



*Foot 1*

*Replat*

*B 924*

*MC-05451*

*MC-05449*

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DEL.		C/O		COMP <i>V</i>
LEGAL PG	<i>393</i>	SCAN	<i>AC</i>	FV

THIS PAGE INCLUDED FOR INDEXING

RICHARD N. TAKECHI  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

JAN 24 1 34 PM '97

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PAGE DOWN FOR BALANCE OF INSTRUMENT

## CONSTRUCTION EASEMENT AGREEMENT

THIS CONSTRUCTION EASEMENT AGREEMENT (this "Agreement") is made this 21 day of January, 1997, by and between MILLARD CONGREGATION OF JEHOVAH'S WITNESSES, INC., a Nebraska non-profit corporation ("Grantor") and CAMBRIDGE VILLAS, L.P., a Nebraska limited partnership ("Grantee").

### AGREEMENT

1. **Grant of Easement.** In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration previously provided by Grantee to Grantor, Grantor grants to Grantee and Grantee's agents, employees, contractors, sub-contractors and vendors a temporary, non-exclusive easement in gross (the "Easement") to enter upon that certain real property situated in Douglas County, Nebraska, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Easement Property"), and to temporarily occupy and cross over the Easement Property, and to conduct grading and shaping activities on the Easement Property (collectively, the "Construction Work") as shown as Phase I on Thompson, Dreessen & Dorner's grading plan dated November 8, 1996 attached hereto as Exhibit "B" in connection with Grantee's construction of an apartment development on that certain real property situated in Douglas County, Nebraska, more particularly described as Lot 1, Cambridge Estates Replat 3, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska (the "Grantee Parcel").

2. **Construction Work.** Grantee represents and warrants that Grantee has obtained all permits and consents that may be required or prudent to be obtained in connection with the Construction Work. Grantee covenants and agrees that the Easement Property will be used, and the Construction Work will be performed and completed, in compliance with all applicable laws, statutes, ordinances, and governmental rules, regulations, and requirements now in force or that may become in force.

3. **Term.** The Easement shall terminate on the earlier of completion of the Construction Work or December 31, 1998 (the "Scheduled Completion Date"). Grantee and Grantor acknowledge that time is of the essence in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Grantor may immediately terminate this Agreement in whole or in part (a) thirty (30) days from and after Grantor provides written notice to Grantee that Grantor will utilize and occupy the Easement Property for construction of Grantor's church and other facilities upon the Easement Property, irrespective of whether Grantee has completed the Construction Work, or (b) if Grantor notifies Grantee of a default under this Agreement and Grantee fails to cure such default within thirty (30) days after the date of such notice. Grantee's payment obligations under this Section and Grantee's indemnity and reimbursement obligations under this Agreement shall survive any termination (irrespective of the reason) of this Agreement.

99553  
OT

4. **Removal of Debris.** Grantee covenants and agrees that Grantee shall avoid causing any damage to, or interference with, the Easement Property or any improvements thereon, and to minimize any disruption or inconvenience to Grantor and any person who occupies Grantor's property. Grantee further covenants and agrees that Grantee, at Grantee's sole cost and expense, shall promptly remove all debris, garbage and material located on the Easement Property as a result of the Construction Work. Grantee acknowledges that a material consideration for Grantor's willingness to enter into this Agreement is Grantee's agreement to clean the Easement Property and remove such items therefrom on a regular basis.

5. **Duty to Repair, Replace and Restore.** Grantee covenants and agrees that after the Construction Work has been completed, Grantee will, at Grantee's sole cost and expense, repair, replace and restore the Easement Property to the condition of the Easement Property prior to start of construction by Grantee, except for grading and shaping of the Easement Area as contemplated by this Agreement. The repair, replacement and restoration work includes, without limitation, the repair or replacement of any structures, driveways, utility lines or other improvements on the Easement Property that were damaged, removed or destroyed by Grantee, and shall specifically include restoration or repair to correct lack of drainage or obstructed drainage of the Easement Property caused by grading or other Construction Work performed upon the Easement Property. Surplus excavated earth will be used for filling and leveling on the Easement Property or hauled away at the option of Grantor.

6. **Liens.** Grantee shall not permit any claim, lien, or other encumbrance arising from the Construction Work or Grantee's use of the Easement Property to accrue against or attach to the Easement Property or the interest of Grantor in adjacent property.

7. **Indemnity.** Grantee shall indemnify, defend, protect and hold Grantor and Grantor's officers, directors, agents and employees harmless from and against any and all actual claims, proceedings, lawsuits, liabilities, damages, losses, fines, judgments, costs and expenses that arise out of the Construction Work or Grantee's use, storage, transfer, generation, disposal or discharge of Hazardous Materials in connection with the Construction Work or Grantee's use of the Easement Property. This indemnity shall survive termination of this Agreement. As used in this Agreement, "Hazardous Materials" means all substances, wastes, pollutants, contaminants and materials now or hereafter regulated under any federal, state or local law, ordinance or regulation, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., and any petroleum or petroleum products including crude oil and any fractions thereof.

GRANTOR:

MILLARD CONGREGATION OF JEHOVAH'S WITNESSES, INC., a Nebraska nonprofit corporation

By: [Signature]  
Title: President

ATTEST:

[Signature: Ronald E. Grothe]

GRANTEE:

CAMBRIDGE VILLAS, L.P., a Nebraska limited partnership

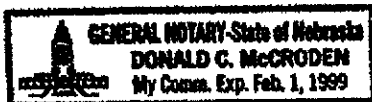
By: Cambridge Villas, Inc., a Nebraska corporation, General Partner

By: [Signature]  
Christopher R. Held, President

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of January, 1997, by Christopher R. Held, the President of Cambridge Villas, Inc., a Nebraska corporation, general partner of Cambridge Villas, L.P., a Nebraska limited partnership.

[SEAL]

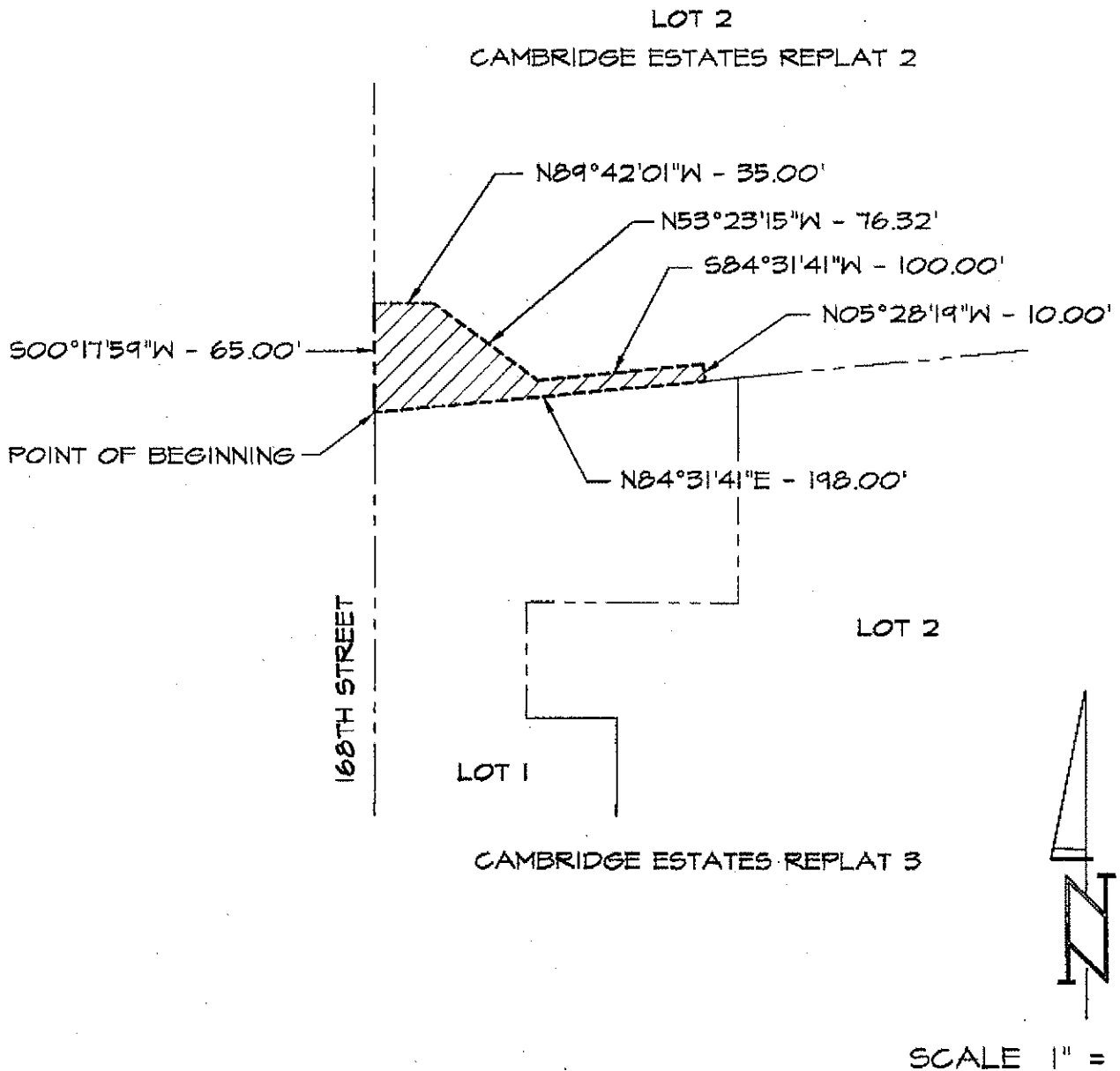


[Signature: Donald C. McCroden]  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS



# EXHIBIT A



## LEGAL DESCRIPTION

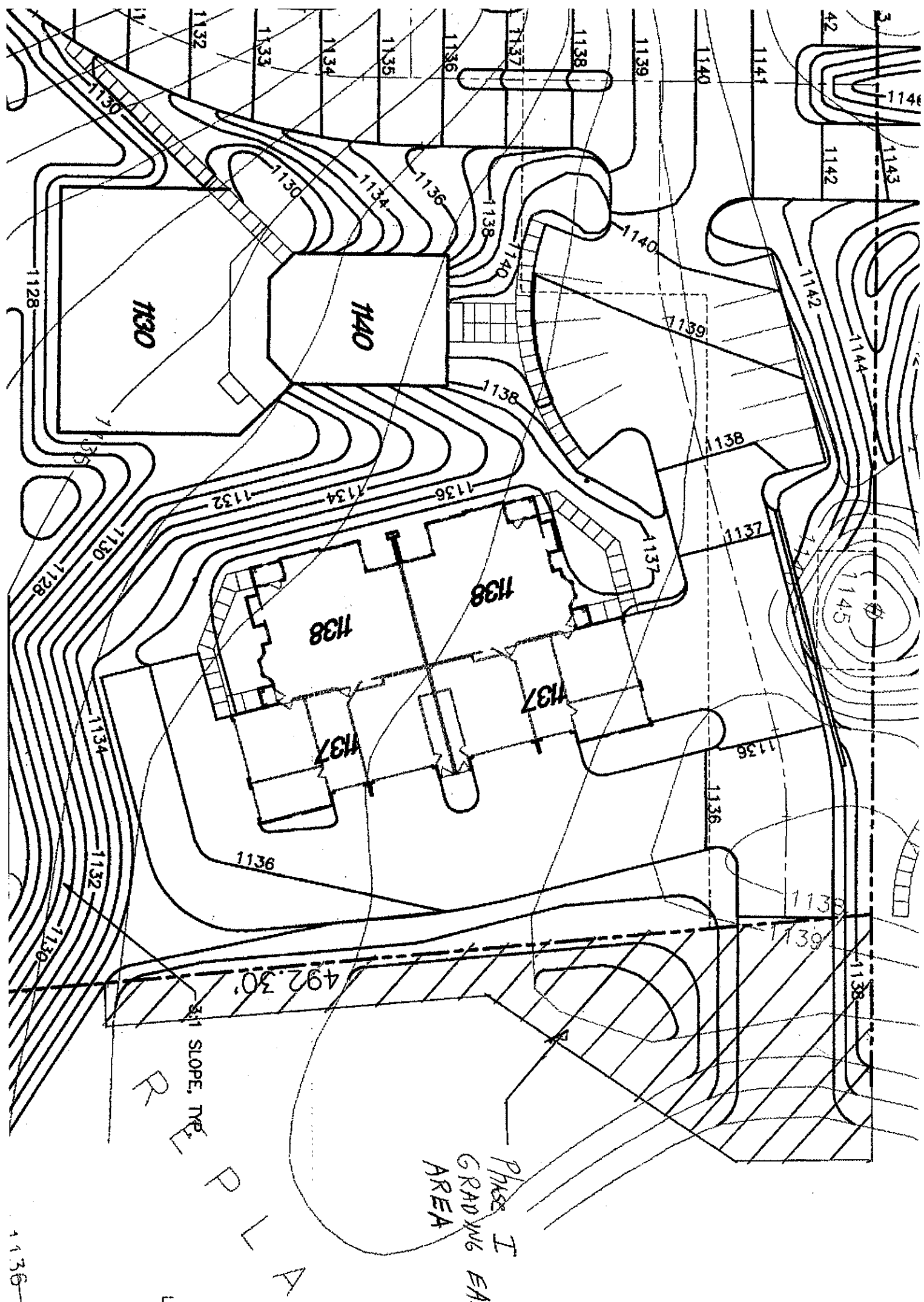
THAT PART OF LOT 2, CAMBRIDGE ESTATES REPLAT 2, A SUBDIVISION AS SURVEYED, PLATTED, AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS; BEGINNING AT THE SW CORNER OF SAID LOT 2; THENCE N 84°31'41" E ( ASSUMED BEARING) 198.00 FEET ON THE SOUTH LINE OF SAID LOT 2; THENCE N05°28'19"W 10.00 FEET; THENCE S 84°31'41" W 100.00 FEET; THENCE N 53°23'15" W 76.32 FEET; THENCE N 89°42'01" W 35.00 FEET TO THE WEST LINE OF SAID LOT 2; THENCE S 00°17'59" W 65.00 FEET ON THE WEST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING.

TD2 JOB NO.: 898-110

TD2 FILE NO. 898EASE4.DWG

DATE: NOVEMBER 20, 1996

THOMPSON, DREESSEN AND DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860



REPLAT

LOT 2

PHASE I  
GRADING  
EASEMENT  
AREA

3% SLOPE, TYP.

492.30'



EXHIBIT "B"

2