

## TEMPORARY CONSTRUCTION and ACCESS EASEMENT

This TEMPORARY CONSTRUCTION and ACCESS EASEMENT is entered into this 20 day of April, 2009, by and between, property owner Hilltop Mall, LLC, an Oregon limited liability company (hereafter referred to as "Grantor") and the City of Oregon City, a Municipal Corporation of the State of Oregon (hereafter referred to as "Grantee")

### RECITALS

1. Grantor is the owner of certain real property located in the City of Oregon City, Clackamas County, Oregon, legal descriptions on Exhibit "A", and illustrated on Exhibit "B", attached hereto (hereafter referred to as "Easement Area(s)").
2. Grantor desires to grant to Grantee, for good and valuable consideration a temporary, non-exclusive easement over, under, and across the Easement Area(s), together with the right to go upon said Easement Area(s) for the purposes of access and construction in connection with the Warner Milne Rd: Beaver Creek Molalla Project.
3. This TEMPORARY CONSTRUCTION and ACCESS EASEMENT is intended to allow the City of Oregon City, or its assigns to undertake replacement of existing sanitary sewer main and manholes and all other activities that the Grantee deems necessary and appurtenant to the above noted activities in conjunction with the Warner Milne Rd: Beaver Creek Molalla Project.

### AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each of the parties, it is agreed as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee a non-exclusive temporary easement over, under, and across the Easement Area(s), together with the right to go upon said Easement Area(s) for the purposes of access and construction
2. **Term of Easement.** This TEMPORARY CONSTRUCTION and ACCESS EASEMENT shall be temporary and shall become effective on the date the City of Oregon City issues notice to proceed to the contractor for construction of the Warner Milne Rd: Beaver Creek Molalla Project and shall terminate the earlier of: (i) when construction on the property is completed, (ii) when the City of Oregon City has made final acceptance of the project, or (iii) one hundred eighty (180) days after the date first above written.
3. **Hold Harmless Clause.** Grantee shall have the right to conduct temporary construction and maintenance activities within the Easement Area, so long as such activities do not unreasonably interfere with the use of the adjoining lands by the Grantor. Upon completion of any work by Grantee in the Easement Area, Grantee shall restore the area to its prior condition, at Grantee's sole cost and expense. Grantee shall indemnify Grantor and hold it harmless from any and all claims, actions, damages, liability and expense in connection with

damage to person or property arising from any occurrence in or at the Easement Area related to the use by Grantee, its agents, employees, invitees, or licensees, of the Easement Area; or occasioned wholly or in part by any act or omission for which Grantee, its agents, contractors, employees, servants, lessees, concessionaires or invitees are legally liable.

The true consideration for this conveyance is \$ 1.00, the receipt of which is hereby acknowledged by GRANTOR.

This TEMPORARY CONSTRUCTION and ACCESS EASEMENT has been executed as of the date and year first written above.

**GRANTOR:**

*NOTICE: No stamp or corporate seal is allowed over any typed information.*

Individuals, general partnerships

Limited liability company

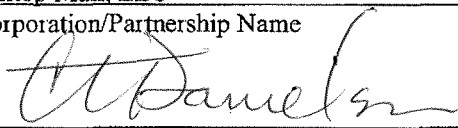
\_\_\_\_\_  
Signer's Name

\_\_\_\_\_  
Hilltop Mall, LLC

\_\_\_\_\_  
Signer's Name

\_\_\_\_\_  
Corporation/Partnership Name

\_\_\_\_\_  
(if executed by a corporation  
affix corporate seal below)

  
\_\_\_\_\_  
Craig T Danielson, Member

**NOTICE TO NOTARIES: No notary stamp or corporate seal is allowed over any typed information.**

Personal Acknowledgment

STATE OF OREGON )  
County of Clackamas ) ss

Personally appeared the above named

Craig T

and acknowledged the foregoing instrument to be his  
voluntary act and deed.

Before me:

NOTARY PUBLIC FOR OREGON

WITNESS my hand and official seal.

Notary's signature

My Commission Expires: \_\_\_\_\_

Stamp seal below

Corporate Acknowledgment

STATE OF OREGON )  
County of Clackamas ) ss

This instrument was acknowledged before me on 20<sup>th</sup>  
day of April, 2009 by Craig T. Danielson  
member of Hilltop Mall, LLC.

Before me:

NOTARY PUBLIC FOR OREGON

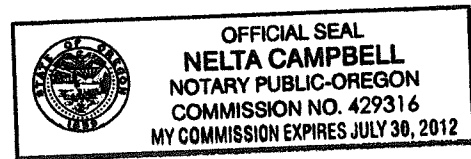
WITNESS my hand and official seal.

Nelta Campbell

Notary's signature

My Commission Expires: 7-30-2012

Stamp seal below



(Grantor's Name and Address)

City of Oregon City  
320 Warner Milne Road  
P.O. Box 3040  
Oregon City, OR 97045-0304  
(Grantee's Name and Address)

Accepted on behalf of the City of Oregon City on the  
condition that the easement granted is free and clear  
from any taxes, liens, and encumbrances

Mayor

Ann Hous

City Recorder

Nancy Ide

## EXHIBIT A

PROJECT: Warner Milne Road

LOCATION: TAX LOTS 200 AND 203, 3 2E 5C

PROPERTY OWNER:  
Hilltop Mall, LLC  
1470 Molalla Avenue  
Oregon City, Oregon 97045

PREPARED BY:  
Compass Engineering  
4105 SE International Way, Suite 501  
Milwaukie, Oregon 97222  
(503) 653-9093

### TEMPORARY CONSTRUCTION EASEMENT:

A TRACT OF LAND SITUATED IN THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN QUITCLAIM DEED TO HILLTOP MALL, LLC, RECORDED AS DOCUMENT NUMBER 2006-022739, CLACKAMAS COUNTY DEED RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 1991-102, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE WEST LINE OF SAID PARCEL 1 SOUTH 34°27'06" EAST 50.22 FEET; THENCE LEAVING SAID WEST LINE SOUTH 50°58'05" WEST 6.45 FEET; THENCE SOUTH 06°04'21" WEST 58.70 FEET; THENCE 109.62 FEET ALONG THE ARC OF A 207.42 FOOT RADIUS CURVE CONCAVE TO THE EAST THROUGH A CENTRAL ANGLE OF 30°16'46" (LONG CHORD BEARS SOUTH 14°17'24" EAST 108.34 FEET); THENCE SOUTH 28°29'12" EAST 152.06 FEET; THENCE SOUTH 40°16'41" EAST 137.83 FEET; THENCE SOUTH 08°48'13" WEST 32.18 FEET; THENCE SOUTH 70°35'40" WEST 32.46 FEET; THENCE NORTH 56°33'45" WEST 37.59 FEET; THENCE NORTH 60°58'11" WEST 38.61 FEET; THENCE NORTH 58°47'54" EAST 26.46 FEET; THENCE NORTH 27°47'43" WEST 84.23; THENCE NORTH 29°11'24" WEST 132.67 FEET; THENCE SOUTH 61°02'13" WEST 28.05 FEET; THENCE NORTH 12°39'22" EAST 36.36 FEET; THENCE NORTH 49°42'09" EAST 12.87 FEET; THENCE NORTH 27°23'32" WEST 84.45; THENCE NORTH 00°39'12" EAST 138.28 FEET; THENCE NORTH 89°19'27" WEST 117.44 FEET; THENCE NORTH 83°48'46" WEST 36.44 FEET TO THE SOUTH RIGHT OF WAY LINE OF WARNER MILNE ROAD; THENCE ALONG SAID RIGHT OF WAY LINE FEET (30 FEET FROM CENTERLINE) SOUTH 89°19'27" EAST 174.16 FEET TO THE POINT OF BEGINNING.

CONTAINS 22717 SQUARE FEET, MORE OR LESS.

BASIS OF BEARINGS: SN 25313

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

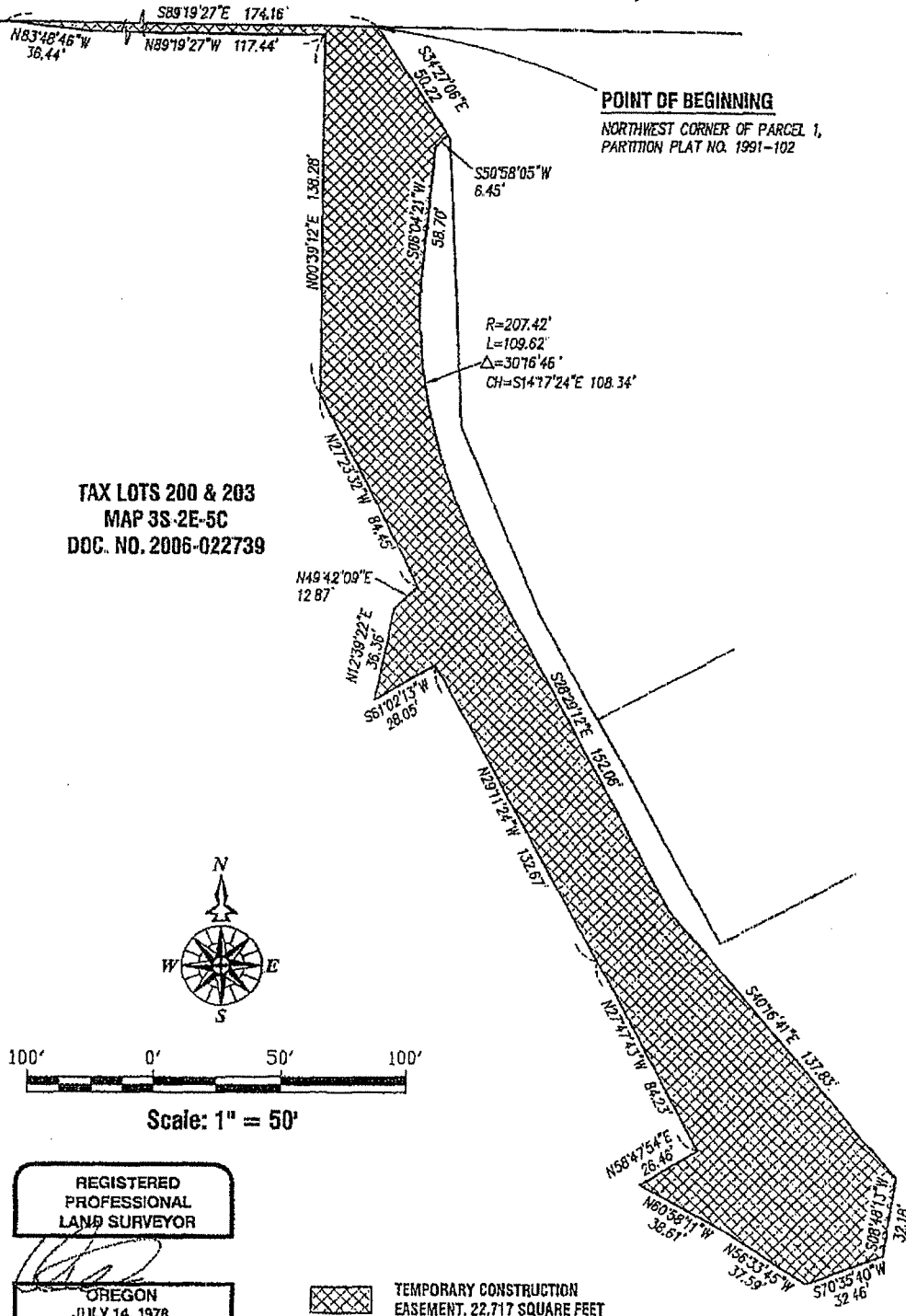
OREGON  
JULY 14, 1978  
DON DEVLAMINCK  
1634

DATE OF SIGNATURE: 4/10/09

VALID UNTIL 12/31/2009

4/15/09

# WARNER MILNE ROAD



**EXHIBIT "B"**



## COMPASS ENGINEERING

ENGINEERING SURVEYING PLANNING  
4105 INTERNATIONAL WAY, SUITE 501 (503) 653-9093 PHONE  
MILWAUKIE, OREGON 97222 WWW.COMPASS-ENGINEERING.COM

HILLTOP MALL, LLC  
1470 MOLALLA AVENUE  
OREGON CITY, OREGON 97045

*[Handwritten signature]*  
4/15/09

## **EXHIBIT A**

Sheet 1 of 2

**PROJECT:** Warner Milne Road

**LOCATION:** TAX LOTS 200 AND 203, 3 2E 5C

**PROPERTY OWNER:**  
Hilltop Mall, LLC  
1470 Molalla Avenue  
Oregon City, Oregon 97045

**PREPARED BY:**  
Compass Engineering  
4105 SE International Way, Suite 501  
Milwaukie, Oregon 97222  
(503) 653-9093

### **TEMPORARY ACCESS EASEMENT:**

A TRACT OF LAND SITUATED IN THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON AND BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN QUITCLAIM DEED TO HILLTOP MALL, LLC, RECORDED AS DOCUMENT NUMBER 2006-022739, CLACKAMAS COUNTY DEED RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL 1, PARTITION PLAT NO. 1991-102, CLACKAMAS COUNTY PLAT RECORDS; THENCE ALONG THE WEST LINE OF SAID PARCEL 1 SOUTH 34°27'06" EAST 50.22 FEET; THENCE LEAVING SAID WEST LINE SOUTH 50°58'05" WEST 6.45 FEET; THENCE SOUTH 06°04'21" WEST 58.70 FEET; THENCE 109.62 FEET ALONG THE ARC OF A 207.42 FOOT RADIUS CURVE CONCAVE TO THE EAST THROUGH A CENTRAL ANGLE OF 30°16'46" (LONG CHORD BEARS SOUTH 14°17'24" EAST 108.34 FEET); THENCE SOUTH 28°29'12" EAST 152.06 FEET; THENCE SOUTH 40°16'41" EAST 137.83 FEET; THENCE SOUTH 08°48'13" WEST 32.18 FEET; THENCE SOUTH 70°35'40" WEST 32.46 FEET; THENCE NORTH 56°33'45" WEST 37.59 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE SOUTH 61°35'54" WEST 289.67 FEET; THENCE SOUTH 29°15'33" EAST 394.92 FEET; THENCE SOUTH 02°22'53" WEST 24.88 FEET TO THE NORTH RIGHT OF WAY LINE OF BEAVERCREEK ROAD; THENCE ALONG SAID NORTH RIGHT OF WAY LINE (43.00 FEET FROM CENTERLINE) 43.21 FEET ALONG THE ARC OF A 2043.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH THROUGH A CENTRAL ANGLE OF 01°12'43" (LONG CHORD BEARS NORTH 81°45'20" WEST 43.21 FEET); THENCE LEAVING SAID NORTH RIGHT OF WAY LINE NORTH 02°22'53" EAST 13.98 FEET; THENCE NORTH 29°15'33" WEST 407.43 FEET; THENCE NORTH 60°55'52" EAST 309.35 FEET; THENCE SOUTH 60°58'11" EAST 38.61 FEET TO THE TRUE POINT OF BEGINNING.

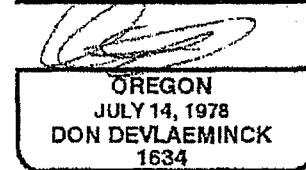
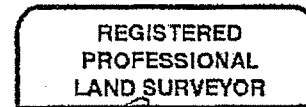
*AW* 4/15/09

**EXHIBIT A**

Sheet 2 of 2

CONTAINS 26140 SQUARE FEET, MORE OR LESS.

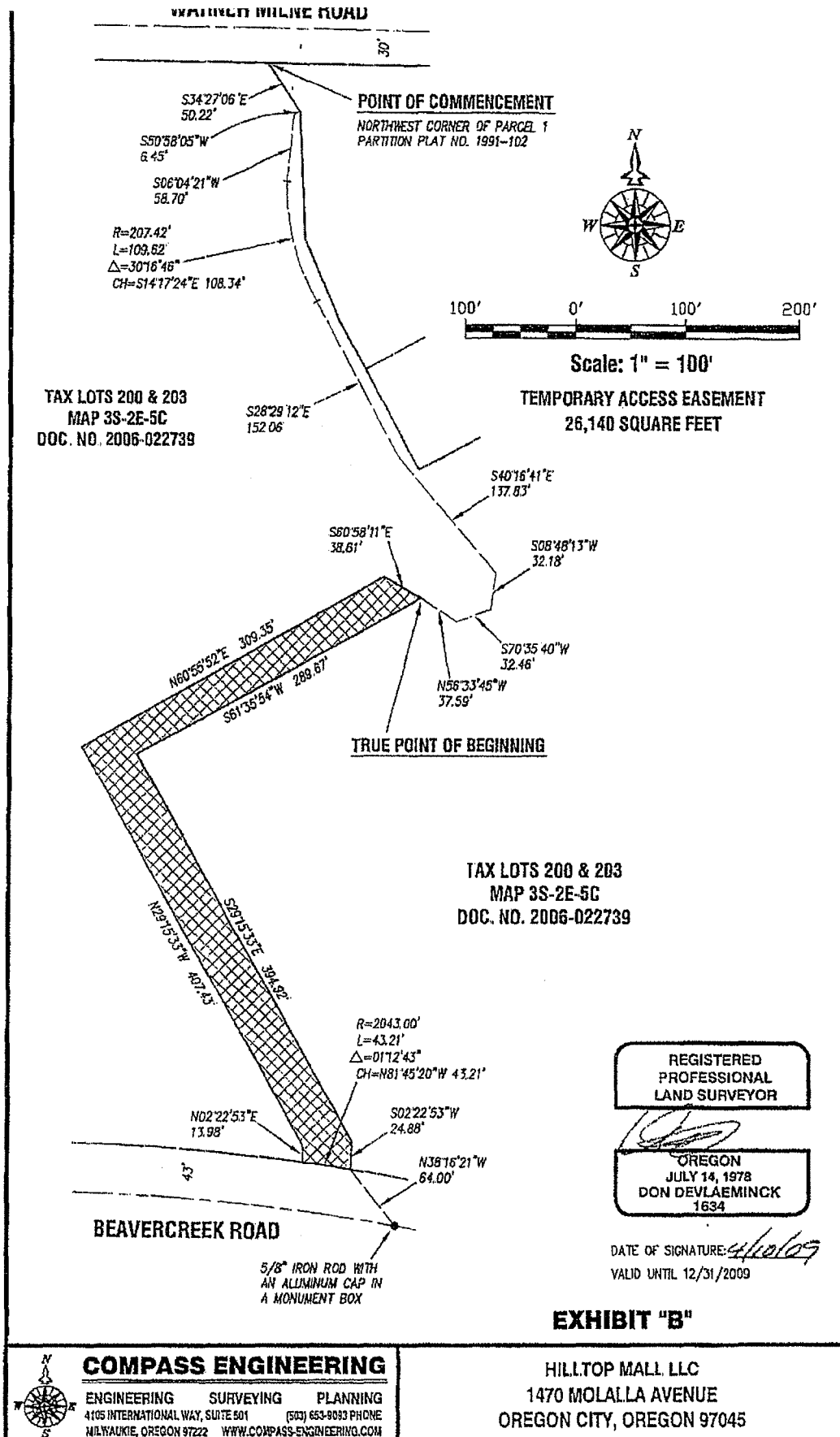
BASIS OF BEARINGS: SN 25313



DATE OF SIGNATURE: 4/12/09  
VALID UNTIL 12/31/2009

4/15/09





6578 TL 203 TAE 2009-4-8.dwg

*Don Devlaeminck*