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PLAT OF KELLEY'S BEACH SECOND ADDITION
Dickinson County, Iowa

Proprietor's Statement

KNOW ALL MEN BY THESE PRESENTS:

That Kelley's Beach Owners Association, LLP, is the owner of the following described property:

A subdivision of that part of Government Lot 4 (Government Lot 4 being all that part of the Northwest Quarter of the Southwest Quarter) in Section 21, Township 99 North, Range 36 West of the 5th P.M., Dickinson County, Iowa described as follows: Commencing at the northwesterly right-of-way line of the "Drive" of the Plat of Kelley's Beach in said Government Lot 4 at the corner between Lots 12 and 13 of said Plat of Kelley's Beach; thence South 44°07' East 35.24 feet along the southeasterly prolongation of the northeasterly line of said Lot 13 to the southeasterly right-of-way line of said "Drive" and the point of beginning; thence continuing South 44°07' East 133.60 feet; thence North 66°24.3' East 147.00 feet; thence North 33°40.2' East 171.39 feet; thence North 51°32.0' East 75.48 feet; thence North 38°27.3' West 125.00 feet to the southeasterly right-of-way line of said "Drive"; thence South 51°32.0' West 95.14 feet along said "Drive" southeasterly line; thence South 33°40.2' West 154.32 feet along the southeasterly line of the relocated "Drive" of the Revised Plat of Kelley's Beach; thence South 66°24.3' West 157.45 feet along said relocated "Drive" southeasterly line to the point of beginning, containing 1.15 acres subject to easements of record,

and do hereby plat said real estate as Kelley's Beach Second Addition, Dickinson County, Iowa:

Said real estate is hereby platted into eight (8) lots designated as Lots One (1) through Eight (8), inclusive, described with boundaries as depicted on the Plat and Survey recorded herewith and incorporated by this reference.

Access.

Access to the lots in the subdivision is provided by Kelley's Beach Drive, an existing and established private road.

Easements and Dedications.

The property included in the plat is subject to previously created utility easements granted to Lakes Cable Systems, U.S. West Communications, and to Iowa Lakes Electric Cooperative, as indicated on the Plat and Survey.

There is further hereby established a permanent and perpetual drainage easement, which generally extends from the southwest corner of the platted property to the northeast corner of the platted property, as more specifically indicated on the Plat and Survey. This drainage easement is granted to Okoboji Woods Development, L.L.C., and authorizes the maintenance of an existing surface drainage way. No improvements shall be constructed or placed so as to interfere with surface water drainage in this drainage easement. A lot owner may negotiate with Okoboji Woods Development, L.L.C., to replace the existing drainage way over a lot with an underground storm sewer of sufficient drainage capacity. The construction of such a storm sewer shall be subject to all permits and approvals required under State law or County ordinances at the time of construction.

Protective Covenants and Contractual Limitations.

In consideration of the acceptance and approval of the Plat of Kelley's Beach Second Addition by Dickinson County, and in consideration of the waiver of certain minimum design standards set out in the County's subdivision ordinance, the Developer hereby declares, makes and establishes the following protective and restrictive covenants, which shall be applicable to all lots included in the Plat of Kelley's Beach Second Addition. These covenants shall run with the land and shall be binding upon all parties and all persons who may now own, or who may later become the owner or owners of, any of the lots in the Plat of Kelley's Beach Second Addition, and upon all parties claiming under them, for the maximum period permitted under Iowa law. These restrictions shall also be considered and enforced as contractual obligations between the owners of Lots in the Plat of Kelley's Beach Second Addition and Dickinson County, Iowa. These restrictions may be amended only by a recorded written instrument executed by the owners of each of the lots in the Plat of Kelley's Beach Second Addition and approved by the Dickinson County Board of Supervisors.

1. **No Residential Use.** No residential structure shall be constructed, and there shall be no residential occupancy of any lot in the Plat of Kelley's Beach Second Addition.
2. **Connection to Revised Plat of Kelley's Beach; Limitation on Transfer.** The Plat of Kelley's Beach Second Addition is created to provide additional lot area for the use and benefit of the owners of the corresponding previously platted Lots 5 through 12, inclusive, of the Revised Plat of Kelley's Beach, Dickinson County, Iowa. Therefore, lots included in the Plat of Kelley's Beach Second Addition may be conveyed or transferred only to persons or entities that hold fee simple title to one or more of the lots numbered 5 through 12, inclusive, of the Revised Plat of Kelley's Beach.

Should title to a lot in the Plat of Kelley's Beach Second Addition pass, by operation of law, to an individual or entity who does not hold fee title to a lot numbered 5 through 12, inclusive, to the Revised Plat of Kelley's Beach, such titleholder, by operation of law, shall have a period of 180 days from the date title vests in the unqualified titleholder to convey the property to a qualified titleholder.

3. **Accessory Uses.** Lots in the Plat of Kelley's Beach Second Addition shall be used for uses and purposes accessory to Lots 5 through 12, inclusive, of the Revised Plat of Kelley's Beach. Structures shall be limited to those Accessory structures permitted in the "R-3" Multi-Family Residential Zoning District established in the Dickinson County, Iowa, Zoning Code. Accessory buildings, such as garages or storage buildings,

may be heated, air conditioned and equipped with running water and toilet facilities, but shall not be used for habitation.

Lots in the Plat of Kelley's Beach Second Addition may also be used for vehicle parking, recreational vehicle storage and other storage, all as permitted in the "R-3" Multi-Family Residential Zoning District.

Applicable set back dimensions for accessory building on lots in the Plat of Kelley's Beach Second Addition shall be those for accessory buildings in the "R-3" Multi-Family Residential Zoning District of Dickinson County as presently set out in Article 17, Section 7 of the Dickinson County Zoning Code, except that the front yard set back is reduced to 25 feet.

4. "Keyholing" Prohibited. No lot in the Plat of Kelley's Beach Second Addition shall be used for the purpose of providing access to Lake East Okoboji from any property not included in the Plat of Kelley's Beach Second Addition.

The foregoing Protective Covenants, transfer and ownership restrictions, and use limitations may be enforced by a titleholder of any lot in the Plat of Kelley's Beach Second Addition, by a titleholder of any Lot numbered 5 through 12, inclusive, in the Revised Plat of Kelley's Beach, or by Dickinson County, Iowa. A titleholder established to be in violation shall be liable for the prevailing party's attorney fees and litigation expenses, together with liquidated damages of \$200 per day for each day a violation exists. This liquidated damage amount shall be assessed not as a penalty, but as a negotiated liquidated damage amount.

Attachments.

There is attached hereto, and made a part hereof, the certificate of the Dickinson County Treasurer certifying that the real estate included in said Plat is free from certified taxes and special assessments.

There is attached hereto, and made a part hereof, the certificates of filing of the Plat of Kelley's Beach Second Addition with the Dickinson County Assessor and the Dickinson County Auditor.

There is attached hereto, and made a part hereof, a certificate of the Dickinson County Planning and Zoning Commission's approval of the Plat of Kelley's Beach Second Addition. ®

There is attached hereto, and made a part hereof, the certified resolution of the Dickinson County Board of Supervisors approving the Plat of Kelley's Beach Second Addition.

There is attached hereto, and made a part hereof, the written opinion of Donald J. Hemphill, an attorney at law, that fee simple title to the real estate included in the Plat of Kelley's Beach Second Addition is held by Kelley's Beach Owners Association, LLP, free and clear of all liens, taxes and encumbrances, except easements of record.

There is further attached hereto, and made a part hereof, the Plat of Kelley's Beach Second Addition certified by _____, Licensed Land Surveyor, Iowa Registration No.

_____, which Plat shows the lots, easements and street included in the Plat and the boundaries of the Plat; the monumentation therefore; and the measurements and bearings thereof; and which otherwise complies with the requirements of Chapter 354 of the 2003 Code of Iowa.

The above described property is platted with the free consent and in accordance with the desires of the Proprietor as approved by the Dickinson County Board of Supervisors.

KELLEY'S BEACH OWNERS' ASSOCIATION, LLP

By: _____

By: _____

