



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

MEMORANDUM

October 12, 2016

TO: Mayor and Board of Commissioners

FROM: Debora P. Diaz, Town Manager 

REF: Consent Agenda

1. Minutes (Attached CA-1A)

A. September 14, 2016

2. Personnel Policy amendment to add Veterans Preference (Attached CA-2)

This addition to the Town's Personnel Policy in the definitions section (Page 8), and the Equal Employment Opportunity Policy (Page 17), recognizes the contribution of our veterans and gives credit for military service training, schooling and experience to them and their qualified dependents when seeking employment with the Town.

The proposed amendment has been reviewed and approved by the Town Attorney.

Approval of the Consent Agenda will add the attached language to Kill Devil Hill's Personnel Policy guide document.

3. Schedule public hearing on Beach Nourishment Municipal Service District (MSD) amendment (Attached CA-3)

As stated in the attached public hearing notice, Kill Devil Hills proposes to remove 14 properties from the MSD and to adopt a new map depicting the new boundaries of the MSD. Twenty-seven properties were removed from the MSD as of July 1, 2016 as a result of Consent Judgments filed in court actions in June 2016. As a result of the court judgments, the Town has determined that 14 additional properties (which includes a multi-family structure and common property) are required to be removed, for an overall total of 41; no other changes to the MSD are proposed.

The attached draft resolution, which upon adoption after the public hearing, reduces the MSD as reflected on the accompanying map.

Approval of the Consent Agenda will authorize Staff to proceed with advertising and scheduling the public hearing for Monday, November 14, 2016 at 5:30 o'clock p.m. here in the Meeting Room.

Minutes of the Monday, September 12, 2016 regular meeting of the Kill Devil Hills Board of Commissioners held at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road.

Members Present: Mayor Sheila F. Davies; Commissioners Travis Appleman, Mike Hogan, Michael Midgette and Brandi Rheubottom

Members Absent: None

Others Present: Shawn R. Murphy, Assistant Town Manager; Casey Varnell, Town Attorney; Meredith Guns, Planning Director; Mary E. Quidley, Town Clerk

Call to Order

At 5:30 p.m. Mayor Davies called this meeting to order and welcomed all present.

Pledge of Allegiance and Moment of Silence

Prior to the Moment of Silence, Mayor Davies reminded all of yesterday's 15th anniversary of the 9/11 terrorist attacks at the World Trade Center, of those who lost their lives and those who responded. She recognized the vital roles of emergency response personnel, our nation's military and encouraged everyone to do likewise in their thoughts this evening.

Also prior to the Moment of Silence, Mayor Davies announced the passing of former Kill Devil Hills Mayor Lowell M. Perry, who served the Town in the late 1970s through the early 1990s; and, the passing of Carl Peterson, Jr., who had long been the Town's plumbing contractor. A native of Kill Devil Hills, his family built a number of structures in Town in the 1950s, including the See Sea Motel, where Carl grew up. Carl was a Vietnam Veteran.

Agenda Approval

Commissioner Hogan made a motion for the Board of Commissioners to approve the agenda for this meeting as presented and Commissioner Rheubottom seconded that motion. Approval was unanimous, 5-0.

Public Hearing

Mayor Davies called on Town Attorney Casey Varnell to conduct this public hearing. He read aloud the rules of procedure for this hearing and at the conclusion of those comments Mr. Varnell called the public hearing to order.

1. Conditional use site plan – IG Holdings, LLC – small amusement ride with maximum capacity of 24 persons – 3300 North Croatan Highway (Attached PH-1)

The Planning Board conducted its review on July 19, 2016 at which time they voted to forward the site plan amendment for Paradise Golf, 3300 North Croatan Highway, to the Board of Commissioners with a favorable recommendation. The site plan amendment is for the addition of a small amusement ride; an amendment to Chapter 153, Zoning, which established such rides as conditional uses in the Commercial Zones, was approved by the Board of Commissioners at the May 16, 2016 meeting. Prior to action by the Board of Commissioners, as a conditional use site plan, a public hearing is required, and at the August 8th meeting the Commissioners scheduled tonight's public hearing.

Packet materials for this item were included with the August 8, 2016 meeting information.

There were no speakers signed up to speak at this public hearing. John DeLucia of Albemarle Associates, engineers for the project, represented the developer on this matter.

Staff concurred with the Planning Board and recommended approval of the conditional use site plan. Mr. Varnell closed the public hearing.

Commissioner Appleman made a motion for the Board of Commissioners to approve the conditional use site plan for IG Holdings, LLC – small amusement ride with maximum capacity of 24 persons, to be located at 3300 North Croatan Highway, as presented. Commissioner Midgette seconded that motion and approval was unanimous, 5-0.

Public Comment (Time limit of 3 minutes per person; 5 minutes per group)

Carl Reiber, Dare County Veterans Advisory Council: Mr. Reiber explained that the Dare County Veterans Advisory Council had recently taken action to recommend a change in the various Dare County local governments' public personnel policies to establish a veterans preference in hiring practices. He explained that several Dare County local governments have adopted such language and he expressed a hope that Kill Devil Hills would do the same. Mr. Reiber stressed that the recommended language does not include any provision to hire veterans unqualified for available positions.

Response to Public Comment

Assistant Town Manager Shawn Murphy explained that a meeting has been scheduled of the Town's Personnel Committee to review the proposed veterans hiring preference language with a hope that the matter would go before the Board of Commissioners in October.

Introductions and Presentations

1. Coyotes – North Carolina Wildlife Resources Commission – J. Chris Turner – Coastal Regional Wildlife Biologist

During the summer, in response to growing concerns in our area about increased coyote sightings, the Board of Commissioners agreed to invite staff from the North Carolina Wildlife Resources Commission (NCWRC) to this meeting. Biologist Chris Turner attended tonight's meeting to follow-up a presentation he made on March 2, 2016 to the Nags Head Board of Commissioners. His intent was to provide information that will help our citizens and residents better understand this non-indigenous species.

Mr. Turner introduced several other staff members at the NCWRC, who attended this meeting with him:

- Deanna Noble – Technical Assistance Biologist
- Evin Stanford – Coastal Region Supervisor
- Jessie Birckhead – Extension Biologist

At the conclusion of his prepared remarks, which included specific review of several items in the attached slide show, Mr. Turner answered questions from the Board and the audience.

During the question and answer session, Mr. Turner explained:

- Coyotes likely came to the Outer Banks by swimming and following local bridges.
- It is difficult to know exact numbers of coyotes within specified geographic areas; however, one way to estimate is through [animal] trapping “harvests.” There are still people who trap animals for skins and they must tag each animal. Tags are analyzed and population estimates can be made.
- Families of coyotes have a specific geographic range. There are coyotes that continue roaming looking for a range for themselves with a pack, or alone. A specific range may have a family or families of coyotes and also transient animals “just passing through.”
- Increased coyote populations could be reasons why fewer calls are received by the NCWRC on small animal nuisances. Coyotes will eat small mammals such as raccoons, possums, feral cats, etc. Coyotes and red foxes do not inhabit the same areas, but gray foxes and coyotes can live in the same areas since gray foxes climb trees to avoid coyotes.
- Coyotes and red wolves are from the same genus: canids. Therefore, the possibility of interbreeding was not ruled out.
- Coyotes are adept at finding food sources, not just small mammal populations, but also, pet food left outside, dumpsters, etc.

At the conclusion of the official question and answer session, Mr. Turner and the other members of the NCWRC Staff spent time meeting with interested persons outside of the meeting.

The Town will be working with the NCWRC to provide additional information on coyotes, as well as indigenous Outer Banks wildlife, on our website.

Old Business

New Business

1. Site plan review

A. **Kill Devil Development Company, LLC — proposed 46,013 sq. feet - grocery store and associated site modifications – 1530 North Croatan Highway in the Commercial Zone (Attached NB-1A)**

This site plan for a proposed grocery store, including 231 parking spaces and associated site modifications, to be located at 1530 North Croatan Highway in the Commercial Zone, was reviewed by the Planning Board at its August 16, 2016 meeting. Assistant Planning Director Bryan Brightbill addressed this item for the Board.

Gordon Kolb, President, GHK Developments, made a brief presentation on this proposed grocery store. He conducted a slide show presentation and a copy of those slides is included with the packet materials for this meeting.

The packet materials for this item include typical Staff comments and recommendations; however, due to volume, some information including the revised stormwater management report, property deed, traffic impact analysis, and similar technical reports was scanned with the meeting packet for public review on the Town's website, www.kdhnc.com, *Government → Board of Commissioners → Agendas, Packets and Minutes → September 12, 2016*.

The Planning Board voted to recommend approval of this site plan with conditions, most of which have been addressed on the revised site plan. The eight items listed on Assistant Planning Director Bryan Brightbill's attached memorandum remain, and the applicant, via e-mail from its engineering and design firm, has agreed to address them. Staff concurred with the Planning Board's recommendation.

Questions from the Board of Commissioners included the subjects of traffic signal frequencies and patterns on First Street and its intersection with US 158; on-site lighting and whether or not there would be spillover onto surrounding properties; the potential for proposed shrubbery to create vehicular blind spots on First Street; and, the pervious concrete that is proposed to be used to achieve additional lot coverage.

Staff and Mr. Kolb addressed the Board's concerns. Mr. Brightbill explained that the North Carolina Department of Transportation will have final approval over traffic patterns that directly affect its rights-of-way and Planning Director Meredith Guns added that she was unsure how the traffic signal would accommodate the grocery store traffic, but would ask the question of the proper individual(s) and let Commissioner Midgette know the answer. Mr. Kolb explains that the lighting plan for the new site was designed by a fully licensed and experienced lighting engineer and that there should be no spillover. Regarding the possibility of blind spots, Mr. Brightbill pointed out that the Town's landscaping requirements establish the requirements for landscaping vegetation and that the sight triangle should not be compromised by what is proposed. Mr. Kolb called on Andy Deal of Deal Engineering to address the issue of pervious

concrete and Mr. Deal explained that one type of pervious concrete is proposed for the parking spaces, while the actual drive aisles will be a heavier type of pervious concrete.

Commissioner Hogan made a motion for the Board of Commissioners to approve the site plan for Kill Devil Development Company, LLC – proposed 46,013 sq. feet – grocery store and associated site modifications –1530 North Croatan Highway in the Commercial Zone subject to satisfaction of the eight items outlined on the Assistant Planning Director’s September 12, 2016 memorandum. Commissioner Appleman seconded that motion and approval was unanimous, 5-0.

2. Appointments

A. Historic Landmarks Commission

Two regular three-year terms on the Historic Landmarks Commission (HLC) are available for appointment. Both Sandie Markland’s and Mary Simpson’s appointments expire this month, and they each desire to be considered for reappointment. Their appointment histories follow:

Name	Appointment History
Markland, Sandie	<p>Historic Landmarks Commission – Appointed September 2013, for a term ending September 2016</p> <p>Community Appearance Commission – Appointed December 2014, for a term ending October 2017</p>
Simpson, Mary	<p>Historic Landmarks Commission – Appointed April 2014, for a term ending September 2016</p>

Commissioner Hogan made a motion for the Board of Commissioners to reappoint Ms. Markland and Ms. Simpson to the Town’s Historic Landmarks Commission, each for a three-year regular term to expire in September 2019. Commissioner Midgette seconded that motion and approval was unanimous, 5-0.

Commissioners Agenda

Commissioner Appleman

- *Tropical Storm Hermine.* Expressed his hope that everyone fared well from the recent Tropical Storm Hermine. He had noticed that several fixed stands for ocean guards had been damaged and he wondered if the Board of Commissioners needed to take any action to help with those stands being replaced. Chief Tilley explained that the Board did not need to provide any funds for those stands, which will not be put into place until the 2017 season begins.

Commissioner Rheubottom

- *OBX Alzheimer's Walk*. Saturday, October 1st, Walk for Alzheimer's – beginning at Spring Arbor at 9:30 a.m. All funds raised will stay in Dare County and used for respite care and education for dementia and Alzheimer's diseases.

Mayor's Agenda

1. Proclamation – Don't Wait, Check the Date! Replace Smoke Alarms Every 10 Years – Fire Prevention Week – October 9-15, 2016 – (Attached MA-1)

The National Fire Protection Association (NFPA) has declared the week of October 9-15, 2016 as Fire Prevention Week. The attached proclamation recognizes Kill Devil Hills' participation in spreading the NFPA's important message: *Don't Wait, Check the Date! Replace Smoke Alarms Every 10 Years*.

Chief Troy Tilley announced that this year the Fire Department would be conducting exercises to help educate elementary school children about fire safety. There will be an open house at the Fire Station, and the department will work with Lowe's to provide a fire truck building class for children.

Commissioner Rheubottom made a motion for the Board of Commissioners to adopt the *Proclamation Declaring October 9-15, 2016 as Fire Prevention Week*. Commissioner Hogan seconded that motion and approval was unanimous, 5-0.

This proclamation will be shared with the Fire Department, placed on the Town's website and Facebook pages, posted Town bulletin boards, and sent to the Town's electronic distribution lists.

2. Items to note (Attached MA-2A, 2B, 2C and 2D)

- A. **Annual Ice Cream Social** – Tuesday, October 4, 2016 – begins at 4:30 p.m., Aviation Park.
- B. **2016 Kill Devil Hills Flood and Storm Awareness** – public information campaign – published in the Fall 2016 North Beach Sun magazine.
- C. **August 2016 – a “wild” sea turtle nest hatched in the vicinity of the Raleigh Street beach access** - The event was captured by still photo. Our Ocean Rescue personnel assisted the local Network for Endangered Sea Turtles (NEST) volunteers with the births! The photo of the 67 baby turtles was posted on the Town's Facebook page and it was ultimately shared with more than 335,000 Facebook accounts through more than 3,000 shares of the original post. NEST gave Ocean Rescue Supervisor Dave Elder a plaque commemorating Ocean Rescue's participation and the baby turtles' photo and the plaque presentation photo are both attached.

- D. **Storm debris collection and Fall 2016 Bulk Trash Collection** – collection of storm-related yard debris resulting from Tropical Storm Hermine will be collected by the Town beginning Wednesday, September 14, 2016. This is only for yard debris collection.

Kill Devil Hills' regular, semi-annual collection of bulk trash begins on Monday, October 17, 2016.

Announcements for both collections were included with the packet materials for this item.

▪ *Change in October meetings schedule.*

Mayor Davies explained that she had scheduling conflicts arise with the regular October meeting dates and the Board of Commissioners agreed to change its schedule to hold a regular meeting on Wednesday, October 12th, and the Fall public forum on Tuesday, October 25th. (Town Clerk's Note: After this meeting, the public forum date was changed to November 14, 2016; the October 25th meeting was canceled to accommodate early voting scheduling by the Board of Elections.)

Town Manager's Agenda

Town Attorney's Agenda

The Town Attorney provided the Board of Commissioners with an update on the beach nourishment easements condemnations matter. Out of approximately 200 easements that were needed for the beach nourishment project, there are only four that must be obtained through court procedures.

Mr. Varnell will continue providing update information on this matter as it becomes available.

Consent Agenda

1. **Minutes (Attached CA-1A)**
 - A. August 8, 2016
2. **Budget amendments (Attached CA-2A)**
 - A. #2 – to record encumbrances outstanding at June 30, 2016
3. **Personnel Policy adoption as recommended by The Maps Group**

This updated policy was previously copied to the Board of Commissioners, and is available for review on the Town's website by following the links outlined in the *New Business #1A* memorandum. Approval of the Consent Agenda will record the Board of Commissioners adoption of this policy document.

4. Appointment of Planning Director Meredith Guns to the Albemarle Regional Planning Organization Technical Coordinating Committee

This appointment was previously held by former Planning Director Greg Loy and approval of the Consent Agenda will record the Board's appointment of Ms. Guns as the Town's representative on the Technical Coordinating Committee.

Staff recommended approval of the Consent Agenda as presented.

Commissioner Hogan made a motion for the Board of Commissioners to approve the Consent Agenda as submitted. Commissioner Rheubottom seconded that motion and approval was unanimous, 5-0.

Public Comment

Patty Armistead, Kill Devil Hills: Ms. Armistead explained that as one of the persons instrumental in bringing the issue of allowing dogs on the beach full-time up for discussion earlier this summer, she was requesting that additional discussion be postponed until the Board of Commissioners November 14th meeting, rather than its October meeting as previously scheduled. Ms. Armistead will be out of town in October and desired to address the issue during open meeting.

Response to Public Comment

The Board of Commissioners agreed to postpone further discussion about dogs on the beach until the November 14th meeting.

Adjourn

There being no further business before the Board of Commissioners at this time, Commissioner Rheubottom made a motion to adjourn this meeting. Commissioner Appleman seconded that motion and approval was unanimous, 5-0.

It was 7:04 p.m.

**4. NC Parks and Recreation Trust Fund Project (PARTF) Agreement
(Attached CA-4)**

Kill Devil Hills was recently awarded a \$250,000 grant by PARTF for extension of the Bay Drive Multi-Use Path, Phases 3 & 4. Approval of the Consent Agenda will record the Board's approval of the agreement subject to review and approval by the Town Attorney, and authorize the agreement's execution by Mayor Davies.

Congratulations to our Planning Department for their vigilance in applying for and monitoring this grant process to its successful conclusion!

(Note: additional grant applications are underway to further assist the Town with the overall costs of this project.)

Staff recommends approval of the Consent Agenda as presented and a motion will be in order.

Trainee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

Permanent position. A position authorized for the budget year for a full twelve months and budgeted for twenty or more hours per week. All Town positions are subject to budget review and approval each year by the Town Board and all employees' work and conduct must meet Town standards. Therefore, reference to "permanent" positions or employment should not be construed as a contract or right to perpetual funding or employment.

Veteran. Means an individual who—

(1) (A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955;

(B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before October 15, 1976, not including service under section 12103(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

(C) served on active duty as defined by section 101(21) of title 38 in the armed forces during the period beginning on August 2, 1990, and ending on January 2, 1992; or

(D) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom; and, except as provided under section 2108a, who has been discharged or released from active duty in the armed forces under honorable conditions.

(2) "disabled veteran" means an individual who has served on active duty in the armed forces, (except as provided under section 2108a) has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Department of Veterans Affairs or a military department;

(3) "preference eligible" means, except as provided in paragraph (4) of this section or section 2108a(c)—

(A) a veteran as defined by paragraph (1)(A) of this section;

(B) a veteran as defined by paragraph (1)(B), (C), or (D) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

(F) the parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) the spouse of that parent is totally and permanently disabled; or

(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse;

(G) the parent of a service-connected permanently and totally disabled veteran, if—

(i) the spouse of that parent is totally and permanently disabled; or

(ii) that parent, when preference is claimed, is unmarried or, if married, legally separated from his or her spouse; and

(H) a veteran who was discharged or released from a period of active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10);

but does not include applicants for, or members of, the Senior Executive Service, the Defense Intelligence Senior Executive Service, the Senior Cryptologic Executive Service, or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(4) except for the purposes of chapters 43 and 75 of this title, "preference eligible" does not include a retired member of the armed forces unless—

(A) the individual is a disabled veteran; or

(B) the individual retired below the rank of major or its equivalent; and

(5) "retired member of the armed forces" means a member or former member of the armed forces who is entitled, under statute, to retired, retirement, or retainer pay on account of service as a member.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the Town to foster, maintain, and promote equal employment opportunity. The Town shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, marital status, ~~veteran status~~, or genetic information. In addition, the Town will grant preference in employment for all veteran applicants that are as equally qualified as the other applicants. As used in this policy, "veteran" shall mean any person who qualifies as a "veteran" as defined in 5 U.S.C. Section 2108 (see Article I, Section 7. Definitions). Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of essential duties with or without reasonable accommodation.

It is a violation of Town policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona-fide complaint under the this policy or who participates or assists in any EEOC, OSHA or other internal or external processes protected by law.

Section 2. Implementation of Equal Employment Opportunity Policy

The Human Resources Officer and all personnel responsible for recruitment and employment will continue to review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, political affiliation, marital status or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on Town premises in places where notices are customarily posted.

Section 3. Recruitment, Selection and Appointment

Recruitment Sources. When position vacancies occur, the Human Resources Office shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous Town sites. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for Town service. In rare situations because of emergency conditions, high turnover, etc., the Town may hire or promote without advertising jobs upon approval of the Town Manager.

Job Advertisements. Jobs will be advertised in local area newspapers, professional publications, and other relevant publications, as needed, in order to establish a diverse and qualified applicant pool. Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment. All persons expressing interest in employment with the Town shall be given the opportunity to file an application for employment for positions which are being recruited. The Town accepts applications and resumes only for vacant advertised positions. Applications will be received by the Human Resources Officer who will pre-screen applications for minimum qualifications.

Application Reserve File. Applications shall be kept in an inactive reserve file for a period of two years in accordance with Equal Employment Opportunity Commission guidelines.



TOWN OF KILL DEVIL HILLS

Land Where Flight Began

TOWN OF KILL DEVIL HILLS, NORTH CAROLINA
NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENTS TO THE BEACH NOURISHMENT
MUNICIPAL SERVICE DISTRICT

NOTICE is hereby given that on Monday, November 14, 2016 at 5:30 o'clock p.m. in the Meeting Room at the Administration Building, 102 Town Hall Drive, off Colington Road, the Kill Devil Hills Board of Commissioners will hold a public hearing to consider amending the Municipal Service District (MSD) related to the Town of Kill Devil Hills beach erosion control and flood and hurricane protection works project.

The Town proposes to remove 14 properties from the established MSD; and to adopt a new map depicting the new boundaries of the MSD. The new map will reflect removal of 41 properties, in total, from the established MSD. Of the 41 properties being removed, 27 properties were removed from the MSD as of July 1, 2016 as a result of Consent Judgments filed in particular Dare County court actions on June 3, 2016. The Town has determined that, as a result of the aforesaid court judgments, the remaining 14 properties are required to be removed from the MSD. No other changes to the Municipal Service District are proposed.

The new MSD map, including documentation on properties' removal from the MSD, is available for public inspection at the Administration Building, in the Office of the Town Clerk, 102 Town Hall Drive, Kill Devil Hills, NC 27948, during normal business hours, 8 am – 5 pm, 252-449-5302. It may also be viewed on the Town's website, www.kdhnc.com, and on the Town's Facebook page. Further, a copy of the new map will be available for public inspection in the Dare County Branch Library in Kill Devil Hills, 400 Mustian Street, off Colington Road.

Any persons desiring to be heard on the proposed removal of 14 properties from the established MSD related to the Town of Kill Devil Hills beach erosion control and flood and hurricane protection works project should appear at the time and place specified above.

Posted this 18th day of October 2016.

Mary E. Quidley
Town Clerk

Coastland Times: publish as a regular legal ad on October 26, 2016; November 2, 2016; and November 9, 2016

DRAFT

DRAFT

**RESOLUTION REDUCING THE KILL DEVIL HILLS
BEACH EROSION CONTROL AND
FLOOD AND HURRICANE WORKS MUNICIPAL SERVICE DISTRICT**

WHEREAS, Chapter 160A, Article 23 of the North Carolina General Statutes authorizes towns within North Carolina to define service districts to finance, provide, or maintain for such districts one or more services facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city; and

WHEREAS, said statutes further provide that the town may define a service district for the purpose of beach erosion control and flood and hurricane protection works; and

WHEREAS, acting in response to a need for action in order to protect structures of historic significance, to maintain the Town's tax and economic base, protect town infrastructure including facilities for public recreational access, the Board of Commissioners of the Town of Kill Devil Hills formally defined and adopted a service district by resolution at a public hearing held on April 13, 2015 (hereinafter "Initial District"); and

WHEREAS, the Board of Commissioners of the Town of Kill Devil Hills finds that the Initial District is in need of reduction pursuant to the relative effects of those certain consent judgments entered into by the Town of Kill Devil Hills and certain property owners within the Initial District and accepted by a Superior Court Judge and filed on June 3rd, 2016 in Dare County Superior Court (*see files numbered 15-CVS-305 and 16-CVS-119*); and

WHEREAS, pursuant to such determinations and in accordance with applicable provisions of the General Statutes, the Board of Commissioners of the Town of Kill Devil Hills has redefined and reduced the Initial District and does determine, as a fact, that the newly defined district is in need of one or more of the services, facilities, or functions listed in NCGS 160A-536(a) to a demonstrably greater extent than the remainder of the town; and

WHEREAS, a map of the newly defined district showing its proposed boundaries, a copy of which is attached hereto and incorporated by reference, a statement showing that the district meets the standards set out in NCGS 160A-537(a), and a plan for providing in the district one or more of the services listed in NCGS 160A-536 has been created; all of which has been incorporated into a report which has been available for public inspection in the office of the Town Clerk for four (4) weeks prior to the public hearing on the matter of the establishment of the service district; and

WHEREAS, the Board of Commissioners of the Town of Kill Devil Hills has caused a notice and map of the proposed municipal service district of such hearing to be duly published in the Coastland Times, a newspaper having general circulation in the Town of Kill Devil Hills and

Dare County on the _____, and the _____
said hearing having been conducted on _____, and the Town Clerk has
certified to the Board of Commissioners that the mailing of notice of the public hearing has been
completed, all in conformity to NGS 160A-537(c).

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS
FOR THE TOWN OF KILL DEVIL HILLS, NORTH CAROLINA, that:

1. The Town of Kill Devil Hills has fully complied with each and every requirement of Chapter 160A-538.1, Article 23 of the North Carolina General Statutes as it relates to reduction of the Initial District and determines and finds same as a fact.
2. The Kill Devil Hills Beach Erosion Control and Flood and Hurricane Works Municipal Service District for erosion control and flood and hurricane works is hereby redefined and reduced in accordance with the following description:

Contained within the Atlantic Ocean to the east, North Carolina Highway 12 to the west, Town of Kitty Hawk corporate line to the north, and the southernmost boundary of Parcel Number 004049000 to the south and being the same property as shown within the boundaries set forth on that certain map attached hereto as Exhibit "A" and incorporated herein by reference, to which reference is made for a more complete and accurate description of the boundaries of the Kill Devil Hills Beach Erosion Control and Flood and Hurricane Works Municipal Service District.

3. The Town of Kill Devil Hills may levy property taxes within the service district in addition to those throughout the town in order to finance, provide or maintain for the district, services provided therein, in addition to or to a greater extent than those financed, provided or maintained for the entire town.
4. This resolution shall take effect upon adoption.

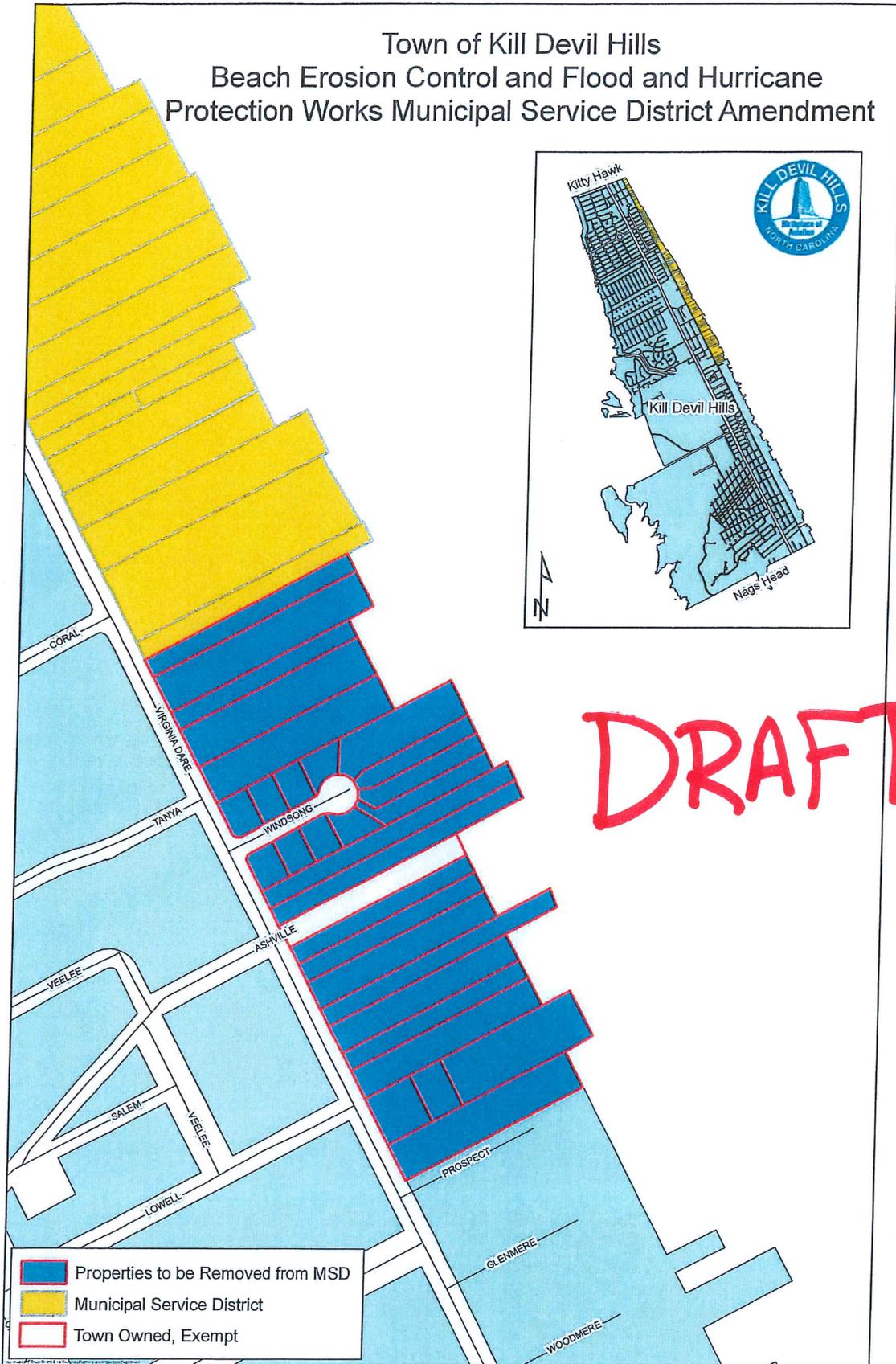
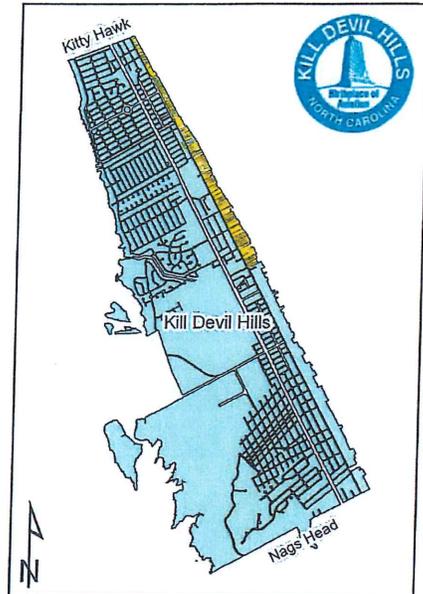
Adopted this _____ day of _____ 2016.

Sheila F. Davies, PhD
Mayor
Town of Kill Devil Hills

ATTEST:

Mary E. Quidley
Town Clerk

Town of Kill Devil Hills
Beach Erosion Control and Flood and Hurricane
Protection Works Municipal Service District Amendment



DRAFT



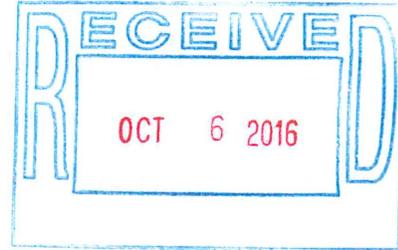
North Carolina Department of Natural and Cultural Resources

Pat McCrory
Governor

Susan Klutz
Secretary

September 30, 2016

Ms. Debora P. Diaz
Town Manager
Town of Kill Devil Hills
PO Box 1719
102 Town Hall Drive
Kill Devil Hills, NC 27948



Dear Ms. Diaz:

Enclosed please find two originals of the Contract number 2017-834 between the Town of Kill Devil Hills and the North Carolina Department of Natural and Cultural Resources (DNCR). In order for the Department to execute these documents, you must return both originally-signed and notarized contract documents to the following address:

Ms. Marcia Lieber
NC Division of Parks and Recreation
1615 Mail Service Center
Raleigh, NC 27699-1615

Once these signed and notarized contracts are returned, we will sign one and return it to you for your records, along with further grant administration information. Please be advised that no work to be performed under this contract can take place until both parties have executed the contract. Failure to return the documents for execution by the department within 45 days after receipt may result in the department's withdrawal of the offered contract.

Should you have any questions regarding this contract, please contact Ms. Marcia Lieber at 919-707-9303.

Sincerely,

Carol Tingley
Assistant Director, NC Division of Parks and Recreation

Enclosures

Cc: Project File 2017-834

Michael A. Murphy, Director
NC Division of Parks and Recreation
1615 Mail Service Center, Raleigh, NC 27699-1615
919-707-9300 / ncparks.gov

NORTH CAROLINA STATE PARKS
Naturally Wonderful

ATTACHMENT CA-4

STATE OF NORTH CAROLINA
COUNTY OF WAKE

CONTRACTOR'S FEDERAL I.D.
XXXX 0722

N.C. Parks and Recreation Trust Fund Project Agreement

Grantee: Town of Kill Devil Hills

Project Number: 834

Project Title: Bay Drive Multi-Use Path Extension Phase 3 & 4

Period Covered By This Agreement: 11/1/2016 to 10/31/2019

Project Scope (Description of Project): Development including greenway, site preparation, site amenities, planning costs and contingency.

Project Costs: PARTF Amount \$ 250,000

 Local Government Match \$ 966,660

Conditions

The North Carolina Department of Natural and Cultural Resources (hereinafter called the "Department") and the ___Town of Kill Devil Hills___ (hereinafter referred to as "Grantee", and together "Parties" or "Party") agree to comply with the terms, promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances described in the North Carolina Parks and Recreation Trust Fund (PARTF) Administrative Rules and Grant Application which are hereby by reference made a part of the PARTF Grant Contract, (hereinafter "Grant" or "Contract"), and which are on file with the Division of Parks and Recreation. In addition, the Department and the Grantee agree to comply with the State of North Carolina's Terms and Conditions as listed in "Attachment A" to this Contract.

Now, therefore, the Parties hereto do mutually agree as follows:

Upon execution of this grant agreement, the Department hereby promises, in consideration of the promises by the Grantee herein, to obligate to the Grantee the grant amount shown above. The Grantee hereby promises to efficiently and effectively manage the funds in accordance with the approved budget, to promptly complete grant assisted activities described above in a diligent and professional manner within the project period, and to monitor and report work performance.

The Parties to this Contract agree and understand that the payment of the sums specified in this Contract is dependent and contingent upon and subject to the appropriation, allocation and availability of funds for this purpose to the Department.

Section I. Eligible Project Costs and Fiscal Management

1. The PARTF grant amount must be matched on at least a dollar-for-dollar basis by the Grantee. To be eligible, project costs must be incurred during the Contract period, be documented in the grant application, described in the project scope of this agreement, and initiated and/or undertaken after execution of this agreement by the Grantee and the Department.
2. PARTF assistance for land acquisition will be based on the fair market value of real property or the sales price, whichever is less. Value must be based upon an independent appraisal by a licensed appraiser holding a general or residential certification from the North Carolina Appraisal Board. The Department shall review the appraisal as to content and valuation. Approval of appraised amounts rests with the Department. The Grantee agrees to begin development on PARTF acquired land within five (5) years of the date this Contract is signed by the Department and Grantee in order to allow general public access and use.
3. Payment shall be made in accordance with the Contract documents as described in the Scope of Work (Attachment B). Payment for work performed will be made upon receipt and approval of invoice(s) from the Grantee documenting the costs incurred in the performance of work under this Contract. Invoices may be submitted to the Contract Administrator

quarterly. Final invoices must be received by the Department within forty-five (45) days after the end of the Contract period or Contract completion, whichever occurs first. Accounting records should be based on generally accepted local government accounting standards and principles. Records shall be retained for a period of five (5) years following project completion, except that records shall be retained beyond a five (5) year period if audit findings have not been resolved. All accounting records and supporting documents will clearly show the number of the Contract and PARTF project to which they are applicable. The State Auditor and the Department's Internal Auditors shall have access to persons and records as a result of all Contracts and Grants entered into by state agencies and or political subdivisions in accordance with General Statute 147-64.7. The final payment will be made Net 30 days after inspection by the Department's Contract Administrator.

4. The Grantee agrees to refund to the Department, subsequent to audit of the project's financial records, any costs disallowed or required to be refunded to the Department on account of audit exceptions.

Section II. Project Execution

1. The Grantee may not deviate from the scope of the project without written approval of the Department. When one of the conditions in the Contract changes, including but not limited to the project scope, a revised estimate of costs, a deletion or additions of items, or need to extend the Contract period, the Grantee must submit in writing a request to the Department for approval. Thus Contract shall not be amended orally or by performance but only through a written amendment duly executed by the Parties.
2. The Grantee shall be considered to be an independent Contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. The Grantee represents that it has, or will secure at its own expense, all personnel required in performing the services under this agreement. Such employees shall not be employees of, or have any individual Contractual relationship with the Department.
3. In the event the Grantee subcontracts for any or all of the services covered by the Contract:
 - a. The Grantee is not relieved of any of the duties and responsibilities provided in this Contract;
 - b. The contractor shall be responsible for all Subcontractor activities including adherence by Subcontractors for all requirements of this Contract;
 - c. The subcontractor agrees to abide by the standards contained herein or to provide such information as to allow the Grantee to comply with these standards, and;
 - d. The subcontractor agrees to allow state and federal authorized representatives access to any records pertinent to its role as a subcontractor.
4. In accordance with Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, the grantee agrees not to subcontract with any vendors debarred or suspended by the State of North Carolina and shall not knowingly enter into any lower tier covered transactions with a person or vendor who is debarred, suspended or declared ineligible.
5. The Grantee shall not substitute key personnel assigned to the performance of this Contract without prior approval by the Department's Contract Administrator. Meredith Guns is designated by the Grantee as key personnel for purposes of this Contract. The Department designates John Poole, PARTF Grant Program Manager as the Contract Administrator for the Contract. Either party may designate a different Contract Administrator upon written notice to the other party.

Department Contract Administrator	Grantee Contract Administrator
NC Department of Natural and Cultural Resources Division of Parks and Recreation Attention: Marcia Lieber, Contract Administrator 1615 Mail Service Center Raleigh, NC 27699-1615 Telephone: 919-707-9303 Email: marcia.lieber@ncparks.gov	Town of Kill Devil Hills Attention: Meredith Guns Address: PO Box 17 19 102 Town Hall Drive Kill Devil Hills, NC 27948 Telephone: 252-449-5318 Email: Meredith@kdhnc.com

6. The Grantee agrees to comply with all applicable federal, state and local statutory provisions governing purchasing, construction, land acquisition, fiscal management, equal employment opportunity and the environment including but not

limited to the following:

Local Government Budget and Fiscal Control Act (G.S. 159-7 to 159-42); Formal Contracts, Informal Contracts and Purchasing (including but not limited to G.S. 44A-26, G.S. 87-1 to 87.15.4, G.S. 133.1 to 133-40, G.S. 143-128 to G.S.143-135; Uniform Relocation Assistance Act (G.S. 133-5 to 133-18); Conflict of Interest (G.S. 14-234); Contractors must use E-Verify (G.S. 143-48.5); Americans With Disabilities Act of 1990 (P.L. 101-336) and ADA Accessibility Guidelines; N.C. State Building Code; and the North Carolina Environmental Policy Act (G.S. 113A-1 to G.S. 113A-12), and Sales Tax Refund (G.S. 105-164.14(c)).

7. The Grantee agrees it provides a drug-free workplace in accordance to the requirements of the Drug-Free Workplace Act of 1988 (43 CFR Part 12, Subpart D).
8. The Grantee agrees to permit periodic audits and site inspections by the Department to ensure work progress in accordance with the approved project, including a close-out inspection upon project completion. After project completion, the Grantee agrees to conduct grant Contract compliance inspections at least once every five (5) years and to submit a Department provided inspection report to the Department.
9. The Grantee agrees land acquired with PARTF assistance shall be dedicated in perpetuity as a recreation site for the use and benefit of the public, the dedication will be recorded in the deed of said property and the property may not be converted to other than public recreation use without approval of the Department. The Grantee agrees to maintain and manage PARTF assisted development/ renovation projects for public recreation use for a minimum period of twenty-five (25) years after project completion.
10. The Grantee agrees to operate and maintain the project site so as to appear attractive and inviting to the public, kept in reasonably safe repair and condition, and open for public use at reasonable hours and times of the year, according to the type of facility and area.
11. The Grantee shall agree to place utility lines developed with PARTF assistance underground.
12. If the project site is rendered unusable for any reason whatsoever, the Grantee agrees to immediately notify the Department of said conditions and to make repairs, at its own expense, in order to restore use and enjoyment of the project by the public.
13. The Grantee agrees not to discriminate against any person on the basis of race, sex, color, national origin, age, residency or ability in the use of any property or facility acquired or developed pursuant to this agreement.
14. The Grantee certifies that it:
 - (a) Has neither used nor will use any appropriated funds for payment to lobbyists;
 - (b) Will disclose the name, address, contact details, and purposes of any agreement with lobbyists whom Grantee or its sub-tier Contractor(s) or sub-grantee(s) will pay with profits or non-appropriated funds on or after December 22, 1989, and
 - (c) Will file quarterly updates about the use of lobbyists if material changes occur in their use.

Section III. Project Termination and Applicant Eligibility

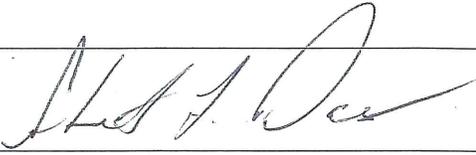
1. The Grantee may unilaterally rescind this agreement at any time prior to the expenditure of funds on the project described in this Contract.
2. If through any cause, the Grantee fails to fulfill in a timely and proper manner the obligations under this Contract, the Department shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the reasons thereof. In that event, the Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed in an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract.
3. Failure by the Grantee to comply with the provisions and conditions set forth in the formal application, PARTF administrative rules and this agreement shall result in the Department declaring the Grantee ineligible for further

participation in PART F, in addition to any other remedies provided by law, until such time as compliance has been obtained to the satisfaction of the Department.

Section IV. Attestation and Execution

N.C.G.S. §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you (Contractor) attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

In witness whereof, the Department and the Grantee have executed the Agreement in duplicate originals, one of which is retained by each of the Parties.

Town of Kill Devil Hills_		
Name of Grantee (Local Government)		Signature of Grantee (Chief Elected Official)
<i>Sheila F. Davies</i>		<i>Mayor</i>
Typed or Printed Name of Official		Title of Official

(Notary Public Completes)

State of North Carolina

County of Dare #B13

On this 31st day of October, ²⁰¹⁶~~2015~~, Sheila F. Davies

personally appeared before me the said named Mayor of Kill Devil Hills, to me known and known to me to be the person described in and who executed the foregoing instrument, and he (or she) acknowledged that he (or she) executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

My commission expires: 12/15, 2017.

<i>Harriet B. Banner</i>
Signature of Notary Public



North Carolina Department of Natural and Cultural Resources
Susan Kluttz, Secretary

By:

Department Head or Authorized Agent
for Secretary Susan Kluttz

Title

Scope of Work

North Carolina Division of Parks and Recreation Parks and Recreation Trust Fund – Grants Program for Local Governments

Grantee: Town of Kill Devil Hills

Title of Project: Bay Drive Multi-Use Path Extension Phase 3 & 4

Project Number: 834

Contract Number: 2017-834

Amount of Grant: \$ 250,000

Amount of Match: \$ 966,660

Contact Person for Project: Meredith Guns

Title: Assistant Planning Director
Town of Kill Devil Hills

Address:
PO Box 17 19
102 Town Hall Drive
Kill Devil Hills, NC 27948

Telephone: 252-449-5318

Contact email address: Meredith@kdhnc.com

Scope of Project: Development including greenway, site preparation, site amenities, planning costs and contingency.

Length of Project: 36 months (11/1/2016– 10/31/2019)

Schedule for Reimbursements: Grantee may submit bills quarterly after a significant portion of work has been completed on the project element(s). Not more than 90% of the grant will be reimbursed until the grantee completes the project elements specified in the grant (refer to detailed budget submitted with grant application).

The Town of Kill Devil Hills grant application and support documentation are, by reference, part of the contract. The administrative rules of the N.C. Parks and Recreation Trust Fund are, by reference, a part of the contract.

Project Costs

Bay Drive Multi-Use Trail, Phase 4 -- Town of Kill Devil Hills

Canal Drive (West 1st Street to Bay Drive) and Bay Drive (Canal Drive to West Avalon Drive)



April, 2016



3351 Stoneshore Road
Virginia Beach, VA 23452
(757) 468-6800 Fax (757) 468-4966

Project Elements	Unit	Unit Cost	Total Item Cost
Building and/or Renovating Costs			
Multi-Use Path Pavement (surface & base) 10 feet wide, 3.5 inches thick asphalt, 6" thick base	5,575 lf	\$39 / lf	\$217,425
Multi-Use Path Signage, PARTF Sign and Pavement Marking, lump sum	1 ls	\$3,000	\$3,000
Shift existing roadway 3 to 4 feet east, replace roadside ditches with drainage pipe & structures, to make room for Multi-Use Path, lump sum	1 ls	\$940,000	\$940,000
Driveway adjustments/replacements for Multi-Use Path, average 16 feet wide x 10 feet long	133 ea	\$960 ea	\$127,680
Clearing, grading, erosion control, restoration and seeding	3 ac	\$21,000 ac	\$63,000
Subtotal, Building and/or Renovating Costs			\$1,351,105
Contingency for the Cost of Building / Renovating			
Contingency	5%		\$67,555
Value of Land to be Purchased or Donated			
Land Acquisition: None; project being constructed within existing public street rights of way			\$0
Planning and Incidental Land Acquisition Costs			
Preliminary survey and design, site planning and design, construction management	12%		\$198,000
Total Project Cost			\$1,616,660
Total PARTF GRANT Request			\$400,000
Total Local Match			\$1,216,660