. Certification that all real estate taxes for 1984 (both first and second halves) and prior years have been paid.

Please call if you have any questions.

Very truly yours,

Barbara R. Bonanni  
Junior Planner

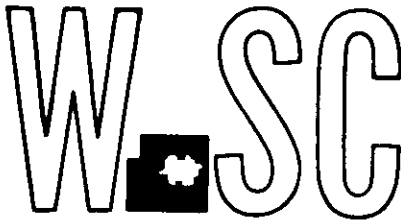
BRB:mlh

cc: Tallgrass Company, 8100 East 22nd Street North, Bldg. 1900, Wichita,  
Kansas 67226

✓Mike Lindebak, City Engineer

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WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
COMMISSION

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4561

Mid-Kansas Engineering Consultants, P.A.  
3500 N. Rock Road, #800  
Wichita, KS 67226



Re: S/D 85-30 - Final Plat of Penstemon 3rd Addition

Gentlemen:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on Thursday, May 9, 1985, the above-captioned plat was considered. The action of the Committee was to recommend that this plat be approved subject to:

- A. The applicant shall guarantee the extension of sanitary sewer to serve each lot.
- B. The applicant shall guarantee the extension of municipal water to serve each lot.
- C. The applicant shall guarantee the pavement of Greenbriar Court.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted for recording with the plat.
- E. The applicant shall submit a restrictive covenant which provides for four (4) off-street parking spaces per dwelling unit constructed on those lots abutting a 58-foot wide street right-of-way. The covenant shall inventory, by lot number, the affected lots.
- F. The applicant shall submit the standard avigational easement and associated restrictive covenant for this property.
- G. As required by the Community Unit Plan, a Homeowners' Association needs to be provided for at the time of platting. The applicant shall submit a covenant which states when the Homeowners' Association will be formed.
- H. The final plat tracing shall reference "ROBERT C. BROWN," as Mayor.
- I. The final plat tracing shall indicate a 10-foot utility easement, centered on the lot line common to Lots 5 and 6, Block 1.
- J. Closure computations shall be submitted with the final plat tracing.

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Mid-Kansas Engineering Consultants, P.A.  
Re: S/D-85-30 - Final Plat of Penstemon 3rd Addition  
May 10, 1985  
Page 2

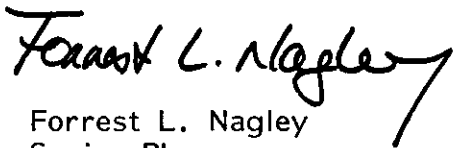
K. Recording of the plat within 30 days after approval by the Board of City Commissioners.

Enclosed with the applicant's copy of this letter is a list of the five methods which have been adopted as being acceptable for guaranteeing improvements required in the approval of plats. The certificate will be required if petitions are submitted. Forms for the bond and irrevocable Letter of Credit are available from this office.

The enclosed "marked" copy of the final plat is for your information and files.

This matter will be forwarded to the Planning Commission for its consideration on Thursday, May 16, 1985 at 1:30 p.m. If you have any questions concerning this matter, please call.

Sincerely,



Forrest L. Nagley  
Senior Planner

FLN:mlh

Enclosure

cc: Tallgrass Company, 8100 East 22nd Street North, Bldg. 1900, Wichita,  
Kansas 67226

✓ Mike Lindebak, City Engineer

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CONTRACT  
for  
ENGINEERING SERVICES  
between  
THE CITY OF WICHITA, KANSAS  
and  
MID-KANSAS ENGINEERING CONSULTANTS, P.A.  
and  
TALLGRASS COMPANY

THIS CONTRACT, made this 13<sup>th</sup> day of June, 1985, by and  
between

THE CITY OF WICHITA, KANSAS  
Party of the First Part, hereinafter  
called  
"CITY"  
and  
MID-KANSAS ENGINEERING CONSULTANTS, P.A.  
called the  
"CONSULTANT"  
and  
TALLGRASS COMPANY  
Party of the Third Part, hereinafter  
called the  
"DEVELOPER"

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WITNESSETH:

WHEREAS the DEVELOPER has filed a preliminary plat of Penstemon 3rd Addition with the CITY and the same has been approved; and

WHEREAS, the DEVELOPER is desirous of expediting the completion of the development of Penstemon 3rd Addition; and

WHEREAS, the CITY in the event the final plat of Penstemon 3rd Addition is approved by the governing body of the City of Wichita, Kansas, intends to construct certain improvements for Penstemon 3rd Addition, more fully described as follows:

Sanitary Sewer, Water Distribution System and Street Improvements for Penstemon 3rd Addition (generally located on the north side of Greenbriar in an area east of Rock Road.).

The total of all improvements designated above to be referred to hereinafter as the "PROJECT"; and

WHEREAS, the CONSULTANT is desirous of performing the work and furnishing the services necessary to develop the plans, specifications and estimates for the PROJECT; and

WHEREAS, the CITY is authorized by law to employ consulting engineers to assist in the preparation of plans, specifications (if required) and the estimates of the quantities of work for the PROJECT.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The CONSULTANT shall furnish engineering services as required to develop the plans, supplemental specifications and estimates of the quantities of work for the PROJECT in the format and detail required by the City Engineer for the City of Wichita. Engineering Plans shall be prepared in ink on standard 23" x 36" mylar or vellum sheets.

Specific tasks to be performed by the CONSULTANT shall include the following:

A. PHASE I - PRELIMINARY PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Preliminary Plans for the PROJECT based on the preliminary design concepts approved by the CITY during the Platting Phase.

1. Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for engineering design for the PROJECT. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT

limits prior to the CONSULTANT conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work.
3. Soils and Foundation Investigations. The CITY'S Construction and Survey Division of the Department of Operations and Maintenance shall provide subsurface borings and soils investigations for the PROJECT. However, the CITY may authorize the CONSULTANT to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The CONSULTANT'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the CITY for the accuracy and competence of their work. The cost of soils and boring investigations shall be passed directly to the City of Wichita.
4. Preliminary Sanitary Sewer Profiles. Prepare preliminary sanitary sewer grades for the PROJECT to provide basement level services where possible and submit one (1) set to the CITY. Preliminary sewer grades are to be reviewed with the CITY by the CONSULTANT for approval prior to proceeding.
5. Preliminary Street Profiles. Prepare preliminary street grades for the PROJECT to conform to drainage patterns developed during the platting phase and submit one (1) set of each to the CITY. Preliminary street grades are to be reviewed with the CITY by the CONSULTANT for approval prior to proceeding.
6. Preliminary Plans.
  - (a) Prepare preliminary plans for the sanitary sewer improvements and submit three (3) sets to the CITY for Office and/or Field Check.

(b) If required, prepare preliminary plans for the water distribution system improvements and submit the required number of copies to the CITY for Office and/or Field Check.

(c) Prepare preliminary plans for the street improvements and submit three (3) sets to the CITY for Office and/or Field Check.

B. Phase II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Final Plans for the PROJECT in accordance with the Preliminary Plans and/or preliminary design concepts as agreed upon at office review and/or field review.

1. Prepare final engineering plans and supplemental specifications (if required) and estimates of the quantities of work. Technical specifications shall, in general, follow the CITY's Standard Specifications supplemented as necessary to suit the PROJECT requirements (including plan profile sheets for water distribution system improvements).
2. Prepare right-of-way tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions.
3. Identify all known potential utility conflicts and provide prints of plans to each utility identifying the problem locations. The CONSULTANT shall meet with utility company representatives as required to review the PROJECT design and interpret engineering drawings.
4. Submit three (3) sets of prints of the final plan for each of the improvements to the CITY for Office and/or Field Check.
5. Deliver the original tracings of the Final approved plans to the CITY for their use in printing plans for prospective bidders.

C. PHASE II - CONSTRUCTION PHASE SERVICES

1. When requested by the City, prepare a Supplemental Agreement for construction administration and/or for resident engineering services.
2. When authorized by the CITY, provide personnel and equipment to perform engineering services during construction of the PROJECT.

II. IN ADDITION, THE CONSULTANT AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in SCOPE OF SERVICES.
- B. To attend meetings with the CITY and other local, state and federal agencies and organizations as necessitated by the PROJECT.
- C. To make available during regular office hours at its Wichita office all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To notify the CITY when work on the PROJECT is completed to the point that the Office/Field Check(s) may be conducted; to furnish one or more representatives to participate in the Office/Field Check(s) of the PROJECT; to furnish the required sets of plans to the CITY for use in the plan check and upon return receipt, to expeditiously complete all changes, modifications and corrections to the plans resulting from the Office/Field Check. Plan prints marked with CITY comments are to be returned to the CITY with revised plan submittals.
- E. To deliver to the CITY the field notes, original tracings of the completed plans and other pertinent drawings and documents pertaining to the PROJECT; such field notes, tracings and other drawings and documents to become the property of the CITY.
- F. To submit to the CITY an Engineer's estimate of the quantities of work for the PROJECT incorporating all items of work included in the plans.
- G. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of CONSULTANT, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.
- H. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by the CONSULTANT that were relevant to method of payment, to make such material available at its office at reasonable times during the contract period, and for three (3) years from the date of final payment under the contract for inspection by the CITY or its authorized representatives.

- I. To comply with all federal, state and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "A" which is attached hereto and adopted by reference as though fully set forth herein.
- J. To accept compensation for the work herein described in such amounts and at such periods as hereinafter provided and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- K. To submit a single and final billing to the CITY for the engineering services performed upon satisfactory completion of each phase (sanitary sewer, water distribution system, street) of improvements required by this agreement.
- L. To complete and deliver field notes, preliminary and final plans (including tracings), specifications and estimates to the CITY within the time allotted for the PROJECT as stipulated below; EXCEPT that the CONSULTANT shall not be responsible or held liable for the time required by reviews by the approving parties or other delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT.
  1. Preliminary and Final Plan Development (Phase I and II - Article I) for the sanitary sewer improvements within 30 days after the notice to proceed.
  2. Preliminary and Final Plan Development (Phase I and II - Article I) for the water distribution system improvements within 30 days after the notice to proceed.
  3. Preliminary and Final Plan Development (Phase I and II - Article I) for the street improvements within 30 days after the notice to proceed.
- M. 1. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material prepared and furnished by the CONSULTANT under this agreement.

2. CONSULTANT further agrees, covenants and represents, that all designs, drawings, specifications, plans, estimates and other work or material furnished by CONSULTANT, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from errors, omissions or negligence.

3. CONSULTANT further agrees, covenants and represents, that all specifications and bid documents prepared in accordance with the work required by this agreement shall contain a clause that provides the following:

"Notwithstanding anything to the contrary contained in these bid documents or the contract to be awarded herein, the CITY shall not be subject to arbitration and any clause relating to arbitration contained in these bid documents or in the contract to be awarded herein shall be null and void."

N. CONSULTANT shall procure and maintain such insurance as will protect the CONSULTANT from damages resulting from errors, omissions and negligent acts of the CONSULTANT, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement and for which he is legally liable. Such policy of insurance shall be in an amount not less than \$500,000 subject to deductible of \$7,000. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall not be less than:

Workman's Compensation - Statutory

Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the CONSULTANT that shall be written in a comprehensive form and shall protect the CONSULTANT and the CITY against all claims arising from injuries to persons (other than CONSULTANT'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of CONSULTANT, its agents, officers, employees or subcontractors in the performance of CONSULTANT services

under this agreement. The liability limit shall not be less than \$500,000 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time CONSULTANT starts any work under this agreement.

The CONSULTANT shall furnish the CITY copies of all insurance policies or certificates of insurance that relate to the insurance policies that must be maintained hereunder. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or cancelled.

III. THE CITY AGREES:

- A. To furnish all available data and field surveys pertaining to the PROJECT now in the City Engineer's Office.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the CONSULTANT.
- C. To provide the right of entry for CONSULTANT'S personnel in performing field surveys and inspections.
- D. To pay the CONSULTANT for his services in accordance with the requirements of this agreement.

IV. THE DEVELOPER AGREES:

- A. To provide right of entry for CONSULTANT'S personnel in performing field surveys and inspections.
- B. To pay the CONSULTANT, according to the provisions of Article V, such sums, if any, required to be paid by the DEVELOPER pursuant to said Article V for work or services performed by CONSULTANT hereunder.

V. PAYMENT PROVISIONS

- A. Payment to the CONSULTANT for the performance of his services shall be:

- 1. Made on the basis of the lump sum fee amount specified below:

Sanitary Sewer Improvements	\$ 2,650.00
Water Distribution System	\$ 1,520.00
Street Improvements	\$ 4,475.00
TOTAL	\$ 8,645.00

- B. It shall be the obligation solely of the DEVELOPER to pay such sums as are due the CONSULTANT under Paragraph A of this Article or under Paragraph A of Article VI, and the CITY shall have no obligation to pay the CONSULTANT for work or services performed hereunder, except as provided in Paragraph C hereinbelow.
- C. In the event of the happening of all of the following:
1. Compliance by the DEVELOPER with the procedure for providing reasonable assurances as set forth in the "Development Policy for Public Improvements", AR 29, dated April 16, 1985, of the Administrative Regulations of the City of Wichita, Kansas. As provided by AR29, the DEVELOPER shall submit, on a form furnished by the CITY, an Affidavit that provides no other delinquent special assessments on other land being held or developed by the DEVELOPER; and
  2. Approval by the governing body of the City of Wichita, Kansas, of the final plat of the Penstemon 3rd Addition; and
  3. Adoption by the governing body of the City of Wichita, Kansas, pursuant to K.S.A. 12-6a04 (2), of a resolution authorizing the improvements within Penstemon 3rd Addition as set forth herein; and
  4. Completion by the CONSULTANT, in the manner set forth herein, of all the work or services to be performed by the CONSULTANT under this agreement; and
  5. Compliance by CONSULTANT with Paragraph N of Article II herein; the CITY shall be responsible for and shall pay to the CONSULTANT those sums due the CONSULTANT under Paragraph A of Article V and the responsibility of the DEVELOPER for payment of such sums shall cease; PROVIDED, HOWEVER, that if the final plat of Penstemon 3rd Addition, as approved by the governing body of the City of Wichita, Kansas, differs in any material and substantial way from the preliminary plat of said plat that has been submitted by the DEVELOPER, and, by virtue of such difference or differences, CONSULTANT is required to change, revise, amend or supplement the work or services performed by it hereunder, the obligation of the CITY under this paragraph to pay the CONSULTANT for work or services performed shall not include the cost associated with such changes, revisions, amendments or supplements and the obligation to pay for such costs shall be solely the obligation of the DEVELOPER.

D. In the event of a dispute between the parties as to whether any item or items of costs submitted by the CONSULTANT pursuant to Paragraph G of Article VI relates to work or services performed by the CONSULTANT pursuant to this contract and, thus, qualifies for inclusion as part of the contract price to be paid to CONSULTANT pursuant to Article V, the decision of the City Engineer of the City of Wichita shall be final and binding upon the parties. Similarly, any dispute as to whether an item or items of cost relates to work or services necessitated by a difference between the preliminary plat and the final plat of Penstemon 3rd Addition shall be resolved by the City Engineer of the City of Wichita and his decision shall be final and binding upon the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the CONSULTANT'S inability to proceed with the work, or because the services of the CONSULTANT are unsatisfactory; or at the option of the CITY at the completion of any of the phases of the PROJECT: PROVIDED, HOWEVER, that in any case the CONSULTANT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, with such payment to be the responsibility of the DEVELOPER and not the CITY, but in no case shall payment be more than the CONSULTANT'S actual costs plus a reasonable sum for fixed fee for profit.
- B. That the field notes, original tracings for the final Engineering Plans, and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the CONSULTANT'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY.
- C. That the services to be performed by the CONSULTANT under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allot-

ted for the work will be granted by the CITY, PROVIDED, HOWEVER, that the CONSULTANT shall request extensions in writing giving the reasons therefor.

- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof, a fourth party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damage pursuant to the terms or provisions of this contract.
- G. That during the performance by the CONSULTANT of the work or services required under this agreement, CONSULTANT is likely to be performing work or services for the DEVELOPER in connection with the process of platting Penstemon 3rd Addition, which work or services for DEVELOPER are not within the scope of work set out herein. It is the intention of the parties that the CITY, upon the maturing of its obligation to pay the CONSULTANT pursuant to Paragraph C of Article V, shall pay only for the costs of work or services performed by CONSULTANT under this agreement and that those costs incurred by CONSULTANT in connection with work or services performed for the DEVELOPER in connection with the platting of Penstemon 3rd Addition and which are outside the scope of work set out herein shall be the sole responsibility of the DEVELOPER, and the payment therefor shall be provided for by the DEVELOPER and CONSULTANT outside this agreement.
- H. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law, and the CITY'S review, approval or acceptance of, or payment for, any work or services required to be performed by the CONSULTANT under this contract shall not be construed to operate as a waiver of any right under this contract or any cause of action arising out of the performance of this agreement.
- I. Nothing contained herein shall be understood or construed to give the DEVELOPER any right, remedy or cause of action against the CITY arising out of a breach of any of the terms of this agreement by the CONSULTANT.

- J. Any written notice required to be given under the terms of this agreement shall be deemed sufficient if mailed, postage prepaid and certified to the party entitled to receive such notice and addressed as follows:

CITY: City of Wichita  
City Engineer  
City Hall - Seventh Floor  
455 North Main  
Wichita, Kansas 67202

CONSULTANT Mid-Kansas Engineering Consultants, P.A.  
3500 North Rock Road, Suite 800  
Wichita, Kansas 67226

DEVELOPER: Tallgrass Company  
8100 E. 22nd Street North, Bldg. 1900  
Wichita, Kansas 67226

IN WITNESS WHEREOF, the CITY and the CONSULTANT have executed this agreement as of the date first written above.

CITY OF WICHITA

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

ATTEST:

Donald C. Gisick, City Clerk

Approved as to Form:

John Dekker, Director of Law

MID-KANSAS ENGINEERING CONSULTANTS, P.A.

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

ATTEST:

\_\_\_\_\_

TALLGRASS COMPANY

BY \_\_\_\_\_

ATTEST:

\_\_\_\_\_

EXHIBIT A

NOTICE . . . NOTICE . . . NOTICE  
NON-DISCRIMINATION--EQUAL EMPLOYMENT OPPORTUNITY/  
AFFIRMATIVE ACTION PROGRAM REQUIREMENTS

1. It is the policy of the City of Wichita to require that all contracts of the City and its agencies include provisions to ensure that applicants for employment with its contractors, sub-contractors, vendors and suppliers are selected and employees are treated during employment without regard to race, color, sex, religion, national origin, ancestry, physical handicap, marital status or age except where age is a bona fide occupational qualification.

2. Section 2.12.900, et. seq., of the Code of the City of Wichita, Kansas, and the Kansas Act Against Discrimination (Kansas Statutes Annotated 44-1001 et. seq., as amended) require every person who enters into a contract with the City of Wichita for construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services to:

- a. Observe the provisions of Section 2.12.900, et. seq., of the Code of the City of Wichita, Kansas, and the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, marital status, physical handicap unrelated to such person's ability to engage in the particular work.
- b. In all solicitations or advertisements for employees, the contractor shall include the phrase "Equal Opportunity Employer" or a similar phrase to be approved by the Kansas Commission on Civil Rights.
- c. Upon request of the Commission to inform the Kansas Commission on Civil Rights and/or the Civil Rights/Equal Employment Opportunity Commission (CREEOC) in writing the manner in which such person will recruit and screen personnel to be used in performing the contract.
- d. Contractor shall include the provisions of paragraphs (a), (b), (c) and (d) inclusively of this paragraph 2 in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- e. Exempted from these requirements are:
  - (1) Any contractor who has already complied with the provisions set forth in these Sections by reason of holding a contract with the Federal Government or a contract involving Federal funds.
  - (2) Contracts entered into by a contractor who employes fewer than four (4) employees during the term of such contract.
  - (3) Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000.00) or less during the City fiscal year.
- f. Reports requested by the Kansas Commission on Civil Rights shall be made on forms prepared by the Kansas Commission on Civil Rights, copies of which are available from the Commission on Civil Rights, Contract Compliance Representative, 535 Kansas Avenue, Fifth Floor, Topeka, Kansas 66603.
- g. Reports requested by the Civil Rights/Equal Employment Opportunity Commission of the City of Wichita shall be made on forms prepared by the Commission, copies of which are available from CREEOC, City Hall, 455 North Main, 10th Floor, Wichita, Kansas 67202.

3. During the performance of any City contract or agreement, the contractor, subcontractor, vendor or supplier of the City shall comply with all the provision of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972, Executive Orders 11246, 11375, 11141, Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967, and/or any laws, regulations or amendments as may be promulgated thereunder.

4. Failure of any contractor, subcontractor, vendor or supplier to report to the Kansas Civil Rights Commission as required by K.S.A. 1976 Supp. 44-1031, as amended; or the Civil Rights/Equal Employment Opportunity Commission of the City of Wichita as required by Section 2.12.900, et. seq., of the Code of the City of Wichita, Kansas; or been found guilty of a violation of the City's Ordinances, State statutes or Federal statutes or regulations pertaining to unlawful discrimination, which finding or decision or order has become final, shall be deemed a breach of contract and any such contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.

5. Compliance with the Equal Employment Opportunity requirements of the City of Wichita does not relieve the contractor, subcontractor, vendor or supplier of the necessity of also complying with the Kansas Act Against Discrimination.

EXEMPTIONS CLAIMED:

\_\_\_\_\_ # of Employees

\_\_\_\_\_ Federal Contract

\_\_\_\_\_ Company Name

\_\_\_\_\_ Company Address & Telephone

NON-DISCRIMINATION--EQUAL EMPLOYMENT OPPORTUNITY/  
AFFIRMATIVE ACTION PROGRAM REQUIREMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended; The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11411; Part 60 of Title 41 of the Code of Federal Regulations; The Age Discrimination in Employment Act of 1967; and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  1. The contractor shall observe the provisions of the Kansas Act against discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in the particular work, national origin or ancestry;
  2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the Kansas Commission on Civil Rights;
  3. If the contractor fails to comply with the manner in which the contractor reports to the Kansas Commission on Civil Rights, in accordance with the provisions of KSA 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be cancelled, terminated or suspended in whole or in part by the contracting agency;
  4. If the contractor is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the Kansas Commission on Civil Rights, which has become final, the contractor shall be deemed to have breached the present contract, and it may be cancelled, terminated or suspended in whole or in part by the contracting agency;
  5. The contractor shall include the provisions of Paragraph 1 through 4, inclusively, of this subsection B, in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- C. Exempted from these requirements are: (State of Kansas)
  1. Any contractor, subcontractor, vendor or supplier who has already complied with the provisions set forth in sections pertaining to the State of Kansas by reason of holding a contract with the Federal government, or a contract involving Federal funds.

Non-Discrimination--Equal Employment Opportunity/  
Affirmative Action Program Requirements  
Page Two

2. Contracts entered into by a contractor, subcontractor, vendor or supplier who employs fewer than four (4) employees during the term of this contract.
3. Contracts with the City of Wichita with a cumulative total of five thousand dollars (\$5,000) or less during the fiscal year of the City.
- D. Provisions of the City of Wichita, Kansas, relating to Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:
  1. The vendor, supplier, contractor or subcontractor shall observe the provisions of the Code of the City of Wichita against discrimination (Section 2.12.900, et seq., of the Code of the City of Wichita, Kansas) and shall not discriminate against any employee or applicant for employment in the performance of work under the present contract, purchase order or agreement because of race, religion, color, sex, physical handicap, national origin, ancestry or marital status. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination and Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program when required to the Civil Rights and Equal Employment Opportunity Commission of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or in behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, physical handicap, national origin, ancestry or marital status. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase that is deemed acceptable by the Wichita Commission on Civil Rights and Equal Employment Opportunity;
  3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the rules, regulations and the orders issued by the Commission pursuant thereto, and will permit access to books, records and procedures concerning employment relations by the Civil Rights and Equal Employment Opportunity Commission of said City for the purpose of investigation to ascertain compliance with Non-Discrimination and Equal Employment Opportunity requirements. If the vendor, supplier, contractor or subcontractor fails to comply with the manner in which he/she or it reports to the Commission in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase

order or agreement and it may be cancelled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be initiated against such vendor, supplier, contractor or subcontractor.

4. If the vendor, supplier, contractor or subcontractor is found guilty of a violation of any provision of the Code of the City of Wichita pertaining to and regulating Non-Discrimination and Equal Employment Opportunity under a decision or order of the Civil Rights and Equal Employment Opportunity Commission of the City of Wichita, Kansas, which has become final, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement, and it may be cancelled, terminated or suspended in whole or in part by the City of Wichita, and such other sanctions and remedies may be imposed as provided by law:

5. The vendor, supplier, contractor or subcontractor shall include the provisions of subsections 1 through 4, inclusively, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

E. Exempted from these requirements are: (City of Wichita)

1. Any contractor or subcontractor, vendor or supplier of the City of Wichita, or any of its agencies, who wishes to enter into a contract, purchase order or agreement which is covered by the provisions of Section 2.12.908 of the Code of the City of Wichita, Kansas, shall, prior to entering into such contract, purchase order or agreement, submit to the Civil Rights and Equal Employment Opportunity Commission of the City of Wichita, Kansas, a preliminary report on forms provided by the Commission concerning Non-Discrimination and Equal Employment/Affirmative Action for review and evaluation. Upon review of the preliminary form submitted:

a. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

b. The provisions of Section 2.12.908 shall not apply to vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reasons of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

c. Those contractors, subcontractors, vendors or suppliers not exempted herein whose preliminary report reveals deficiencies shall be required to submit goals and timetables for correction of such deficiencies in accordance with instructions included with the preliminary report for review, evaluation and acceptance prior to a contract, purchase order or agreement award.

F. Failure of any contractor, subcontractor, vendor or supplier to report to the Kansas Civil Rights Commission as required by KSA 1976 Supp. 44-1031, as amended, or to the Civil Rights and Equal Employment Opportunity Commission of the City of Wichita as required by 2.12.902, of the Code of the City of Wichita, Kansas; or has been found guilty of a violation of the City's ordinances, state statutes, or Federal statutes, or regulations pertaining to unlawful discrimination, which finding, decision or order has become final, shall be deemed a breach of this contract and said contract may be cancelled, terminated or suspended in whole or in part by the City or its contracting agency.

THE CITY OF WICHITA

OFFICE OF MAPD/DESIGN

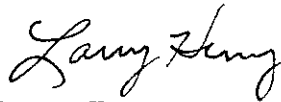
DATE June 3, 1985

TO Forrest Nagley, Senior Planner

FROM Larry Henry, Program Development Engineer

SUBJECT Penstemon 3rd Addition

The required petitions for Penstemon 3rd Addition  
have been received.



Larry Henry  
Program Development Engineer

LH:mgr

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