

Tax Parcel No. 3-34-23.06-1.00 and see Exhibit A

Prepared By/Return To:
Parkowski, Guerke & Swayze
116 W. Water Street
Dover, DE 19904

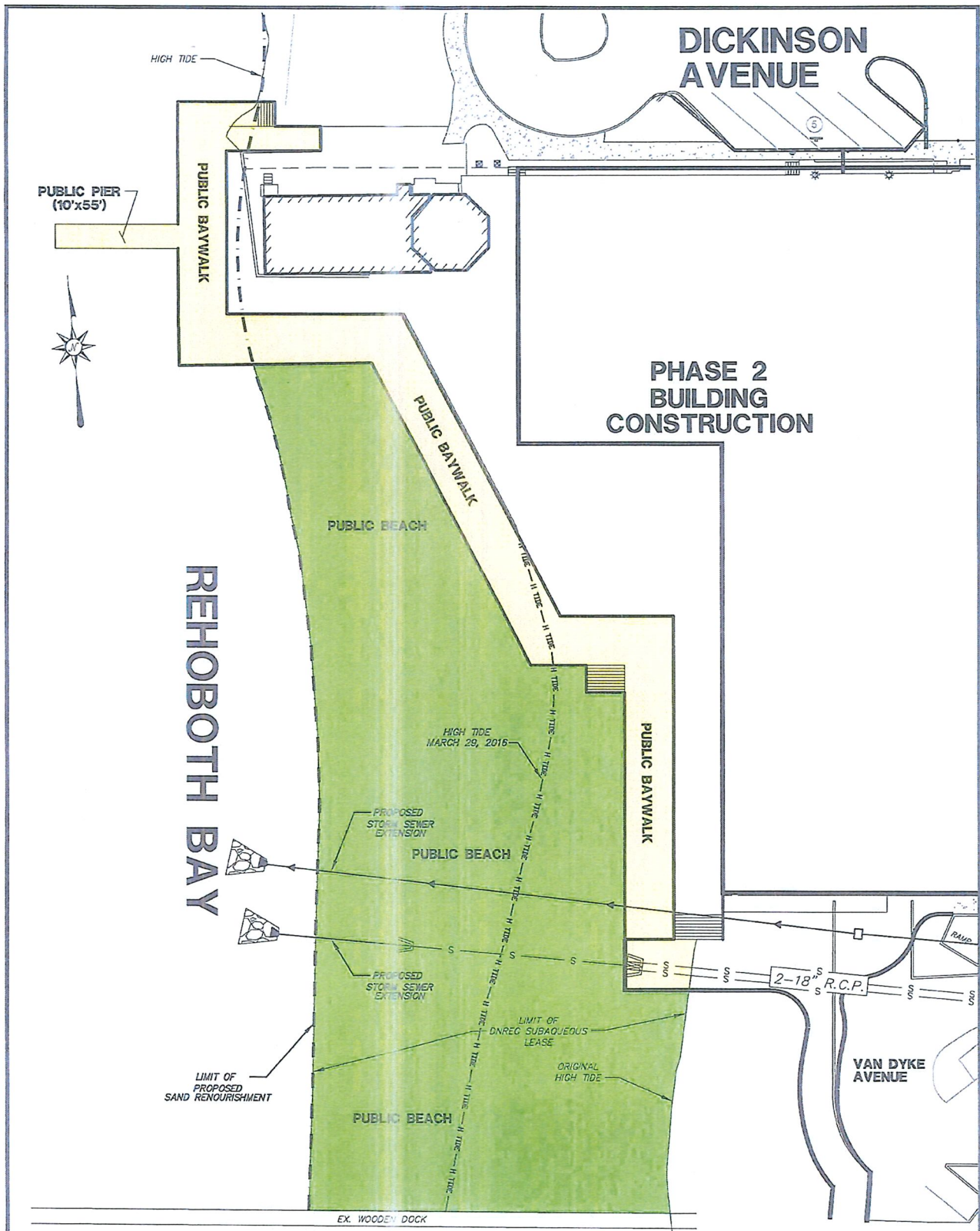
**DECLARATION OF COVENANTS
AND GRANT OF PUBLIC EASEMENT**

NOW COMES, **Dewey Beach Enterprises, Inc.**, (“Dewey Beach Enterprises”), a Delaware Corporation, which owns improved real property known as “Ruddertowne” located in Dewey Beach, Sussex County, Delaware (Tax Parcel No. 3-34-23.06-1.00), and declares as follows:

1. Dewey Beach Enterprises has entered into an Amended Mutual Agreement and Release, with the Town of Dewey Beach, Delaware (the “Town”) dated February 19, 2011 and recorded at book 3889 page 196, and which has subsequently been amended by a Second Amendment, Third Amendment and Fourth Amendment (the Amended Mutual Agreement and Release as amended, the “Agreement”).
2. Under the Agreement and subsequent consultations with the Town, Dewey Beach Enterprises may redevelop the Ruddertowne complex with improvements as set forth in the Agreement, and subject to terms and conditions set forth in the Agreement.
3. Under the Agreement Dewey Beach Enterprises has the obligation to accommodate the public in specified ways with respect to its allowed redevelopment activities, including the Public Baywalk, Public Pier and Public Beach called for by this Declaration.
4. As part of its redevelopment project, Dewey Beach Enterprises has applied to the Delaware Department of Natural Resources and Environmental Control (“DNREC”) for approval to provide public amenities involving a 415’ X 16’ Public Bay Walk; an estimated 55’ x 10’ Public Fishing Pier/Dock; approximately 4,800 Cubic Yards of Beach Re-nourishment; and a 145’ Storm Sewer Extension with a Rip Rap Splash Apron. Exhibit “A” attached hereto shows the locations of the subject public amenities.
5. As a condition of the DNREC approvals Dewey Beach Enterprises commits to DNREC and the Town that it will maintain the referenced public amenities as follows:
 - A. Dewey Beach Enterprises shall maintain, repair and replace, as necessary, the Public Baywalk, the Public Pier and the Storm Sewer Extensions as shown on Exhibit “A”.
 - B. Dewey Beach Enterprises shall be responsible for litter pickup and disposal for all public areas shown on Exhibit “A”, and shall be entitled to install trash

collection containers (as reasonably approved in advance by the Town) and utilize equipment considered necessary to satisfy the responsibility imposed.

- C. Dewey Beach Enterprises shall maintain the Public Beach area shown on Exhibit "A" free from nuisance conditions, and shall repair and replace, as necessary, any beach renourished areas, including but not limited to future renourishment/replenishment of said beach.
6. Dewey Beach Enterprises acknowledges that the Public Beach area shown on Exhibit "A" is subject to the control of the Town, and that the Town is entitled to impose and enforce requirements for public use of the Public Beach Area.
 7. Dewey Beach Enterprises further acknowledges and agrees that an easement in favor of the public is hereby created on the Public Baywalk and the Public Pier as both are shown on Exhibit "A," which easement shall allow public access at all times, except as may be necessary for repair, maintenance and unsafe weather conditions, or as otherwise may be regulated by the Town. The easement created hereby may only be modified by a writing signed by the Town.
 8. Nothing in this Declaration shall eliminate or lessen any obligations of Dewey Beach Enterprises under the Agreement, including but not limited to the obligation to construct a gazebo at the foot of Van Dyke Avenue and not on Dewey Beach Enterprises' property.
 9. In the event conditions on the Public area shown on Exhibit "A" impose a risk of harm to the public using such areas, Dewey Beach Enterprises, as part of its maintenance responsibilities, and with the prior approval of the Town, may restrict or deny public access to those areas which impose a risk of harm, until such time that the risk no longer exists. Such restriction or denial shall be of limited duration, and Dewey Beach Enterprises shall work diligently and with commercially-reasonable speed to rectify and correct any unsafe situation.
 10. The obligations of this Declaration shall run with the land and shall be binding upon the successors and assigns of Dewey Beach Enterprises. A breach of this Declaration shall also be considered a breach of the Agreement.



**PUBLIC BAYWALK, PUBLIC PIER
AND PUBLIC BEACH EXHIBIT**
PREPARED FOR

RUDDERTOWNE

REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE



McBRIDE & ZIEGLER, INC.

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SURVEY BY: .	CHECKED BY: M.Z.
DESIGN BY: .	SCALE: 1"=30'
DRAWN BY: CRC	DATE: DECEMBER 11, 2018
DWG. NO.: 20074313 -	SHEET 1 OF 1