

RESOLUTION NO. 2007-35

**A RESOLUTION ADOPTING RIGHT-OF-WAY
EXCAVATION REGULATIONS**

WHEREAS, Ordinance 1291 adopted on February 27, 2007 by the Alamogordo City Commission directed staff to develop regulations governing the excavation in rights-of-way owned by the City of Alamogordo; and,

WHEREAS, staff has now adopted these Right-Of-Way Excavation Regulations and they are attached hereto and incorporated herein by reference; and,

WHEREAS, Ordinance 1291 requires that these Regulations be adopted by the Alamogordo City Commission by resolution.

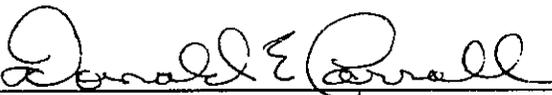
NOW, THEREFORE, BE IT RESOLVED that the attached City of Alamogordo Right-Of-Way Excavation Regulations are hereby adopted by the Alamogordo City Commission.

BE IT FURTHER RESOLVED that these Regulations shall become effective immediately on the date that this Resolution is adopted.

BE IT FURTHER RESOLVED that City staff, as set forth in the attached Regulations, are hereby authorized and directed to enforce these Regulations pursuant to the terms of the Right-Of-Way Excavation Regulations.

DONE this 26th day of June, 2007.

CITY OF ALAMOGORDO, NEW MEXICO
a New Mexico municipal corporation

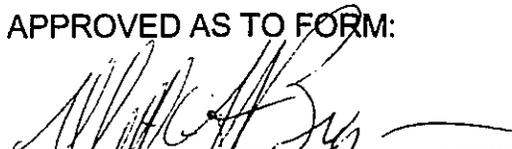
By: 
Donald E. Carroll, Mayor



ATTEST:


Renee L. Cantin, City Clerk

APPROVED AS TO FORM:


William H. Brogan, City Attorney

**CITY OF ALAMOGORDO
RIGHT-OF-WAY EXCAVATION REGULATIONS**

10 / 26 / 07
DATE

**CITY OF ALAMOGORDO
RIGHT-OF-WAY EXCAVATION REGULATIONS**

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**CITY OF ALAMOGORO
RIGHT-OF-WAY EXCAVATION REGULATIONS**

These regulations are adopted by the City of Alamogordo, New Mexico on the 26 day of June, 2007 and are current through that date. Users are advised that these regulations may be amended from time to time and the user should check with the City of Alamogordo Community Development Department to make certain they are using the most current version.

These regulations shall apply to all Excavations in City Right-of-Way. These regulations do not apply to Excavations for installation of utility poles as defined herein.

TITLE I – GENERAL ADMINISTRATION

CHAPTER 1 – GENERAL PROVISIONS:

GENERAL GOVERNMENT ADMINISTRATION [RESERVED]

CHAPTER 2 – ADMINISTRATIVE PROCEDURES PART 1

PART 2 DEFINITIONS [COAER]

As used in this regulation:

1.2.2.1 Alley means a minor public way intended for secondary service access to the rear side of a lot or piece of property.

1.2.2.2 Applicant means the utility which owns the service which is to be installed in the right-of-way, or the contractor who is actually doing the Excavation in the right-of-way. The Applicant shall be the party responsible for the Excavation Work itself, the installation of the necessary services, all safety and cleanup operations, and the repair of the Excavation to meet the standards set forth in this regulation.

1.2.2.3 Building Division means the section of the Alamogordo Community Development Department charged with enforcement of building codes.

1.2.2.4 City means the City of Alamogordo, New Mexico.

1.2.2.5 Complete means the Excavation is filled to City specifications and the surface is returned to its original condition in complete accordance with City specifications as set forth in this regulation.

1.2.2.6 Condition of Imminent Danger means any situation created as a result of the Work which results in the immediate exposure of the public, including vehicular traffic and pedestrian traffic, to an environment which may result in physical injury. This may include blowing soil or dust, trenches, release of dangerous or toxic gases or fumes, or uncontrolled machinery or equipment.

1.2.2.7 Contractor shall refer to the person, other than a City franchisee, who is doing the physical Excavation of the right-of-way. A Contractor must be licensed by the State of New Mexico Regulation and Licensing Department to accomplish the Work authorized under the right-of-way permit. Contractor must have a current valid Alamogordo Business Registration.

1.2.2.8 Drawings or Plans means the drawings which show the character and scope of the Work to be performed and which have been prepared or approved by the City.

1.2.2.9 Easement, private means a right of use granted by a property owner for the limited use of private land owners or other entities or persons and for general use and maintenance of such area as governed by an agreement which runs with the land.

This easement is accessible only by mutual consent of all the parties that benefit from the easement.

1.2.2.10 Easement, public means an easement granted by a property owner dedicated for use by the public.

1.2.2.11 Emergency means an unexpected situation which, if not controlled, will result in imminent danger to or substantial loss of human or animal life or property.

1.2.2.12 Excavate (Excavation) means any activity which involves digging away a covering, forming a cavity, hole, or trench, or removing or digging out asphalt or dirt.

1.2.2.13 Franchisee means that public utility company which has agreed to and is subject to a franchisee agreement adopted by ordinance in the *Alamogordo Code of Ordinances*.

1.2.2.14 Franchisee Annual Permit Fee means that fee paid by entities granted a franchise by City Ordinance to occupy Public Right-of-Way for Public Utilities. This fee is set and paid annually during January of each year and covers all Permit applications submitted during the calendar year following payment of the fee.

1.2.2.15 Grading means any disturbance of the surface of land.

1.2.2.16 Intersection means the location where two or more streets or alleys cross at grade.

1.2.2.17 Median means a strip that separates opposing flows of traffic on a street.

1.2.2.18 Owner means the legal deed holder(s) of property.

1.2.2.19 Project means the entire Construction or Excavation to be performed as provided in the plans and specifications approved by the City. (See also Work.)

1.2.2.20 Property line means the line(s) of record bounding a lot or other parcel of land.

1.2.2.21 Property Owner means the person holding recorded title to the property outside of the Right-of-Way.

1.2.2.22 Public Works Inspector means the inspector representing the City and responsible for inspection of and either acceptance of or rejection of all work done and all materials furnished within public rights-of-way.

1.2.2.23 Reference Specifications, Test Methods and Applicable Codes means all standard specifications and test methods of any society, association, or organization referred to herein. Reference to such standards refers to the latest published issues as of the date of the application for Excavation, unless otherwise specified.

1.2.2.24 Reference to local or state codes and laws means the latest adopted and published codes as of the date of the application for the Excavation, unless otherwise specified.

1.2.2.25 Right-of-Way means a strip of land over which is built a public road, alley or the airspace above any public road or alley. Right-of-way includes the area occupied by curbs, guttering and sidewalks.

1.2.2.26 Right-of-Way Excavation Permit (Permit) means the permit issued by the City of Alamogordo in accordance with the terms and conditions of these regulations to the Applicant. This permit is a license revocable by the City should the City determine that the Applicant or its agent is in violation of these regulations.

1.2.2.27 Service Connections means all or any portion of the pipe, conduit, cable, or duct already present in or which may be installed in an Excavation.

1.2.2.28 Sidewalk means a paved or concreted walkway adjacent to or in the proximity of a street. A Sidewalk is intended to be used by pedestrians.

1.2.2.29 Shop Drawings means all drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by an Owner, Contractor, a Subcontractor, manufacturer, supplier, or distributor which illustrate the equipment, material or some portion of the work.

1.2.2.30 Special Conditions means conditions which modify any article or paragraph of this regulation.

1.2.2.31 Specifications means a written technical description of materials, equipment, construction systems, standards, and workmanship as applied to the Work.

1.2.2.32 Street means a right-of-way dedicated to the use of the public by which vehicles and pedestrians shall have lawful and usable ingress and egress.

1.2.2.33 Subcontractor means an individual, firm or corporation having a direct contract with Contractor or Owner or with any other subcontractor for the performance of a part of the Work at the site. All Subcontractors must have a current City of Alamogordo business registration.

1.2.2.34 Substantially Complete means the Excavation has been filled and compacted to its original condition and in complete compliance with these regulations with the exception that the Contractor has not been able to obtain the asphalt treatment required by the City. At the City's discretion, the City may accept a cold mix asphalt treatment as a temporary surfacing. This temporary surfacing shall be replaced with the proper hot-mix compliant surfacing within two weeks from the written notice by the City to the Contractor of Substantial Completion.

1.2.2.35 Traveled Way means that portion of an alley not less than ten (10) feet in width, in the older parts of the City and not less than sixteen (16) feet in width in most parts of the City. In those areas where the alley is at least sixteen (16) feet in width, the Traveled Way begins twenty-four (24) inches from the point where the alley right-of-way or easement adjoins any lot or tract of land. When the alley right-of-way or easement is less than sixteen (16) feet in width, the traveled way shall be the entire width of said alley right-of-way or easement.

1.2.2.36 Utility Service means the service lines which transverse the property line from the right of way or easement to a structure, or those service lines running within the Right-of-Way but not directly connected to a structure.

(1) **Commercial Utility Services** means the service lines which transverse the property line from the right-of-way or easement to a structure used for commercial purposes or for multiple-family structures consisting of more than four (4) family dwelling units.

(2) **Residential Utility Services** means the service lines which transverse the property line from the right-of-way or easement to a structure not used for commercial purposes or a structure housing a single-family or four (4) or less dwelling units.

(3) **Public Utility Service** means main utility lines not directly connected to a residential or commercial structure.

1.2.2.37 Utility means overhead or underground wires, pipes, conduits, ducts, or structures, operated and maintained in or across a public right-of-way or easement or

private easement operated and maintained to supply such commodities as water, gas, power, telephone, cable television, sewer, or fiber optic cable.

(1) **Public Utility** means a utility owned and operated by a municipality or other political subdivision of the state.

(2) **Private Utility** means a utility owned and operated by a private company or corporation.

1.2.2.38 Utility Pole means a wooden, steel, or aluminum single shaft object or structure utilized to support above ground utility features such as electric lines, telephone lines and cable television lines. A pole requires only a single hole in the Right-of-Way which is back-filled and tamped on all sides. The Utility Pole shall not interfere with any traveled ways either on streets, alleys or sidewalks. If the Utility Pole requires Excavation through asphalt or concrete, the surface area where the pole meets the surface area will be returned to the condition it was in prior to the Excavation.

1.2.2.39 Work means any and all obligations, duties, and responsibilities necessary to the successful completion of the project assigned to or undertaken by Contractor or Franchisee, including all labor, materials, equipment, incidentals, remediation, and the furnishing and installation thereof.

PART 3 GENERAL INFORMATION

1.2.3.1 SCOPE

These regulations shall apply to all Excavations within all Public Rights-of-Way, including, but not limited to, all Streets and Alleys.

1.2.3.2 SAFETY

The Applicant shall be solely responsible to make certain that all Work is done in a safe manner. All Excavations must be accomplished in such a manner that the general public and all workmen are protected from unsafe conditions and practices. All Work must be done in accordance with O.S.H.A. safety standards and good construction methods. The Applicant shall maintain staff on call for immediate response to cave-ins or other matters concerning public and worker safety.

1.2.3.3 TRAFFIC CONTROL

The Applicant shall be solely responsible for providing traffic control for the Work. All traffic control shall be in strict accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD). The Applicant shall be responsible for making certain they are utilizing the latest version of MUTCD. The Applicant shall maintain staff on call for immediate response to traffic control issues.

1.2.3.4 BARRICADES AND WARNING DEVICES

All open Excavations shall be marked by the Applicant with barricades, signs, flares, electric warning flasher, flagmen, and any or all other appropriate types of warning devices so as to meet MUTCD requirements and to provide protection to all persons and vehicular traffic.

1.2.3.5 UNDERGROUND AND SURFACE UTILITY STRUCTURES

The Applicant shall provide support, protection, and maintenance for all structures encountered in the process of completing the Work. Where the grade or alignment of new utility structures is obstructed by existing utility structures such as conduits, ducts,

pipes or wires, the Applicant must provide for permanent support, relocation, removal, or reconstruction of the previously existing utility structures. Before beginning Excavation, the Applicant shall make a thorough examination of available records and comply with state and federal law as to calling the appropriate marking agency to determine location of existing utility structures. At the minimum, Applicant shall contact "One Call", "blue stake", or their equivalent, to verify location of existing utility structures.

1.2.3.6 PUBLIC ACCESS

All Work shall be conducted in such a manner as to minimize disruption of the general public. The Applicant shall provide access to residents and businesses during progress of the Work. The Applicant shall provide cleanup operations as required to prevent safety hazards and public nuisances. The Public Works Inspector shall have the authority to direct immediate cleanup of any areas which the Public Works Inspector determines to be a safety hazard or public nuisance.

1.2.3.7 TRUCK BED COVERS

All vehicles being driven or moved on any City street, alley, or other public access way shall be so constructed, loaded, secured and covered so as to prevent any of the vehicles' load from dropping, sifting, leaking or otherwise escaping, except that sand may be dropped for the purpose of securing traction or water or other substance may be sprinkled on a roadway or Traveled Way for the purpose of cleaning or maintaining the roadway or Traveled Way. All vehicles must be operated in such a way that the load on said vehicle is securely fastened so as to prevent the covering or load from becoming

loose, detached or, in any manner, a hazard to other users of the roadway or Traveled Way.

1.2.3.8 WATER FOR WORK

The Applicant will be responsible for providing water either from private sources or from the City of Alamogordo. In the event the Applicant or Contractor purchases water from the City, they shall make all necessary arrangements with the City Water Billing Department. The Applicant shall take all steps necessary to avoid waste of water and/or the creation of a nuisance.

The City may require that Applicant utilize effluent water through the City's recycled water system in the City's sole discretion.

1.2.3.9 MATERIALS TESTING

The Applicant shall complete all compaction studies and asphalt testing required by these regulations and shall provide the City with copies of all results of these tests prior to, or concurrent with, application for a letter of completion from the City.

(1) IN UNPAVED AREAS

All Excavations shall be compacted to ninety (90%) percent density, ASTM D-698 (standard proctor).

(2) IN PAVED AREAS

All Excavations shall be compacted to ninety-five (95%) percent density, ASTM D-1557 (modified proctor).

All backfill compaction testing will be performed by the Applicant utilizing a dynamic cone penetrometer, or a licensed geotechnical engineer utilizing conventional testing equipment. Compaction tests will be required based on the testing frequency as set forth in the table below. Copies of the results shall be furnished either upon request of the Public Works Inspector or concurrent with the application for a letter of substantial completion or completion.

All Applicants performing work governed by these regulations shall not be allowed to use a dynamic cone penetrometer until such time as the Applicant provides test results to the City that show a direct correlation of the dynamic cone penetrometer and a nuclear density machine for the different types of soil encountered.

EXCAVATIONS

Size of Excavation	No. of Tests	Remarks
0 to 100 S.F.	2	Alternate lifts
101 to 750 S.F.	3	Alternate lifts
751 to 1000 S.F.	4	Alternate lifts
Over 1000 S.F.	As required	Number of tests to be determined on a case by case basis

MAIN UTILITY EXCAVATIONS

Length of Excavation	No. of Tests	Remarks
0 – 500 ft.	3	Alternate lifts
501 – 1000 ft.	6	Alternate lifts
Over 1000 ft.	As required	1 test per lift/500 ft. spacing

LATERAL OR SERVICE EXCAVATIONS

Length of Excavation	No. of tests	Remarks
0 – 20 ft.	2	Alternate lifts
21 – 50 ft.	3	Alternate lifts
51 – 100 ft.	4	Alternate lifts
Over 100 ft.	As required	1 test per lift/100 ft. spacing

(3) **BASE COURSE** - One surface density test per 200 linear feet of Excavation.

(4) **HOT MIX BITUMINOUS PAVEMENT** - One surface density test per 200 linear feet of Excavation.

All surface density testing for bituminous pavement patching shall be performed by a New Mexico licensed professional geotechnical engineer. The Applicant shall ensure that copies of the density test reports are submitted to the City of Alamogordo prior to application for a letter of completion. Any areas that fail to meet the density requirements set forth above shall be corrected and retested until the density requirement has been met. No letter of substantial completion or completion shall be issued until the above tests are satisfied.

1.2.3.10 REQUIRED INSPECTIONS

The finished base course surface shall be inspected by the Public Works Inspector prior to pavement patching. There shall also be a pre-final inspection and a final inspection to assure compliance with the above testing requirements. Failure of the Applicant to request and obtain the required inspections will result in all subsequent work being

deemed unacceptable and subject to removal by the Applicant. Work performed in sections must be inspected by section as outlined above. Any weather conditions, such as flooding, that affect the Work, will require that additional inspection be obtained prior to any further Work being done. Any deficiencies or defects noted in the pre-final inspection of the Work must be corrected prior to application for a final letter of completion.

1.2.3.11 WARRANTY

In all areas, paved and unpaved, the Applicant shall warrant materials and workmanship for a period of two (2) years from the date of the final letter of completion. Any repairs required to the area of the Work will be performed by the Applicant at the sole cost of the Applicant. If the Applicant does not complete required repairs or receive an extension of time by the Community Development Department and approved by the Public Works Inspector within ten (10) days of written notice of the necessary repairs, pursuant to *Alamogordo Code of Ordinances* Section 8-04-020(d), the City or its Contractor may complete the Work and bill the Applicant. No further permits will be issued to the Applicant until the City is paid in full for the cost of performing the repair Work, including administrative expenses as set out in Section 1.2.6.1 of these Regulations.

1.2.3.12 DUST CONTROL

The Applicant shall provide continual dust control as required, utilizing watering, sweeping, or such other measures as required to prevent safety hazards and public

nuisances. Applicant shall provide sufficient staff on immediate call out to control dust in accordance with this paragraph.

PART 4 TRENCHING AND BACKFILLING

1.2.4.1

All Excavations shall be constructed along straight lines to the proper depth, as determined by state and local requirements.

1.2.4.2

All Work requiring trenching shall be done in such a manner as to comply with applicable OSHA safety standards including, as a minimum, required barricades and other exclusion and notice devices as set forth in MUTCD and good construction methods. Sheeting and bracing or terracing shall be installed as necessary to prevent cave-ins and sliding. All methods shall be employed to provide adequate protection for workers.

1.2.4.3 CONSTRUCTION REQUIREMENTS

The trench bottom shall be smooth and graded uniformly.

1.2.4.4

Any over-excavated area shall be refilled with suitable material at $\pm 2\%$ moisture content and compacted to the density specified below.

1.2.4.5

Backfill shall be made up of suitable material as follows:

- (1) Density Requirements

In unpaved areas, all backfill shall be placed in eight (8) inch loose layers and compacted to ninety (90%) percent density, ASTM D-698 (standard proctor).

Under areas to be paved or repaved, all backfill shall be placed in eight (8) inch loose layers and compacted to ninety-five (95%) percent density, ASTM D-1557 (modified proctor).

(2) Select Native Backfill Material

All Excavations, including trenches, shall be refilled with excavated native material free of rocks larger than one (1) inch, roots or other objectionable material, to a point six (6) inches above the utility service. All backfill above and surrounding the utility service shall contain $\pm 2\%$ percent optimum moisture content before placement. Backfill shall be placed in eight (8) inch loose layers, spread as required to obtain a uniform thickness and compacted as noted above. Each successive layer shall be placed in this manner until the total depth of select native backfill is no more than six (6) inches from the top of the Excavation.

(3) Native Backfill Material

The remainder of the Excavation shall be backfilled to the subgrade surface and shall be free of rocks larger than 3 inches, roots or other objectionable material. All backfill shall contain $\pm 2\%$ optimum moisture content before placement. Backfill shall be placed in eight (8) inch loose layers, spread as required to obtain a uniform thickness and compacted to the required density. Each successive layer shall be placed in this manner until the total depth of backfill is reached. The top six (6) inches of all Excavation shall receive base course material complying with the requirements contained herein.

(4) Cement Stabilized Backfill

The contractor may use Cement Stabilized Backfill in lieu of Native Backfill material for all Excavations. Cement Stabilized Backfill is required for all Excavations located within paved roadways whose total width is greater than thirty-two (32) feet as measured from the back of each curb. In addition, cement stabilized backfill is required for all Excavations greater than thirty-two (32) feet in length located in paved roadways regardless of the paved roadway width. Cement Stabilized Backfill shall be mixed to the following proportions:

- One cubic yard engineered backfill material; plus,
- One 90 pound sack Portland cement; plus,
- Water content to make workable mixture.

The mixture shall be thoroughly mixed and placed in twelve (12) inch layers, spread as required to obtain a uniform thickness and thoroughly densified with mechanical compacting equipment.

PART 5 BASE COURSE

1.2.5.1 MATERIALS

Base course aggregate shall be composed of materials consisting of crushed stone, crushed or screened gravel, caliche, sand, or a combination of such materials. Base course aggregate shall be free of vegetable matter and all other deleterious materials.

Base course aggregate will be tested in accordance with AASHTO methods provided below or in accordance with other approved methods.

Mechanical Analysis	AASHTO T 27
Passing No. 200 Sieve	AASHTO T 11

Liquid Limit	AASHTO T 89
Los Angeles Abrasion	AASHTO T 96
Soundness (5 cycle-magnesium sulfate solution)	AASHTO T 104
Linear Shrinkage	Materials Testing Control Manual

Base Course aggregate materials shall be combined in such proportions that the resulting composite blend meets the requirement of the following table:

BASE COURSE CLASSIFICATION

<u>SEIVE SIZE</u>	<u>PERCENT PASSING</u>
1"	100
3/4"	80 – 100
No. 4	30 – 60
No. 10	20 – 45
No. 200	3 – 10
<u>SOUNDNESS</u>	18 or less
L.A. Abrasion	50 or less
L.L.	25 or less
P.I.	6 maximum

Fifty percent (50%) by weight of all plus No. 4 material shall have a minimum of two (2) mechanically fractured faces.

1.2.5.2 MIXING AND PLACING

Base course material shall be mixed to provide a homogenous mixture of unsegregated and uniformly dispersed materials and placed in position for compacting. The base course material and water shall be mixed in a mixer approved by the Public Works Inspector. Water shall be added during the mixing operation in the amount necessary to provide the optimum moisture content for placement plus or minus two ($\pm 2\%$)

percentage points. After mixing, the base course material shall be transported to the job site while it contains the proper moisture content and shall be placed without delay. The Applicant shall spread and compact base course in layers which will permit the required density to be obtained as set forth above.

PART 6 ASHPALT CONCRETE PAVEMENT

1.2.6.1 GENERAL

Hot-mixed asphalt concrete pavement shall be used for all pavement patching and roadway repair caused by Excavation in a paved area. All hot-mixed asphalt concrete pavement shall be installed by a contractor licensed by the State of New Mexico to install hot-mixed asphalt concrete pavement.

If the Applicant is not able to patch the Excavation through pavement using hot-mix asphalt concrete pavement as set forth above within forty-eight (48) hours after backfill has been placed, Applicant shall immediately contact the Public Works Inspector and request permission to utilize cold mix asphalt. This temporary pavement patch shall be maintained by the Applicant until the permanent pavement patch is installed as set forth above. All permanent pavement patches must be installed within twenty-five (25) calendar days after the backfill has been completed.

If the Applicant does not install the permanent pavement patch as set forth in the previous sentence within twenty-five (25) calendar days of the installation of the backfill, the City of Alamogordo will install the permanent patch and bill the Applicant.

The bill for installing the permanent pavement patch will include all materials required by the City, all labor, all gross receipt taxes, a thirty-three (33%) percent administrative fee

based upon the total of the previous three items, plus all attorney fees and litigation costs incurred by the City.

If the Applicant fails to install a temporary patch as required by this Section, the City will install the temporary patch and bill Applicant for the costs thereof. The bill for installing the temporary pavement patch will include all materials required by the City, all labor and equipment, all gross receipt taxes, a thirty-three (33%) percent administrative fee based upon the total of the previous three items, plus all attorney fees and litigation costs incurred by the City.

1.2.6.2 MATERIALS

Materials shall comply with the current City standards as set forth in Exhibit 1 attached hereto and incorporated herein for bituminous pavements. Applicant is advised to contact the City Community Development Department to make certain the Applicant has the most current requirements.

TITLE 2 PERMIT PROCESS

CHAPTER 1

APPLICATION

2.1.1 Application

Applicant must complete the application form attached hereto as Exhibit 2 along with all supporting documents and the fee as set forth in Chapter 2 of these Regulations. Applicant is advised that the form and supporting documents and the applicable fee may be revised from time to time as deemed appropriate by the City. Applicant is

advised to contact the Community Development Department to obtain the most current application form and fee schedule.

2.1.2 Contractor Must be Licensed

Every entity Excavating in Public Right-of-Way must be either a Contractor appropriately licensed by the New Mexico Construction Industries Division or must be a Franchisee. All Applicants must list the name of the Contractor or Franchisee who will be doing the actual Excavation. All Contractors must have a valid Alamogordo Business Registration.

2.1.3 Incomplete Applications

Incomplete applications will not be accepted.

2.1.4 Maximum Area for Permit

A permit will not be issued for work encompassing more than six hundred (600) linear feet. A single Right-of-Way Excavation Permit may be issued when the Work to be performed by the Applicant involves multiple Excavations by the Applicant within six hundred (600) linear feet. Any work under a project which involves Right-of-Way in excess of six hundred (600) linear feet will require an additional application and Permit. This additional Permit requirement may be waived by the Community Development Department with approval by the Public Works Department in the sole and exclusive discretion of the Community Development Department if the waiver is requested in writing by the Applicant prior to beginning work on the project.

2.1.5 Substructure Openings

A Franchisee may raise or lower a substructure opening to meet grade changes brought about by City maintenance, repairs or resurfacing without obtaining a Right-of-Way Excavation Permit, provided the Work occurs during a paving overlay project or major street restoration.

2.1.6 Application Processing Time

For complete applications filed and accepted by the Community Development Department before 3:00 P.M. on a City regular business day, the Community Development Department shall make every good faith effort to issue Permits pursuant to these Regulations within two (2) working days after the day the application is filed with payment of appropriate fees.

2.1.7 Consequences of Failure to Apply

Any work started before the issuance of a Permit shall be considered a violation of the *Alamogordo Code of Ordinances*. Any Application submitted after the commencement of Excavation shall be subject to payment of double fees.

2.1.8 Permit Must be Displayed on Site

The entity actually doing the Work shall maintain a copy of the issued Permit on site and easily available to the Public Works Inspector until the project has received a letter of completion from the City.

2.1.9 Time for Commencement of Work

The Work shall begin within one (1) calendar week from the date the Permit is issued. Commencement of Work may be extended by the Community Development

Department after approval by the Public Works Inspector. Applicant must request an extension of time within the one (1) week period utilizing the form provided by the Community Development Department. If Work is not commenced within the calendar week required by this Section and no application has been filed with the Community Development Department for an extension, the Right-of-Way Excavation Permit shall be null and void and any Work attempted under that Permit shall be subject to the penalty portions of this regulation. (Section 2.1.11)

2.1.10 Time for Completion of Work

All Work done pursuant to a Right-of-Way Excavation Permit must be completed and the right-of-way restored pursuant to the terms of this Regulation within two (2) calendar weeks of the issuance of a Right-of-Way Excavation Permit. The Community Development Department, after approval by the Public Works Inspector, may extend the period for completion of Work after receipt of an application for extension of Time and determination by the Community Development and Public Works Inspector that the request for extension of time is well founded. The decision of whether or not to grant an extension of time for completion of Work shall rest in the sole discretion of the Community Development Department after consulting with the Public Works Inspector.

2.1.11 Penalty

Any work not completed within two (2) calendar weeks or within the time granted pursuant to an application for an extension will result in a fee of one hundred (\$100) dollars per day for each day beyond the two weeks or the extension that the Work remains incomplete. In addition, no new permits will be issued to the Applicant until all

outstanding Work is complete and outstanding fees have been paid. This additional \$100 per day fee shall not be applicable if the Community Development Department, after consulting with the Public Works Inspector, determines that the Work is substantially complete as defined under these regulations.

2.1.12 Emergency Excavations

Emergency Right-of-Way Excavations may be accomplished without first obtaining a right-of-way Excavation Permit in the event of an emergency. In this event, the Applicant doing the emergency Work shall file an application for Right-of-Way Excavation on the next City business day.

2.1.13 Franchisee May Apply by Facsimile Transmission

A Franchisee may file its applications for Right-of-Way Excavation Permits together with all supporting data by facsimile transmission. All approved permits shall be returned to the Franchisee at the telephone/facsimile number listed on the Application. No Work shall be commenced on any project until the Permit is issued by the City and faxed to the number listed on the application.

2.1.14 Inspection Requests

Once the Applicant determines that the Work is either substantially completed as defined in these regulations or is finally completed, Applicant will contact the Building Division of the Community Development Department and request an inspection. The City will make every good faith effort to complete inspections within two (2) hours of any request submitted to the City prior to 3:00 P.M. on a business day. All requests for

inspections submitted after 3:00 P.M. will be completed on the next business day following the request.

2.1.15 Safety Devices

The applicant must maintain all safety devices and keep the project area in a clean and safe condition until the Letter of Completion is issued by the City.

2.1.16 Inspection

The Public Works Inspector will complete an inspection of the Work and will either approve the Work as Substantially Complete or Complete or will advise the Applicant of any deficiencies that must be completed prior to issuance of an Inspection Report. All deficiencies must be corrected within twenty-four (24) hours of the inspection or re-inspection requested by the Applicant. Applicant must call the Community Development Department for re-inspection when corrective work is complete.

If the Public Works Inspector issues a Substantially Complete inspection report, the Applicant must complete the Work within the time set forth in these regulations. Once the Substantially Complete Work is finalized, the Applicant must request a Final Inspection. When the Public Works Inspector inspects the Work upon the request for a Final Inspection by the Applicant, the Public Works Inspector will issue either a Notice of Defects or a Letter of Final Completion.

All time frames for Warranty Work begin to run upon the issuance of a letter by the Community Development Department that the Work is complete.

CHAPTER 2 FEES

Applicants are advised that these fees are subject to review and revision at least annually. All Applicants should make certain they are utilizing the current fee structure issued by the Community Development Department.

2.2.1 Category 1 Excavations not located through and/or under a paved or otherwise hard surface street, or not under or within five (5) feet of existing curb and gutter, or in the Traveled Way of an Alley shall be subject to the following fees:

- | | |
|-----------------------------------|---------|
| (A) Residential Utility Services: | \$11.85 |
| (B) Commercial Utility Services: | \$29.63 |
| (C) Public Utility Installations: | \$59.27 |

2.2.2 Category 2 Excavations located through or under a paved or otherwise hard surfaced street, or under or within five (5) feet of existing curb and gutter, or in the Traveled Way of an Alley shall be subject to the following permit fees:

- | | |
|--|----------|
| (A) Residential Utility Services: | \$59.27 |
| (If the City is required to install pavement patching, this permit application will also require a fee for the pavement patching based on the area to be patched. This additional fee will include all materials, City labor forces required, equipment costs, gross receipts taxes, and an administrative fee of 33% of the total of the actual costs, plus attorney fees and costs of litigation.) | |
| (B) Commercial Utility Services: | \$118.55 |

(If the City is required to install pavement patching, this permit application will also require a fee for the pavement patching based on the area to be patched. This additional fee will include all materials, City labor forces required, equipment costs, gross receipts taxes, and an administrative fee of 33% of the total of the actual costs, plus attorney fees and costs of litigation.)

- (C) Public Utility Installations: \$177.82
(If the City is required to install pavement patching, this permit application will also require a fee for the pavement patching based on the area to be patched. This additional fee will include all materials, City labor forces required, equipment costs, gross receipts taxes, and an administrative fee of 33% of the total of the actual costs, plus attorney fees and costs of litigation.)

2.2.3 Category 3 Excavations of any sort through any type of surface performed by a Franchisee shall be subject to pre-payment of an annual fee. For the calendar year 2007 this pre-paid annual fee shall be \$2500. This annual fee shall be reviewed each December based upon the number of permits issued during the preceding calendar year. All Franchisees shall be notified during the month of December of each year of the single Permit fee payment which will be due in advance no later than January 15. Failure by any Franchisee to make payment prior to January 15 will subject

them to payment of the normal application fees as set forth in Category 1 and Category 2 above.

2.2.4 Re-inspection

Any re-inspection for Substantial Completion or Final Completion will require a ninety dollar (\$90.00) re-inspection fee to be paid prior to the re-inspection. This fee cannot be waived.

Upon Final Completion, the Public Works Inspector shall submit a properly completed Inspector's Field Report to the Community Development Department.

These Regulations were adopted by _____ on this 26 day of June, 2007 and are effective June 26, 2007.



Pat McCourt, City Manager

SPREAD AND COMPACT 2" BASE COURSE WHERE UNPAVED AREA IS DISTURBED, 90% DENSITY ASTM D-1557

6" THICK BASE COURSE, 90% DENSITY ASTM D-1557

EXISTING GROUND SURFACE

DEPTH VARIES WITH UTILITY COMPANY REQUIREMENTS

6" MIN.

COMPACTED NATIVE MATERIAL 90% DENSITY ASTM D-1557 OR CEMENT STABILIZED BACKFILL DENSIFIED

UTILITY MARKING TAPE (DETECTABLE)

6" MIN.

UTILITY LINE

COMPACTED SELECT NATIVE MATERIAL 90% DENSITY ASTM D-1557

WIDTH VARIES

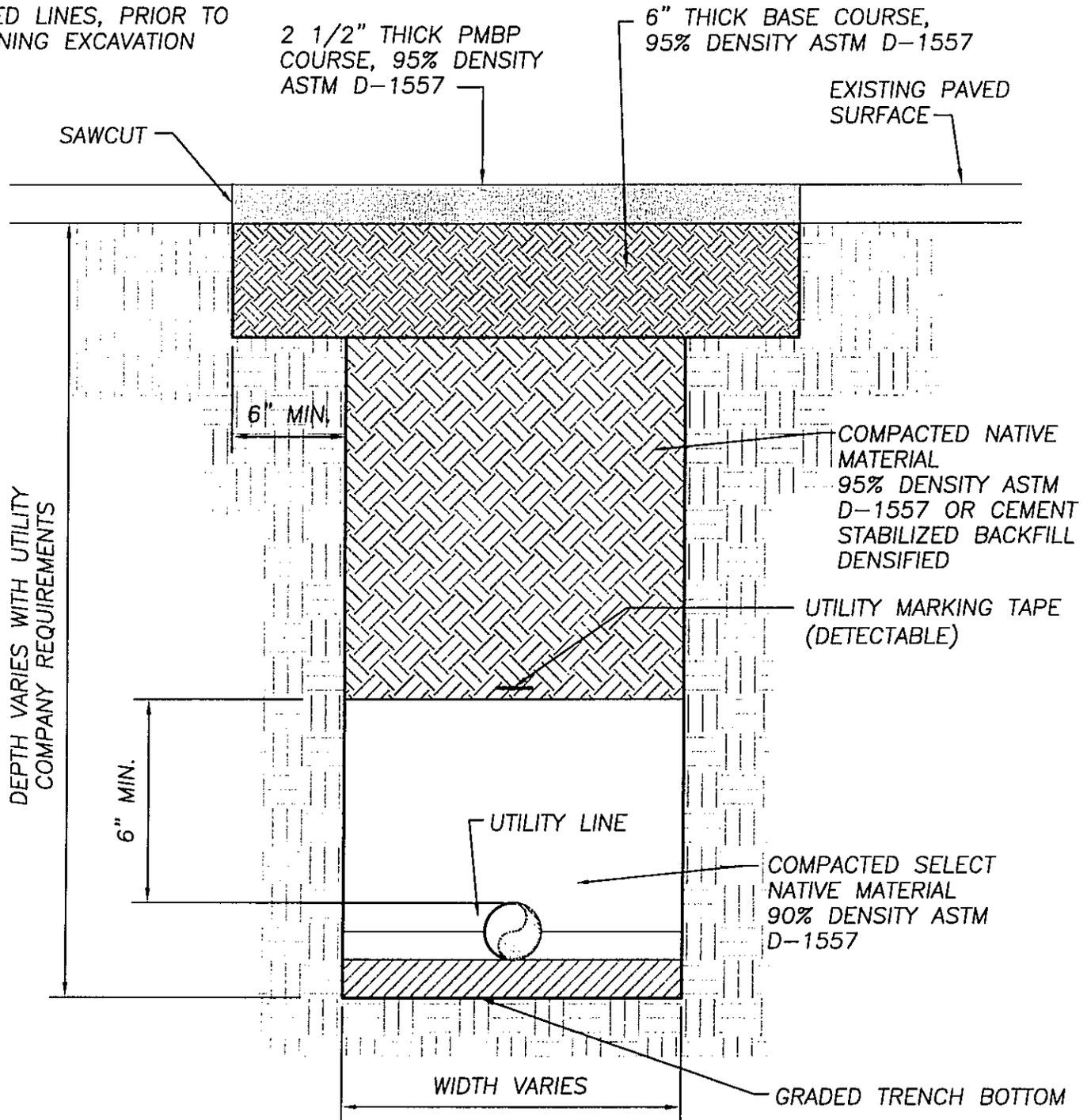
GRADED TRENCH BOTTOM

TYPICAL TRENCH SECTION IN UNPAVED AREAS
NO SCALE

Exhibit 1-A

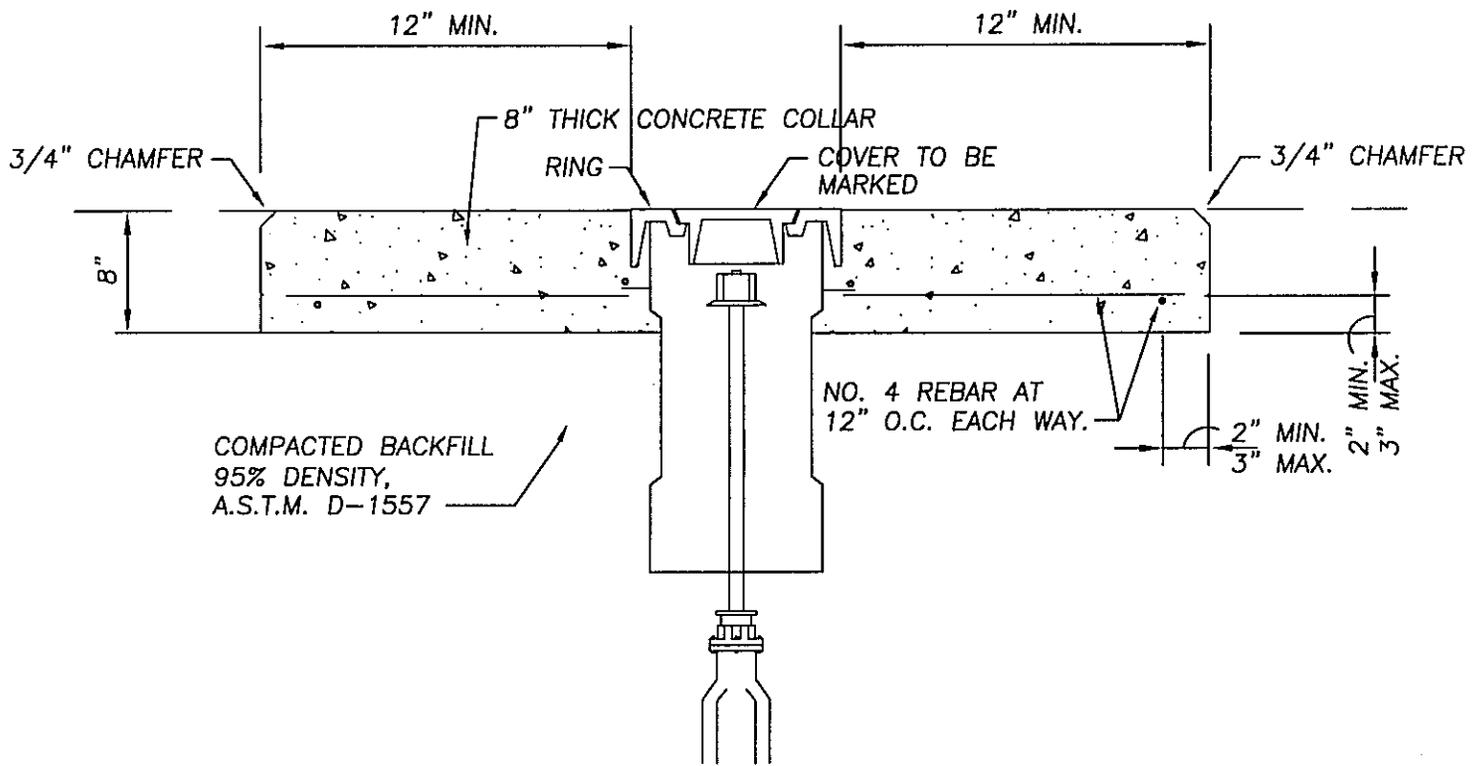
NOTE: CONTRACTOR SHALL SAW-CUT ALL EXISTING PAVEMENT ALONG PRE MARKED LINES, PRIOR TO BEGINNING EXCAVATION

BASE COURSE SHALL BE PLACED TO FINISH PAVEMENT SURFACE, AND SHALL BE REMOVED WHEN PERMANENT ASPHALT IS PLACED, OR AS DIRECTED

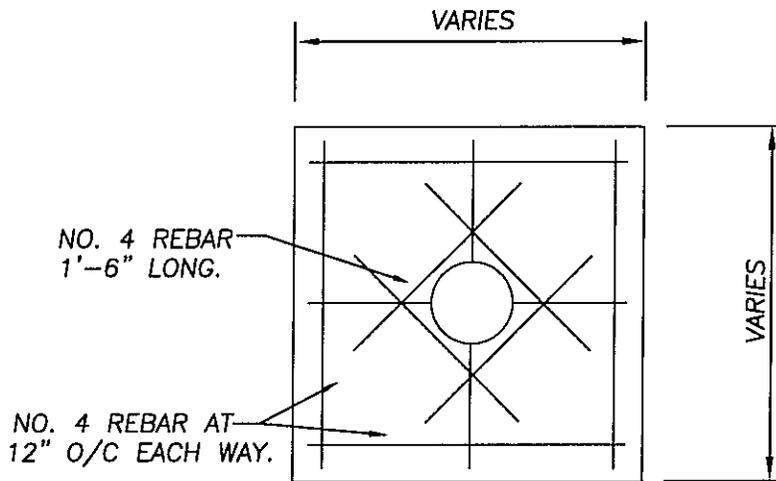


TYPICAL TRENCH SECTION IN PAVED AREAS
NO SCALE

Exhibit 1-B



SECTION VIEW



PLAN VIEW

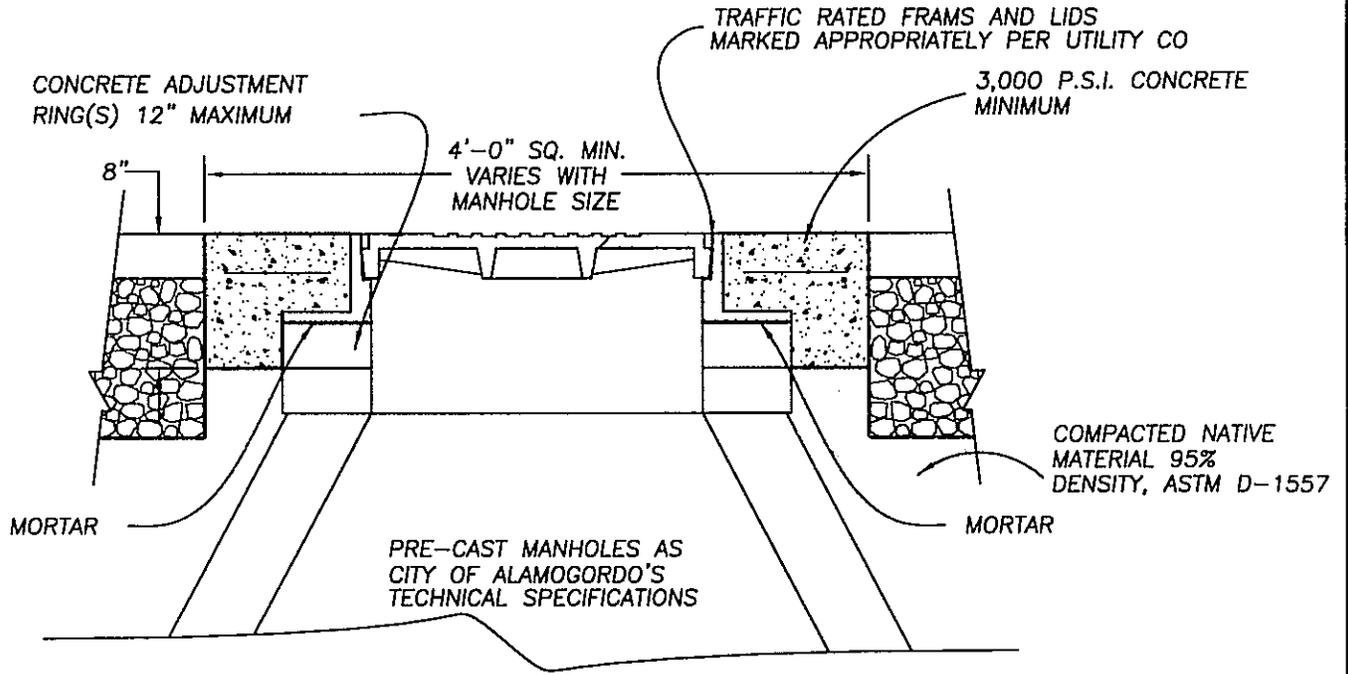
NOTE:

1. SIDES OF CONCRETE PAD TOP BE PARALLEL AND PERPENDICULAR TO THE NORMAL TRAFFIC FLOW.
2. USE THIS TYPE VALVE BOX FOR LOCATION IN PAVED STREETS OR UNPAVED ALLEYS.

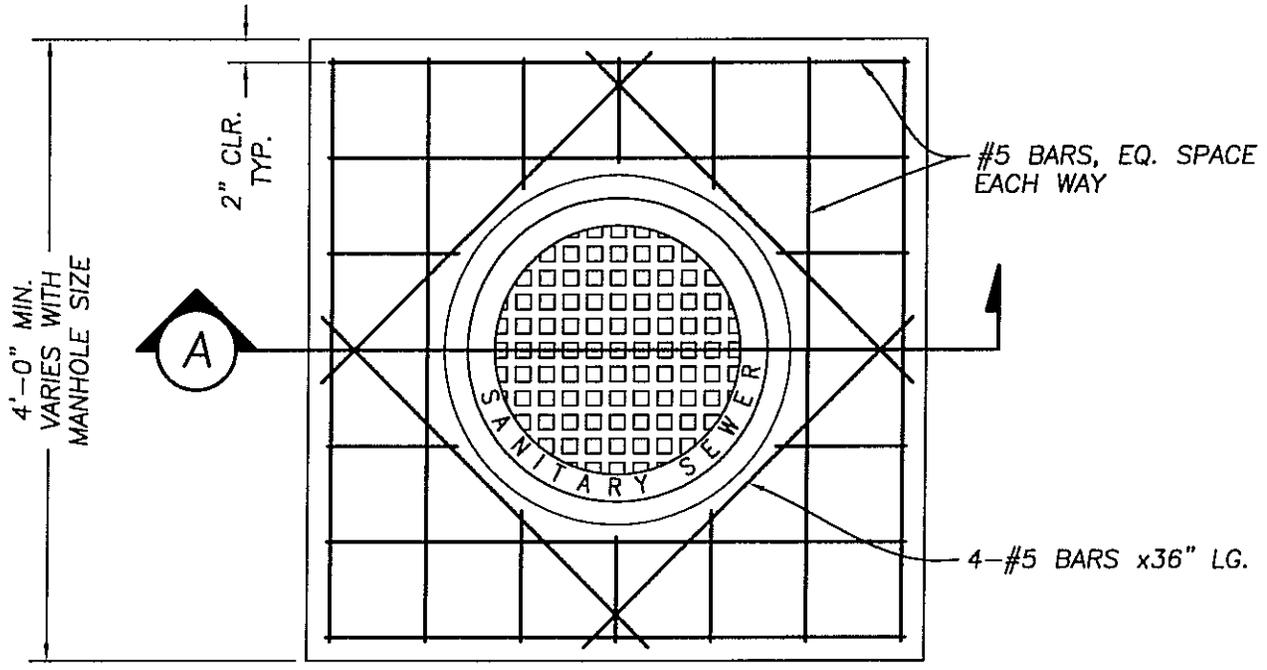
TYPICAL TEST BOX CONCRETE COLLAR

NO SCALE

Exhibit 1-C



SECTION VIEW



PLAN VIEW

TYPICAL UTILITY MANHOLE
NO SCALE

Exhibit 1-D

CITY OF ALAMOGORDO

APPLICATION AND RIGHT OF WAY EXCAVATION PERMIT

Date: _____ Est. START Date: _____ Est. COMPLETION Date: _____

Owner of Utility: _____ Permit No.: _____

Location of Work: _____ Permit Fee: _____

Type of Work: _____ Contractor: _____

Contact Person: _____ Phone No.: _____

Reference Point Legend

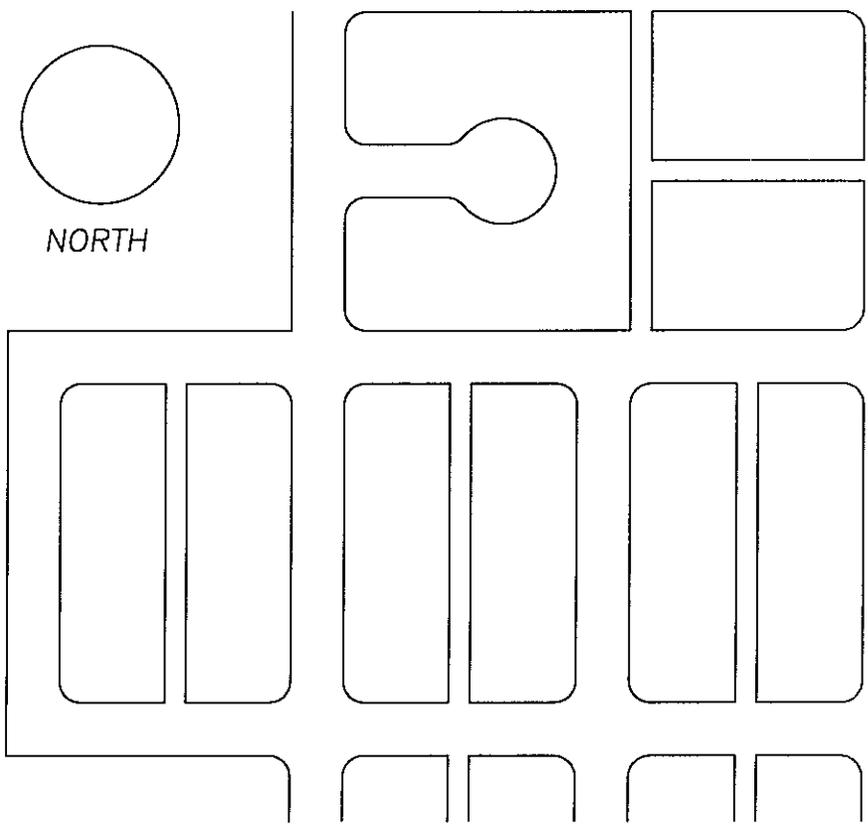
Property Corner 

Manhole Lid 

Water Valve 

Fire Hydrant 

Back of Curb 



I, _____, have read and understand the requirements contained in the "RIGHT OF WAY EXCAVATION REGULATIONS" and will follow all procedures and requirements contained therein. I acknowledge the required warranty period and agree to begin correction of all deficiencies, which affect public safety within 24 hours of written notification; otherwise all other deficiencies shall be corrected within five (5) business days after written notification. Failure to comply with this time requirement will cause the City of Alamogordo to correct such failures, and I understand that I will be responsible for all costs (labor and materials) and Attorney's fees connected therewith. I also understand that any pavement patching work performed by city personnel shall not affect my responsibility to correct any or all deficiencies, including asphalt-patching deficiencies, during the warranty period.

Contractor Signature/Date

PW Inspector Authorization/Date

RIGHT OF WAY EXCAVATION INSPECTOR'S FIELD RECORD

(This Section shall be filled out by the Public Works Inspector
and returned with the Inspection Ticket)

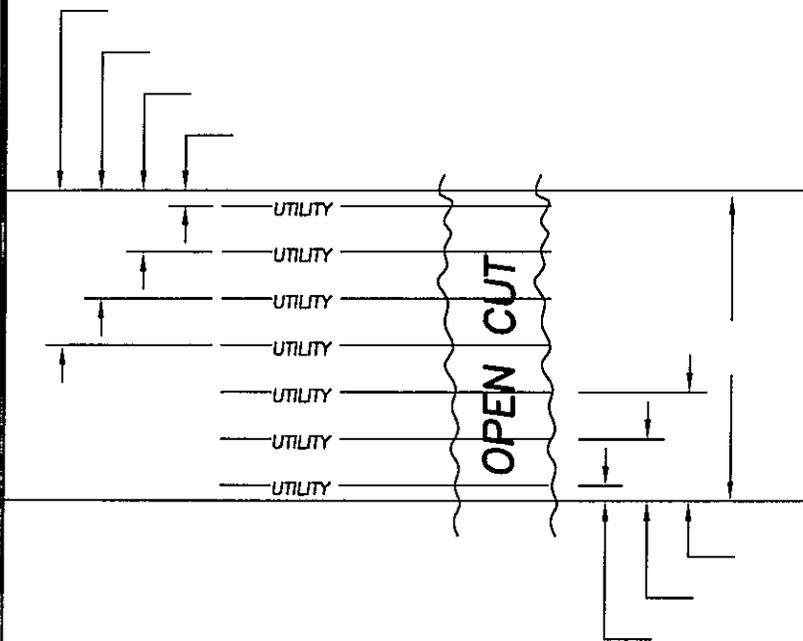
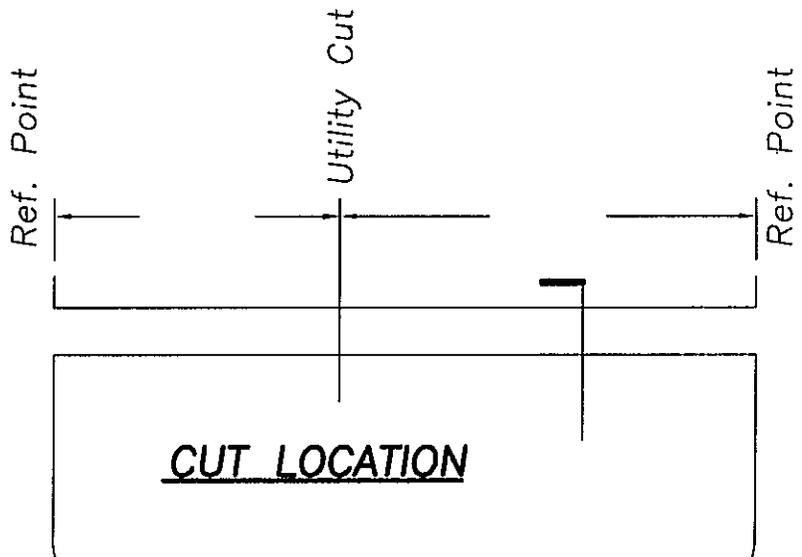
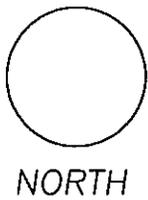
Location of Work: _____ Date: _____

Owner of Utility: _____ Permit No.: _____

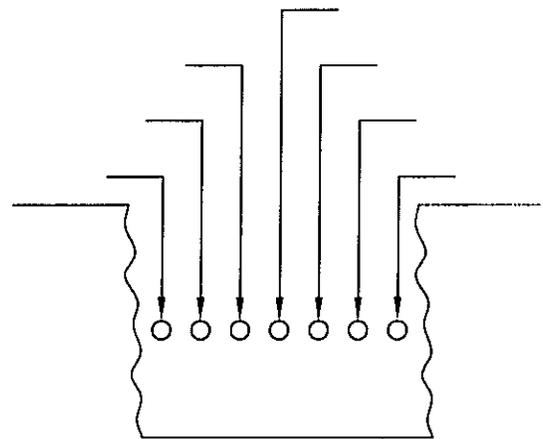
Type of Work: _____ PW Inspector: _____

Reference Point Legend

- Property Corner \oplus
- Manhole Lid \bigcirc
- Water Valve \times
- Fire Hydrant \otimes
- Back of Curb \downarrow



TRENCH PLAN VIEW



TRENCH SECTION