

**LANDSCAPE MAINTENANCE AGREEMENT
ON STATE OWNED RIGHT-OF-WAY**

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the "State", and a home rule municipal corporation of the State of Texas located within Tarrant, Denton, Parker, and Wise Counties, Texas, acting through its duly authorized officials, hereinafter called the "City".

WITNESSETH

WHEREAS, the State owns and maintains a system of highways, including SH 183 in Tarrant County, Texas for public use and benefit; and

WHEREAS, the State has committed to provide landscape improvements, specifically shrub plantings, to be provided through State projects performed through State contract for the areas along SH 183 (Northeast 28th Street) between Jacksboro Highway (SH 199) and the North Freeway (IH 35W) shown as EXHIBIT A; and

WHEREAS, the City has agreed to maintain the landscape improvements within those portions of the right-of-way as described above and detailed in Article 4; and

WHEREAS, the City shall be responsible for all maintenance of the landscape improvements upon completion of each segment of the landscape development projects; and

WHEREAS, the Interlocal Cooperation Act, Texas Government Code, Chapter 791, as amended (the Act) provides authority for local governments of the state of Texas to enter into Interlocal agreements with state agencies regarding governmental functions and services as set forth in the Act; and

WHEREAS, landscape maintenance and highway maintenance are governmental functions which serve the public health and welfare and in which both State and City are mutually interested.

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto to be by them respectively kept and performed as hereinafter set forth, the State and the City do mutually agree as follows:

AGREEMENT

ARTICLE 1. Parties

1.1 When used herein, the term "State" and the term "City" shall include officers, agents, employees, successors, and assigns of each of the parties respectively.

ARTICLE 2. Term of Agreement

2.1 This Agreement becomes effective when signed by both the City and finally the State. The term of this Agreement shall begin upon the completion and acceptance of the landscape development project and continue through the lifetime of the project.

2.2 The City maintenance responsibility shall begin upon satisfactory completion of the landscape development project described herein, and the State's acceptance of the project. The City's designated representative shall be invited to be present for the project acceptance inspection, both at completion of the plantings and at the end of the 90-day warranty period. At each of these inspections, the City may provide the State a list of its project concerns (discrepancies, deficiencies, and/or omissions), and the State will, within the provisions and specifications of its construction contract, require the State's contractor to adhere to those provisions and specifications.

ARTICLE 3. Amendments

3.1 Changes in time frame, character, cost, or obligations herein shall be enacted by written amendment. All amendments to this Agreement must be executed by both parties within the period specified in Article 2.

ARTICLE 4. Responsibilities of the Parties

A. The State agrees to:

1. Construct the landscape improvements in accordance with the approved design construction plans and specifications through a contract with a State selected contractor. Contractor selection shall be in accordance with the State's low-bid procedure.
2. Sufficiently maintain the plant material to insure its viability, maintain the planting beds with a minimum of three inches of mulch, and operate the irrigation system to ensure sufficient delivery of water to the landscape improvements until final acceptance by the State and the assumption of the maintenance responsibilities by the City.

3. Cooperate with the City to determine requirements for barricades, signs, and traffic handling devices to be used by the City during the maintenance activities.

4. Upon completion and acceptance of each project by the State, the State shall immediately notify the City in writing that the maintenance requirements of the landscape improvements will be the sole responsibility of the City and shall include the items shown in Section 4B below.

B. The City agrees to perform the following landscape maintenance functions for the improvements upon written notification by the State that the City has the sole responsibility for maintenance of the improvements:

1. Plant Maintenance: All possible and reasonable means shall be employed to preserve the plant material in healthy and vigorous growing condition. Plant maintenance shall include proper pruning, fertilization, mulching, plant basin maintenance, and plant replacement as may be required.

2. Traffic Control/Safety: The City shall furnish, erect, and maintain any barricades, signs, and traffic handling devices, in accordance with the latest Manual on Uniform Traffic Control Devices, and to the satisfaction of the State, as may be required to protect the safety of the traveling public while performing any work on the highway right-of-way under this Agreement.

ARTICLE 5: Independence of the Parties

5.01 The parties hereto covenant and agree that each such party is an independent contractor and not an officer, agent, servant, or employee of the other party; that each shall have exclusive control of and exclusive right to control the details of the portion of work that each such party is performing hereunder and all persons performing same on behalf of each party respectively, and that each party is responsible for the acts and omissions of its respective officers, agents, employees, contractors, subcontractors, and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between City and State.

ARTICLE 6: Disputes

6.01 Should disputes arise as to either party's obligations under this Agreement, such disputes shall be settled in accordance with Texas Administrative Code, Title 43, Part 1, Chapter 1, Subchapter E, Rule 1.21 et. Seq. and Chapter 9, subchapter A, Rule 9.2 et. Seq.

ARTICLE 7: Successors and Assigns

7.01 The State and the City shall not assign or otherwise transfer its rights and obligations under this agreement except with prior written consent of the other party, and any prohibited assignment or transfer shall be null and void.

ARTICLE 8: Termination and Remedies

8.01 It is understood and agreed between the parties hereto that should either party fail to properly fulfill its obligations as herein outlined, the other party may terminate this agreement upon thirty (30) days written notice. This Agreement may be terminated without cause by either party upon thirty (30) days written notice.

8.02 Violation or breach of contract terms by either party shall be grounds for termination of the Agreement. Any increase in cost arising from the defaulting party's breach of contract or violation of terms shall be paid by the defaulting party. This Agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

ARTICLE 9: Insurance

9.01 At the time of execution (signature) of the Agreement by the City, the City shall furnish the State with the required insurance documentation by attaching the required documentation the Agreement and labeling EXHIBIT B.

9.02 If the City is a self-insured entity and performs any work on the highway right-of-way with City forces, the City shall extend the protection of its self-insurance to the State for any and all damages and injuries arising from the City's performance under this Agreement.

9.03 If the City is not a self-insured entity and performs any work on the highway right-of-way with City forces, the City shall furnish the State with a completed Certificate of Insurance (TXDOT Form 1560), and label such documentation EXHIBIT B.

9.04 If the City performs any work on the highway right-of-way through a contractor or contractors selected through the City's low-bid procedure, the City shall require its contractor or contractors to furnish the State with a completed Certificate of Insurance (TxDOT Form 1560) and shall ensure the contractor or contractors maintain such insurance during the term of the Agreement.

ARTICLE 10: Gratuities

10.01 Texas Transportation Commission policy mandates that employees of the Department shall not accept any benefits, gifts, or favors from any person doing business or who reasonably speaking may do business with the State under this contract. The only exceptions allowed are ordinary business lunches and items that have received advanced written approval of

the Texas Department of Transportation Executive Director. Any person doing business with or who may reasonably speaking do business with the State under this contract may not make any offer of benefits, gifts, or favors to Departmental employees, except as mentioned hereabove. Failure on the part of the City to adhere to this policy may result in the termination of this Agreement.

ARTICLE 11: Severability

11.01 In the event that any portion of this Agreement shall be found to be contrary to law, it is the intent of the parties hereto that the remaining portions shall remain valid and in full force and effect to the extent possible.

ARTICLE 12: Immunity

12.01 It is expressly understood and agreed that, in the execution of this Agreement, neither party waives, nor shall be deemed hereby to have waived any immunity or defenses that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein, and the Agreement shall not create any rights in parties not signatories hereto.

ARTICLE 13: Indemnification

A. Each party does hereby agree to:

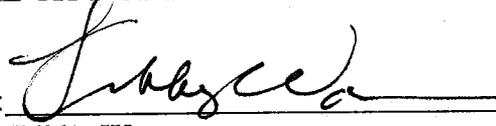
1. Indemnify and save harmless the other party and its respective officials, officers, agents, and employees from all suites, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person, or by any abutting, adjoining, or other property in consequence of any neglect in the performance, or failure of performance of the party, its agents, and employees under this Agreement, to the extent allowed by State Law.
2. Indemnify, defend, and hold the State harmless from any and all claims and lawsuits by third parties arising from, or incident to the performance, or failure of performance of the City, its officers, employees, or agents under this Agreement to the extent allowed by State Law. The City shall defend all suits brought upon all such claims and lawsuits and pay all costs and expenses incidental thereto to this Agreement, but the State shall have the right, at it's option and expense, to participate in the defense of any suit, without relieving the City of any obligation hereunder. The State acknowledges that the City will not create a sinking fund to meet any obligation under this Agreement.

ARTICLE 14: Authority

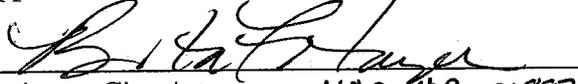
14.01 The undersigned officer and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto.

IN WITNESS WHEREOF; the State and the City have signed duplicate counterparts of the Agreement.

THE CITY OF FORT WORTH

By: 
Libby Watson
Assistant City Manager

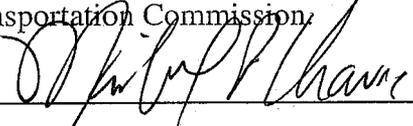
Date: 1-3-07

Approved as to Form and Legality:

Assistant City Attorney *M4C #C-21887*

ATTEST
By: _____
City Secretary

THE STATE OF TEXAS

Certified as being executed for the purpose and effect of activating and/or carrying out the orders, established policies, or work programs heretofore approved by the Texas Transportation Commission.

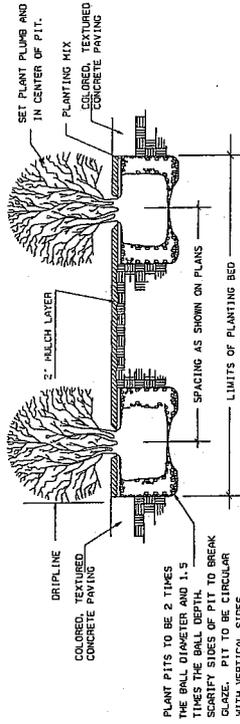
By: 

Maribel P. Chavez, P.E.
District Engineer
Fort Worth District
Texas Department of Transportation

Date: 1/25/07

SHEET PLANT MATERIAL LIST

QUAN.	UNIT	SIZE	COMMON NAME	SCIENTIFIC NAME	COMMENTS
PLANTING PLAN 32-C					
16	Each	5 Gal.	Red Yucca	<i>Red Yucca</i>	48" O.C.

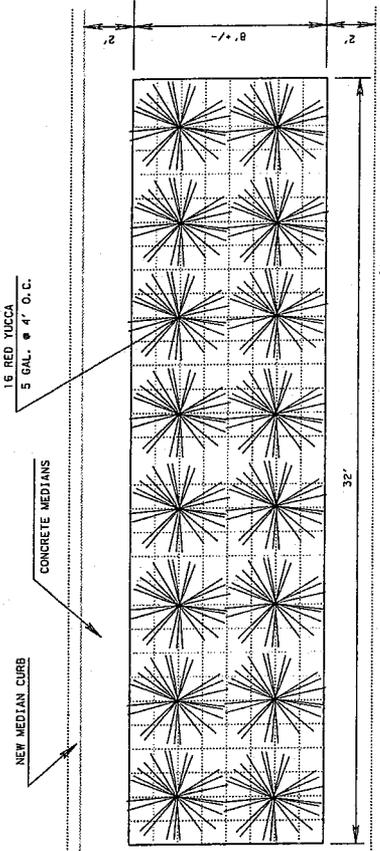


PLANTING DETAIL

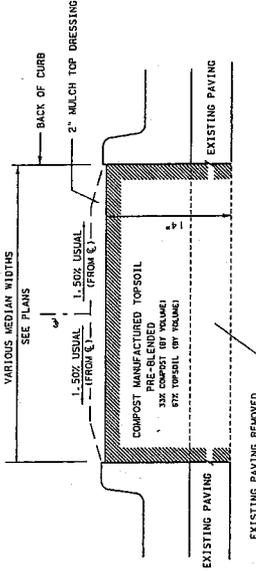
NOT TO SCALE

NOTE:
 STAKE PLANT MATERIAL LOCATIONS IN THE APPROXIMATE LOCATIONS SHOWN ON THE PLANS USING THE SCALE OF THE DRAWING AND ANY WRITTEN DIMENSION TO LOCATE THE GROUPINGS. ACCOMPLISH STAKING LOCATIONS IN ACCORDANCE WITH THE GENERAL NOTES AND SPECIFICATIONS. ADJUST FINAL LOCATION OF PLANT MATERIAL AS DIRECTED BY THE ENGINEER.

LIGHT GRID LINES ARE SPACED AT 1' INTERVALS.
 STATIONING POINT LOCATIONS ARE MEASURED AT THE CENTERLINE OF THE PLANTING BEDS.



PLANTING PLAN 32-C



PLANTING BED COMPOSITION

NOT TO SCALE

C.	O.	REV.	DESCRIPTION	DATE
		1	MEDIAN PLANTING PLAN	

PLANTING BED LOCATIONS

STATION	PLANTING PLAN	STATION	PLANTING PLAN	STATION	PLANTING PLAN
SECTION AVENUE TO STERLING STREET					
108+30	20-C	110+17	20-A	110+53	32-A
111-69	20-A	121+35	20-D	129+09	20-A
129+85	32-B	130+61	20-A	138+70	32-C
SH 139 TO ABE AVENUE					
107+75	32-B	111+00	32-C	113+50	32-B
120+70	20-B	126+55	20-D	128+95	32-B
131+35	20-D	138+78	20-B	140+50	20-D
142+40	20-A	149+68	32-A	151+38	20-C
153+83	20-C	155+53	32-A	162+90	20-B
164+70	32-C	166+50	20-B	173+76	20-A
181+12	20-B	189+18	32-B	190+82	32-B

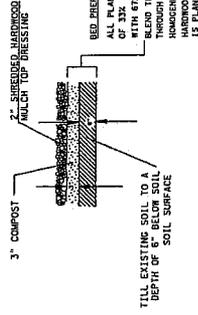
READ ACROSS FOR STATION SEQUENCING



SHEET NO.	6	PROJECT NO.	0094 US 058 SH 183
STATE	TEXAS	DIST.	FTW
COUNTY	TARRANT	CONTRACT NO.	
DATE		DESIGNER	

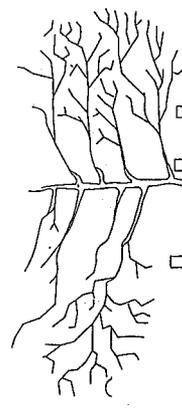
MEDIAN PLANTING PLAN AND DETAILS





PLANTING BED PREPARATION

NOT TO SCALE



TREE PLANTING DETAIL

NOT TO SCALE

NOTES:
 COMPOST COMPOSITION TO MEET THE MATERIAL REQUIREMENTS OF TABLE SPECIFICATION 101.
 TREE LOCATION STAKING
 ALL TREE LOCATIONS TO BE STAKED IN THE FIELD AND APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO THE EXCAVATION OF PLANTING PITS. THE LANDSCAPE ARCHITECT WILL PROVIDE STAKES TO PLANT LOCATIONS AS MAY BE DEEMED NECESSARY.

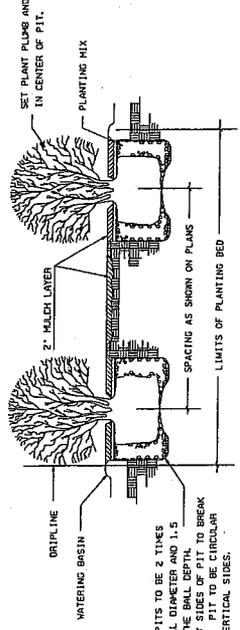
MULCH TOP DRESSING
 PLACE A 3" THICK SHREDDED HARDWOOD MULCH TOP DRESSING AROUND ALL TREES AND 2" IN PLANTING BEDS

PLANT MATERIAL
 ALL PLANT MATERIAL TO BE CONTAINER GROWN. NO CONTAINERIZED OR BALLETS AND BURLS WILL BE PERMITTED. ALL PLANTS TO MEET THE SPECIES AND CONDITION REQUIREMENTS SHOWN IN THESE PLANS. PLANT MATERIALS TO ALSO MEET THE PLANT TO CONTAINER SIZE RATIO RECOMMENDED BY THE "AMERICAN STANDARD FOR NURSERY STOCK".

ALL PLANTS TO BE TRUE TO SPECIES AND VARIETY AND CONFORM TO THE MEASUREMENTS AND CONDITIONS AS SPECIFIED UNLESS OTHERWISE AGREED UPON BY THE LANDSCAPE ARCHITECT. ALL PLANT MATERIAL TO BE INSPECTED AND APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO PLANTING.

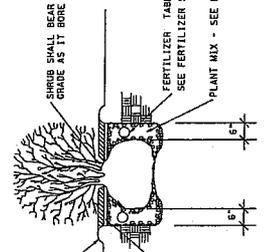
FERTILIZER SCHEDULE : PLANTING	
NPK ANALYSIS 20-10-5	
TREES	SHRUBS AND PERENNIALS
5-GALLON TREES	2 GALLON AND SMALLER
2 AGRIFORM™ 21 GRAM TABLETS	1 AGRIFORM™ 21 GRAM TABLET
15 AGRIFORM™ 21 GRAM TABLETS	3 TO 5 GALLON AND 8B8 MATERIAL
3 AGRIFORM™ 21 GRAM TABLETS	8 TO 15 GALLON AND 8B8 MATERIAL
30 GALLON AND LARGER, 24" BOX AND LARGER, AND ALL 8B8 MATERIAL; 1 AGRIFORM™ 21 GRAM TABLET PER EACH ONE-HALF (1/2) INCH OF CALIPER	15 GALLON AND 8B8 MATERIAL WITH SPREADS GREATER THAN THREE (3) FT.
	3 AGRIFORM™ 21 GRAM TABLETS
SPACE TABLETS EVENLY AROUND ROOT BALL AND PLACE AT A DEPTH APPROXIMATELY 1/2" BELOW SOIL SURFACE (SEE SHRUB PLANTING DETAIL)	

* OR APPROVED EQUAL



GROUNDCOVER PLANTING DETAIL

NOT TO SCALE



SHRUB PLANTING DETAIL

NOT TO SCALE



BED PREPARATION AND PLANTING DETAILS

PLANTING DETAILS			
NO.	DATE	BY	CHKD.
01			
02			
03			
04			
05			
06			
07			
08			
09			
10			

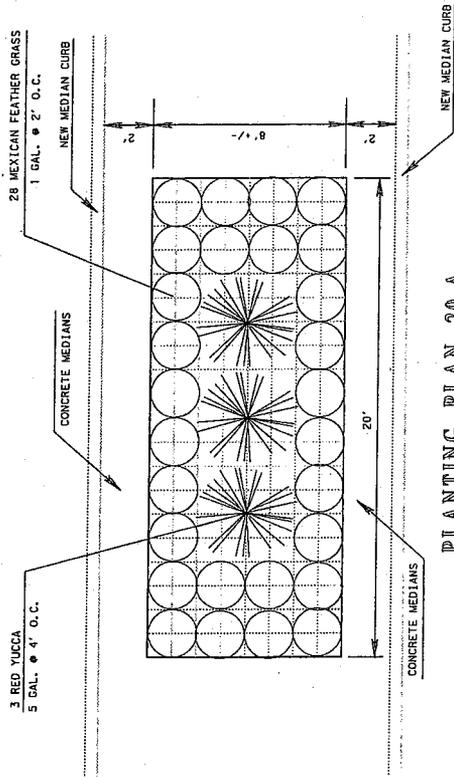
SHEET PLANT MATERIAL LIST

QUAN.	UNIT	SIZE	COMMON NAME	SCIENTIFIC NAME	COMMENTS
PLANTING PLAN 20-A					
3	Ex.	5 Gal.	Red Yucca	<i>Hesperaloe parviflora</i>	48" O.C.
28	Ex.	1 Gal.	Mexican Feather Grass	<i>Neesella tenuissima</i>	24" O.C.
PLANTING PLAN 20-B					
5	Ex.	5 Gal.	Pink Muhly Grass	<i>Muhlenbergia capillaris</i>	48" O.C.
28	Ex.	1 Gal.	Mexican Feather Grass	<i>Neesella tenuissima</i>	24" O.C.

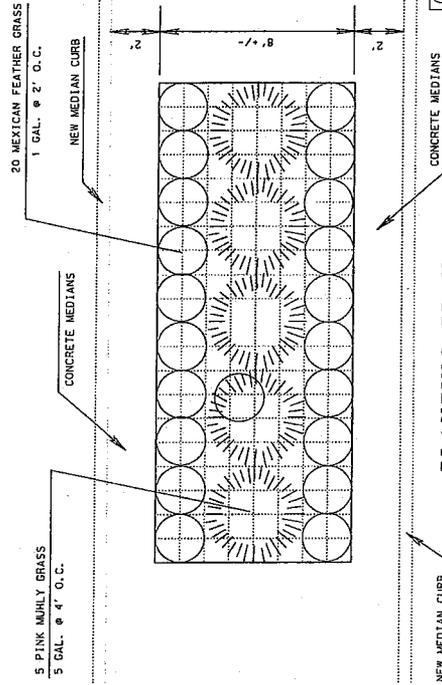
NOTE:
 STAKE PLANT MATERIAL LOCATIONS IN THE APPROXIMATE LOCATIONS SHOWN ON THE PLANS USING THE SCALE OF THE DRAWING AND ANY WRITTEN DIMENSION TO LOCATE THE GROUPINGS. ACCOMPLISH STAKING LOCATIONS IN ACCORDANCE WITH THE GENERAL NOTES AND SPECIFICATIONS. ADJUST FINAL LOCATION OF PLANT MATERIAL AS DIRECTED BY THE ENGINEER.

DIMENSIONS SHOWN ON TOP DRAWING ARE TYPICAL OF BOTH DRAWINGS.

LIGHT GRID LINES ARE SPACED AT 1' INTERVALS.



PLANTING PLAN 20-A



PLANTING PLAN 20-B



C. O.	REV.	DESCRIPTION	DATE
	Δ	MEDIAN PLANTING PLAN	

MEDIAN PLANTING PLAN

SHEET NO.	AND PROJECT NO.	SHEET
5	26A	10
STATE	DIST.	COUNTY
TEXAS	FTW	TARRANT
CONT.	SECT.	JOB
00941 05	058	SH 183

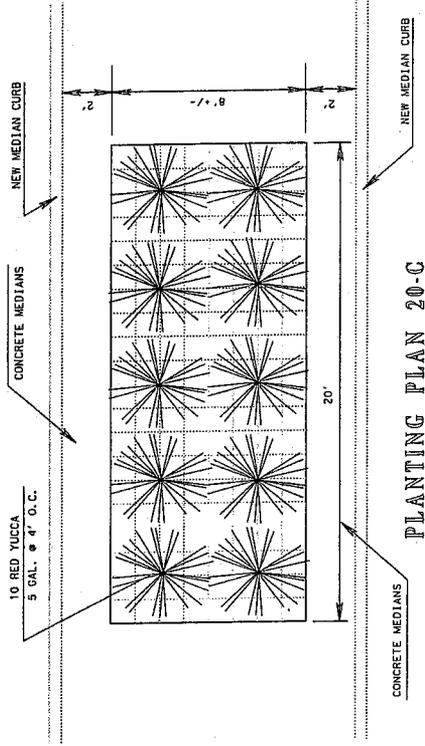
SHEET PLANT MATERIAL LIST

QUAN.	UNIT	SIZE	COMMON NAME	SCIENTIFIC NAME	COMMENTS
PLANTING PLAN 20-C					
19	Ec.	5 Gal.	Red Yucca	<i>Hesperaloe parviflora</i>	48" D.C.
PLANTING PLAN 20-D					
38	Ec.	1 Gal.	Mexican Feather Grass	<i>Nassella tenuissima</i>	24" D.C. (Staggered)

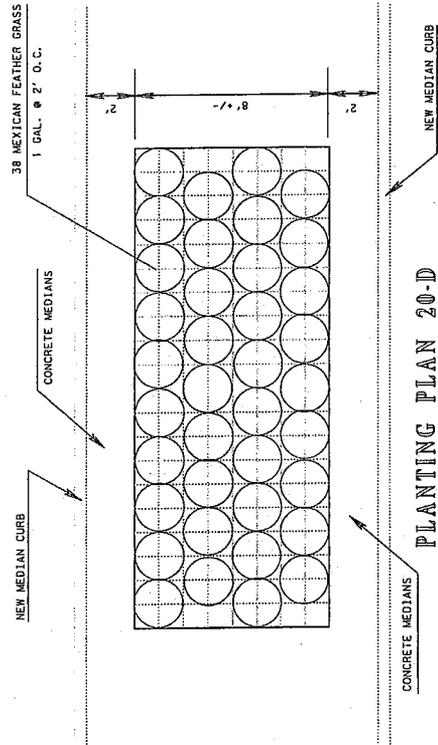
NOTE: STAKE PLANT MATERIAL LOCATIONS IN THE APPROXIMATE LOCATIONS SHOWN ON THE PLANS USING THE SCALE OF THE DRAWING AND ANY WRITTEN DIMENSION TO LOCATE THE GROUPINGS. ACCOMPLISH STAKING LOCATIONS IN ACCORDANCE WITH THE GENERAL NOTES AND SPECIFICATIONS. ADJUST FINAL LOCATION OF PLANT MATERIAL AS DIRECTED BY THE ENGINEER.

DIMENSIONS SHOWN ON TOP DRAWING ARE TYPICAL OF BOTH DRAWINGS.

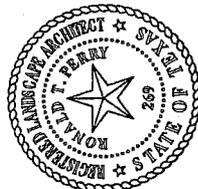
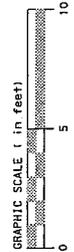
LIGHT GRID LINES ARE SPACED AT 1' INTERVALS.



PLANTING PLAN 20-C



PLANTING PLAN 20-D



C.	O.	REV.	DESCRIPTION	DATE
		1	MEDIAN PLANTING PLAN	

MEDIAN PLANTING PLAN

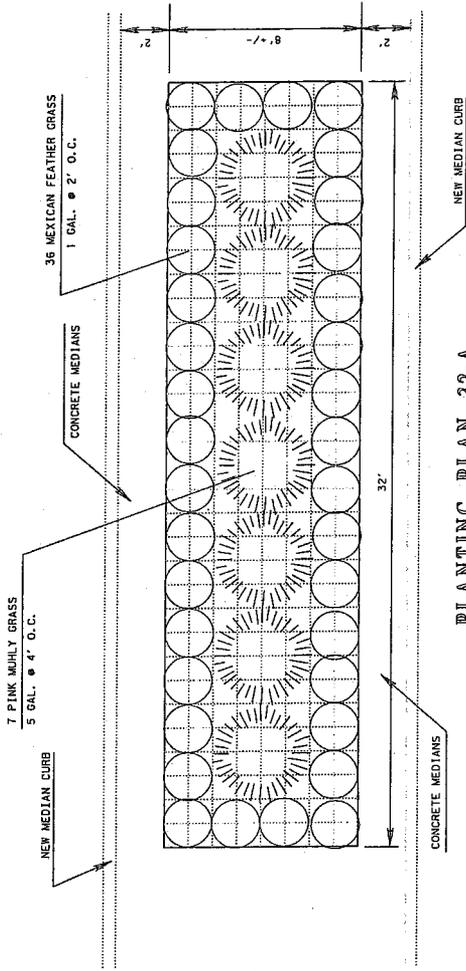
SHEET PLANT MATERIAL LIST

QUAN.	UNIT	SIZE	COMMON NAME	SCIENTIFIC NAME	COMMENTS
PLANTING PLAN 32-A					
7	Ex.	5 Gal.	Pink Muhly Grass	Muhlenbergia capillaris	48" O.C.
36	Ex.	1 Gal.	Mexican Feather Grass	Nassella tenuissima	24" O.C.
PLANTING PLAN 32-B					
7	Ex.	5 Gal.	Red Yucca	Muhlenbergia parviflora	48" O.C.
36	Ex.	1 Gal.	Mexican Feather Grass	Nassella tenuissima	24" O.C.

NOTE: STAKE PLANT MATERIAL LOCATIONS IN THE APPROXIMATE LOCATIONS SHOWN ON THE PLANS USING THE SCALE OF THE DRAWING AND ANY WRITTEN DIMENSIONS TO LOCATE THE GROUPING. ACCOMPLISH STAKING LOCATIONS IN ACCORDANCE WITH THE GENERAL NOTES AND SPECIFICATIONS. ADJUST FINAL LOCATION OF PLANT MATERIAL AS DIRECTED BY THE ENGINEER.

DIMENSIONS SHOWN ON TOP DRAWING ARE TYPICAL OF BOTH DRAWINGS.

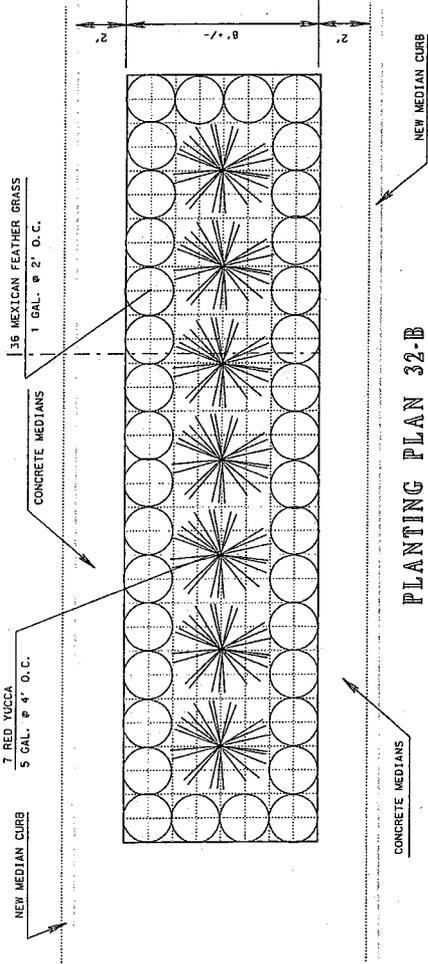
LIGHT GRID LINES ARE SPACED AT 1' INTERVALS.



PLANTING PLAN 32-A

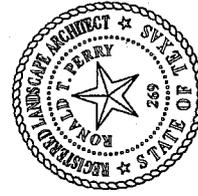


C. O.	REV.	DESCRIPTION	DATE
Δ		MEDIAN PLANTING PLAN	



PLANTING PLAN 32-B

MEDIAN PLANTING PLAN



DATE	ISSUED	COUNT
09/24/05	053	1
DATE	ISSUED	COUNT
09/24/05	053	1